

MD SB 728 - Testimony in support (fines and fees -

Uploaded by: Alasdair Whitney

Position: FAV



INSTITUTE FOR JUSTICE

February 27, 2024

Maryland Judicial Proceedings Committee
Maryland General Assembly
Miller Senate Office Building, Room 2 East
Annapolis, Maryland 21401

Re: Letter in support of Senate Bill 728

Dear Chair Smith, Vice Chair Waldstreicher, and Members of the Judicial Proceedings Committee:

Thank you for the opportunity to submit this letter in support of SB 728. My name is Alasdair Whitney, and I am Legislative Counsel at the Institute for Justice. The Institute for Justice is a nonprofit public interest law firm that works to protect civil liberties. For years, we have researched and advocated for states to reduce or eliminate excessive fines and fees.

The Institute for Justice encourages the committee to support SB 728, which would eliminate the \$50 supervision fee that parolees must pay every month in order to comply with the terms of parole supervision. Supporting this bill is critical for three reasons:

First, it would help ensure parole compliance. Research has consistently shown that onerous fees imposed on individuals involved in the criminal justice system can have detrimental effects on their ability to successfully reintegrate into their communities.¹ Fees, like this one, can lead to increased financial instability, exacerbate stress and anxiety, and undermine efforts to rehabilitate and support individuals as they work to rebuild their lives. These difficulties, in turn, make it more difficult for folks to comply with the terms of their parole supervision, and often result in recidivism.²

Second, and relatedly, many folks transitioning back into society post-incarceration lack stable employment, secure housing, and durable social networks.³ Parole-related financial burdens—which, on average, costs a parolee in Maryland over \$740 over the course of his or her parole term—only serve to exacerbate these challenges, particularly for those who may already be struggling to make ends meet.⁴

¹ Ruhland, E., *The Impact of Fees and Fines for Individuals on Probation and Parole*, Robina Institute of Criminal Law and Criminal Justice, Univ. of Minnesota (May 2023), available at <https://robinainstitute.umn.edu/articles/impact-fees-and-fines-individuals-probation-and-parole>.

² Harding, D., et al., *From Supervision to Opportunity: Reimagining Probation and Parole*, *The ANNALS of the American Academy of Political and Social Science* (Sept. 2022), available at <https://journals.sagepub.com/doi/full/10.1177/00027162221115486>.

³ *Id.*

⁴ Diller, R., et al., *Maryland's Parole Supervision Fee: A Barrier to Reentry*, Brennan Center for Justice (Mar. 2009), available at <https://www.brennancenter.org/our-work/research-reports/marylands-parole-supervision-fee-barrier-reentry>.

Third, this bill would help create a more equitable and just criminal justice system. As it stands today, imposing a fee for parole supervision creates a system where individuals with financial means are better positioned to comply with the terms of parole while those without are disproportionately penalized. This exacerbates socioeconomic disparities and perpetuates cycles of poverty and inequality within the state.⁵ Eliminating this fee would help ensure that parole remains focused on its intended goals of rehabilitation and reintegration, rather than retribution and punishment.

Abolishing this fee is one step the general assembly can take to help folks comply with the terms of parole supervision and make it easier for them to reenter society and stay out of trouble. We urge your support for this bill.

Thank you for your time and thoughtful consideration of this issue.

Sincerely,

Alasdair Whitney
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Arlington, Virginia 22203
awhitney@ij.org
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⁵ Harris, A., *et al.*, *Drawing Blood from Stones: Legal Debt and Social Inequality in the Contemporary United States*, *American Journal of Sociology* (May 2010), available at <https://www.journals.uchicago.edu/doi/abs/10.1086/651940>.

FINAL BUILD Written Testimony for Parole Fees Bill

Uploaded by: Alicia Shaw

Position: FAV



WRITTEN TESTIMONY
**THE IMPORTANCE OF ENDING PAROLE SUPERVISION FEES
& FEES FOR DRUG AND ALCOHOL TESTING IN MARYLAND
(SB 728 / HB 531)**

Submitted by: BUILD (Baltimoreans United in Leadership Development)

BUILD strongly supports the passage of SB 728 / HB 531, repealing Parole Supervision Fees and Fees for Drug and Alcohol Abuse Testing.

Over the last year, BUILD – working with Turnaround Tuesday – has listened to more than 300 returning citizens and their families primarily in Baltimore City, but also around the state, to learn about the issues that most impact people returning home from prison.

