

MARYLAND ALLIANCE FOR JUSTICE REFORM

Working to end unnecessary incarceration and build strong, safe communities



February 22, 2022

To: Chair Luke Clippinger and House Judiciary Com. members,
From: Phil Caroom, MAJR Executive Committee

Maryland Alliance for Justice Reform supports HB 1101 to continue the removal of fees charged by some counties for citizens' participation in pretrial release supervision programs. Last year's one-year COVID emergency plan to do this worked very well. Three factors should persuade the committee to continue the program: Constitutional, fiscal and public safety.

1) Constitutional concerns: Poor citizens should not be held in pretrial detention just because they afford pretrial release fees any more than they should be held in detention because they cannot pay a bail bond that more affluent citizens could pay. The Supreme Court has ruled that "*Liberty is the norm, and detention prior to trial or without trial is the carefully limited exception... [The government may hold those who] pose a threat to the safety of individuals or to the community which no condition of release can dispel*" and those found likely to flee. Because inability to pay a small pretrial detention supervision fees do not "pose a threat" or show likelihood of flight, Maryland counties that rely on user-fees for pretrial supervision may be seen to violate their citizens' constitutional rights.

2) Taxpayers' concerns: The failure to maintain such programs for the benefit of citizens is penny-wise and pound-foolish. Maryland pretrial detention costs to our counties, according to recent years' estimates, range from \$83-\$153 per-inmate per-day. By comparison, pretrial assessment & supervision programs cost approximately \$2.50 per person per day. Once incarcerated on a pretrial basis, studies show that defendants are more likely to receive additional incarceration at sentencing – thus, further increasing taxpayers' burdens.

Thus, considerable taxpayer funds are saved by eliminating these fees.

3) Public safety: Studies show that "failure to appear" rates for those with pretrial supervision equals those of our traditional bail systems. With nondiscriminatory pretrial risk assessments, those "high risk" to reoffend may be kept in pretrial detention and those "low or moderate" may be released safely with appropriate supervision conditions.

For all these reasons, Maryland Alliance for Justice Reform strongly supports HB 1101.

Please note: This testimony is offered for Md. Alliance for Justice Reform (www.ma4jr.org), not for the Md. Judiciary.