

JOTF JOB OPPORTUNITIES TASK FORCE

Advocating better skills, jobs, and incomes

TESTIMONY IN SUPPORT OF HOUSE BILL 154:

Workgroup to Study the Impact of Court-Mandated Fines and Fees

TO: Hon. Luke Clippinger, and Members of the House Judiciary Committee

FROM: Ioana Stoica, Policy Advocate

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The Job Opportunities Task Force (JOTF) is an independent, nonprofit organization that develops and advocates policies and programs to increase the skills, job opportunities, and incomes of low-skill, low-wage workers and job seekers in Maryland. We strongly support House Bill 0154 as a means to study the devastating impact of criminal justice-related fines and fees for lower-income communities in Maryland, and to collect data that is much needed in order to create a plan and recommendations for eliminating or reducing fines and fees.

Fines and fees for even just one incident can add up to thousands of dollars, and individuals unable to pay these sums may face penalties including additional fines and fees, driver's license suspensions, even incarceration. Individuals thus affected may lose their job or their home, and be thrust even deeper into a cycle of poverty. The National Center for Access to Justice rated Maryland's assessment of criminal justice fines and fees at only 35 of 100 points. While our state did well on two metrics - the abolition of juvenile court fees and fines and preventing the state from using private debt collectors - on most other categories, it scored very low. Maryland received a score of zero on the conflict of interest scale, on not requiring proof of indigency or willful failure to pay before imposing sanctions and incarceration, on helping low-income debtors by providing payment plans, and on the use of day fines.

In 2018, JOTF released a report called "[The Criminalization of Poverty](#)" which dissects the pathways in which Maryland residents from impoverished communities unjustly encounter the Criminal Justice System. Part II of the report goes forward to outline how extensive fines and fees related to interactions with the criminal justice system impoverish Marylanders, specifically lower-income communities of color. These "fees for service" include court-related fees (administrative, jury, and restitution), home detention, parole and probation, public defender representation (application and reimbursement), jail room and board (especially for pretrial), mandatory drug and alcohol testing, vehicle interlock devices, criminal record expungement, as well as interest and late fees from the Central Collections Unit (CCU). The goal of fees is often to recoup costs and generate revenue - which is a conflict of interest, as it incentivizes the state to assess fines and fees to keep itself in business.

Marylanders from low-income communities, especially communities of color, find themselves often strapped with gratuitous criminal-justice-related debts. In 2018, Alexes Harris, a sociologist at the University of Washington, estimates that 80-85% of incarcerated persons now leaving prison owe criminal justice costs. This is estimated to amount to some 10 million Americans who owe more than \$50 billion in criminal justice debt.

Maximizing on the misfortune of the indigent is the Central Collections Unit (CCU) which layers on tremendous amounts of interest - averaging around 17% - to the already burdensome debts. The CCU is entirely funded off of the money collected from debtors and as such are incentivized, perhaps incidentally, to increase penalties unnecessarily. The current business model is unsustainable and disproportionately harms indigent Marylanders who lack the capital to pay down such fees.

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The district and circuit [fee schedule](#) show a variety of hefty fees for service for almost every interaction with the courts regarding criminal justice. They serve to further impoverish already indigent individuals leaving them in a spiral of debt. Some specific fees that House Bill 154 seeks to study the impact of are as follows:

- Criminal Cases - Filing Fee: \$80
- Criminal Cases - Cost if Convicted: \$45
- Criminal Cases - Cost if of a non-jailable offense: \$3
- Expungement (Guilty Dispositions) - \$30
- Expungement (Appeal from district court): \$115
- Removals from circuit court to circuit court: \$60
- Removals from district court: \$165
- Jury Costs - costs for unused jurors & expense of transporting jurors: variable

The Department of Parole and Probation also reports that they charge a monthly fee of \$40 for every individual on parole and \$50 to every individual on probation. These fees are used to reimburse the department for services rendered and are assigned by either the judge (probation), commissioner (parole), or another judicial official that the court deems suitable. [Data](#) from the National Institute of Corrections reports that as of December 31, 2018, the Maryland Department of Corrections had 70,248 persons on probation and 10,338 on parole. When applying the probationary fee of \$50 to this population for that month (December 2018), we arrive at a grand total of over \$3.5 million to the state. Expanded annually, the total cost to individuals on probation would be over \$42 million. Considering Parole, the monthly intake is \$413,520 or nearly \$5 million annually. Using the December numbers as an experimental basis, it is safe to assume that the state collected \$47 million annually from this program.

The dire concern with Parole and Probation fees revolve around the consequences for an individual that does not have the ability to pay. Non-payment counts as a violation of probation which risks incarceration and the fee is sent directly to the Central Collections Unit which adds on average 17% to the debt. In certain circumstances, the judge, commissioner, or leading judicial official can waive payments but this does not happen often. As such, the current system is essentially a debtor's prison which is illegal under section 38 of the Maryland Constitution. House Bill 154 also seeks to ensure that our parole and probation practices are in line with our state's edicts.

Next for consideration is possible reimbursement fees for the use of a public defender. A public defender is allotted by constitutional mandate to any individual facing a trial that could potentially lead to incarceration. The vast majority of individuals who use the services of a public defender qualify as indigent under Criminal Procedure §16–210 and are supposed to receive this service for free. However, data is mixed on defendants owing reimbursement fees throughout the state. Some counties have charged individuals post-trial reimbursement fees if the trial ended in a guilty disposition. House Bill 154's workgroup will also examine which counties perform this practice, who has paid in, and what the socioeconomic status is.

Lastly, there is the variable cost of home detention and drug and alcohol testing. Nearly half of the state's jurisdictions charge a variable fee for participating in public home detention programs and many judges, during bail review, can place defendants on private home detention monitoring which charges exorbitant setup fees and over \$300 per month. ASAP home detention charged one of our clients as much as \$464 per month with the risk of non-payment counting as an incarcerable violation. Some counties charge up to \$75 per month for their state run home detention program. Though counties like Baltimore have moved to eliminate the public fees, this is not statewide and many jurisdictions (like Baltimore City) opt to use private services further impoverishing poor

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defendants. Beyond this is the \$100 flat fee for drug and alcohol testing that members on home detention, parole, and probation also need to pay upfront to maintain their freedom.

Given that Maryland's criminal justice system disproportionately (and at many times unnecessarily) burdens lower-income communities of color, House Bill 154 is a step towards understanding how damaging the majority of financial debts arising from court-related fines and fees are. This workgroup would examine court-related fees (administrative and jury), home detention, parole and probation, public defender representation (application and reimbursement), jail room and board (specifically for pretrial), mandatory drug and alcohol testing, vehicle interlock devices, criminal record expungement, as well as interest and late fees from the Central Collections Unit (CCU). This workgroup would also create a comprehensive database of the fines and fees levied by different municipal, county, and state agencies, of the revenue generated and how it is used. This data is greatly needed in order to devise policies that will ensure Maryland's justice system is more equitable and transparent, and in order to illuminate the impact that these fees are having on indigent communities, especially communities of color. For these reasons, **we strongly urge a favorable report on House Bill 154.**

For more information, contact:

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