Again and again, we heard stories about the impact of parole fees – \$52 per month for most people returning home from incarceration. It was ratified as a top concern for our leaders’ work on criminal justice issues around the state.

- We heard stories from people struggling to pay these fees at a time when they did not have a job or housing;
- We heard about people who were consistently afraid of being sent back to prison or who considered actions that may have led to recidivism because they were behind on payments;
- We heard about people who did not know they qualified for an exemption or did not know how to apply;
- We heard about people in debt, who were now in collections and owed 17% in interest on top of monies they should have been exempt from in the first place.

Today, you will hear a story from Alicia Shaw about her direct experience with this issue and how it has impacted her.

But it has been a problem for decades. It has put barriers in front of people returning home, encouraging recidivism for decades. It was the subject of a study by the Brennan Center for Justice in 2009, nearly 15 years ago. But these fees have continued to impact some of the most vulnerable people in our state.

The Brennan Center’s 2009 report – which you will hear more about today – includes some of the following highlights:

- It recommended that parole fees be eliminated;
- It found that the system of applying for exemptions was broken;
- It found that the State of Maryland pursues people who do not pay for debt, adding a 17% surcharge;
- It found that Maryland is one of the only states in the immediate region that charges these fees;
- It found that most people on parole qualified for exemptions under the law, but very few people applied or knew how to apply; BUILD has found that this continues to be the case.
- It found that the small sum of monies collected goes to the general fund; it does not support the needs of parole or of returning citizens.

In a state that we hope will leave no one behind, the time is now to take action and end parole fees in Maryland once and for all.

BUILD's History and Track Record on this issue

BUILD – Baltimoreans United In Leadership Development – is a broad-based, non-partisan coalition of more than 35 religious congregations, non-profits, and schools in Baltimore. Founded in 1977, BUILD has a long, productive track record acting on issues related to housing, jobs, schools, safety, and more. This has included the creation of the nation's first living wage ordinance in Baltimore City and working with the state legislature to invest \$1 billion in rebuilding Baltimore City's aging school infrastructure in recent years. We are part of the Industrial Areas Foundation (IAF), the nation's oldest and largest multi-faith organizing network in the United States.

In 2014, BUILD leaders in East Baltimore worked together to launch Turnaround Tuesday, a workforce development movement that connects returning citizens to living wage jobs through direct relationships with employers like Johns Hopkins, the University of Maryland, and more. To date, Turnaround Tuesday has connected more than 1,800 people – mostly returning citizens – to living wage jobs at employers and anchor institutions across Baltimore. Of those, 71% stay for at least two years.

In Support of SB 728 CCJR.pdf

Uploaded by: Heather Warnken

Position: FAV



TESTIMONY IN SUPPORT OF SENATE BILL 728
Correctional Services – Parole Supervision Fees / Drug and Alcohol Test Payment - Repeal

TO: Members of the Senate Judicial Proceedings Committee

FROM: Center for Criminal Justice Reform, University of Baltimore School of Law

DATE: February 27, 2024

The University of Baltimore School of Law’s Center for Criminal Justice Reform is dedicated to supporting community driven efforts to improve public safety and address the harm and inequities caused by the criminal legal system. The Center offers our strong support for Senate Bill 728.

Under current law, those on parole in Maryland are required to pay a \$50 monthly supervision fee in addition to other fees, including drug- and alcohol-testing fees, that the court may impose. The reality is most individuals are unable to afford these fees for a variety of reasons, including lack of access to gainful employment. Formerly incarcerated people face numerous collateral consequences, such as significant obstacles to finding, securing, and keeping stable employment. Of those who do access jobs, research indicates that in the first few months, formerly incarcerated people were earning just 53% of the median U.S. worker’s wage.¹

These fees therefore create significant challenges for these individuals and their families right out of the gate: undermining reentry success, economic advancement, and community wellbeing. The stress of the fees alone, especially if immediately recognizable as unrealistic to consistently meet, can be an enormous burden for individuals and their family, causing them to fear family separation if a person were to be reincarcerated and/or make difficult decisions surrounding payment for necessities such as food and medications.

When a person fails to pay onerous supervision fees, parole may be revoked and a person who poses little to no public safety risk may be returned to detention. Furthermore, financial problems can compound if the debt is sent to collections, where it is subject to oppressive 17% interest rates on top of the original amount owed.

Parole and probation fees can have broad, short- and long-term impacts individuals and communities. Inability to pay supervision and drug- and alcohol-testing fees can impact individuals for years after they have completed supervision. For example, under current Maryland law, inability to pay these fees can result in permanent exclusion from expungement

¹ *New Data on formerly Incarcerated People’s employment reveal labor market injustices*. Prison Policy Initiative, <https://www.prisonpolicy.org/blog/2022/02/08/employment/>.

opportunities. Finally, research shows that criminal justice fees can result in increased recidivism and drive crime. The US Department of Justice recently laid out the totality of these harms in a 2023 “Dear Colleague letter,” notifying states of their liabilities with respect to harmful policies surrounding counterproductive and unjust imposition of fines and fees.²

Opponents of Senate Bill 728 may point to statutory exemptions as meaningful protection for people who cannot afford to pay criminal justice fees. The evidence shows otherwise: only 7% of people on parole have their fees waived at case activation.⁴ The problems with the exemption system have persisted since the Brennan Center identified its shortcomings in 2009. Community leaders including directly impacted Marylanders lent further support to the Brennan Center’s findings in a House Judiciary Committee briefing on Fines and Fees in November 2023.⁵

Collected supervision and drug- and alcohol-testing fees make up a negligible portion of the State’s budget yet impose a catastrophic burden on many of the individuals subject to them, ultimately undermining the State’s fiscal interests. Despite the time, effort, and other resources the State employs to collect these fees, the collection rates hover around 17%. Those resources would be better allocated in support of measures that actually prevent crime and improve public safety. Senate Bill 728 provides a meaningful opportunity to remove barriers and create opportunities for people reentering their communities from incarceration.

For these reasons, we urge a favorable report on Senate Bill 728.

² *April 2023 Dear Colleague Letter* . U.S. Department of Justice . (n.d.). <https://www.justice.gov/opa/press-release/file/1411101/dl>

⁴ Rebekah Diller. (2009, March 23). *Maryland’s parole Supervision Fee: A Barrier to Reentry*. Brennan Center for Justice. <https://www.brennancenter.org/our-work/research-reports/marylands-parole-supervision-fee-barrier-reentry>

⁵ Judiciary Committee Briefing, 11/8/2023, https://mgaleg.maryland.gov/mgawebbsite/Committees/Media/false?cmte=jud&clip=JUD_11_8_2023_meeting_1&ys=2023rs.

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Uploaded by: Jill Carter

Position: FAV



THE SENATE OF MARYLAND
Annapolis, Maryland 21401

Testimony of Senator Jill P. Carter
In Favor of SB0728 Correctional Services - Parole Supervision Fees
and Drug and Alcohol Abuse Test Payment - Repeal
On February 28th 2024

Mr. Chairman, Vice Chair, and Members of the Committee:

Parole supervision fees and mandatory drug/alcohol testing costs create significant obstacles for individuals attempting to rebuild their lives post-incarceration. For many, these fees represent an insurmountable barrier to successful reintegration. Requiring individuals to pay for necessary services like drug testing disproportionately affects those already struggling financially, perpetuating cycles of poverty and recidivism.

By repealing these requirements, we can foster a more equitable and effective system of reentry and rehabilitation. Removing financial barriers will enable individuals on parole to focus on constructive activities such as securing employment, housing, and accessing education or treatment programs. This, in turn, will promote public safety by reducing the likelihood of reoffending and enhancing community stability. These measures, if repealed, will alleviate undue financial burdens on individuals striving to reintegrate into society after incarceration.

I urge this committee to give a favorable report on SB0728. Thank you for your time.

Respectfully,

Jill P. Carter

MDDCSAM SB 728 parole fees.pdf

Uploaded by: Joseph Adams, MD

Position: FAV



MDDCSAM is the Maryland state chapter of the American Society of Addiction Medicine whose members are physicians and other health providers who treat people with substance use disorders.

Senate Bill 728 Correctional Services - Parole Supervision Fees and Drug and Alcohol Abuse Test Payment – Repeal Senate Judicial Proceedings Committee, February 28, 2024

FAVORABLE

by Jessica Friedman, MD, MPH for MDDCSAM

On behalf of the Maryland-DC Society of Addiction Medicine, I am writing to support Senate Bill 728, which eliminates fees for provision of parole supervision and drug and alcohol testing for individuals under supervision of the Division of Parole and Probation.

People on parole and probation are much more likely to have low incomes or be unemployed than people not on parole and probation.¹ The reasons for this are numerous and include both social and structural factors that existed prior to incarceration or community supervision as well as the challenges that people experience when trying to find and keep employment while under community supervision. Ultimately, fees for parole supervision and drug and alcohol testing are regressive and effectively create a system in which people are punished simply for being poor.

Many individuals on parole and probation would benefit from intensive, evidence-based treatment for substance use disorders. However, the time required to engage in effective treatment can conflict with the need to earn money to pay fees associated with community supervision. This creates a perverse choice in which individuals must choose between engaging in the treatment that would enable their rehabilitation or working so that they can avoid incarceration. **These fees are an unnecessary barrier to substance use disorder treatment and recovery.**

Moreover, if people are unable to pay a fee, they can be incarcerated. This is despite any progress they may have made in re-entering the community, including seeking treatment for their substance use disorder. For all illnesses, but especially substance use disorders, **interruptions in care increase the chance of relapse**, leading to increased risk of death and disability due to substance use.

Fees for supervision of parole and probation and drug and alcohol testing are regressive, unjust and hinder recovery from substance use disorders. We urge a favorable report on Senate Bill 728.

1. Finkel, Mark. "New data: low incomes - but high fees - for people on probation."
https://www.prisonpolicy.org/blog/2019/04/09/probation_income/

SB 728_MD Center on Economic Policy_FAV.pdf

Uploaded by: Kali Schumitz

Position: FAV

Repealing Monthly Drug Test Fees Gives Money Back to Returning Marylanders

Position Statement in Support of Senate Bill 728

Given before the Senate Judicial Proceedings Committee

Justice system mandated fees are imposed in every state across the country, and Maryland is no exception. These fees are frequently imposed on individuals the minute they come into contact with the criminal justice system. This can trap thousands of Maryland residents in an inescapable cycle of poverty and punishment. Senate Bill 728 addresses the harmful impact of drug and alcohol test fees, as they inflict additional economic burdens on individuals reentering society as well as on their families. For people attempting to reengage in their communities, secure employment, and be valuable members of society after serving a time of incarceration, an additional \$50 monthly fee creates a tremendous burden to individuals and society at large. SB 728 would be a first step toward eliminating one very harmful set of fees that will have a meaningful and direct impact on the residents of this state. **The Maryland Center on Economic Policy supports Senate Bill 728 because removing harmful fees gives returning Marylanders opportunities to support their communities.**

Justice system mandated fees operate as a regressive tax, existing to generate revenue, and forcing those least able to pay to fund the justice system or pay into the general fund, rather than evenly distributing the burden among everyone that it serves. These fees trap people in a perpetual cycle of debt and punishment when they are unable to pay. Approximately 1 in every 75 people are under probation or parole in the United States.ⁱ Millions of people are being assessed fees for their supervision and the drug and alcohol testing that may be part of their extended supervision. These costs can total hundreds of dollars every month, a cost that can be nearly impossible for many to pay.

- Data on formerly incarcerated people show that in the first few months after being released, individuals were earning just 53% of the median U.S. worker's wage. After four years of seeking and obtaining irregular employment, the study population was making less than 84 cents for every dollar of the U.S. median wage. Disparities in earnings seem to grow over time for Black and Native American individuals, as they have the lowest wages.ⁱⁱ
- Although a fee of \$50 a month may seem low for some, it can be crushing for those barely getting by. When fees for the required drug and or alcohol testing are added to the required monthly parole fee, as is the case in Maryland, the system is setting individuals and their families up for financial stress and likely failure.
- In Maryland, approximately 8,800 individuals were on parole in 2021.ⁱⁱⁱ A 2009 study by the Brennan Center found 75% of parole supervision debt went unpaid at the end of parole and was referred to the state's Central Collections Unit, where it was subject to a 17% collection fee penalty.^{iv}
- A 2023 study by the Fines and Fees Justice Center and the Wilson Center for Science and Justice at Duke Law found that 1 in 3 adults in the U.S. had some form of fine or fee debt in the previous 10 years.^v Of those

with debt, 35% had challenges obtaining food and 27% reported the debt caused hardships related to housing.

Fines and fees are obstacles to record clearing in Maryland, threatening an individual's long-term economic advancement. Taking money out of the pockets of lower-income families and individuals takes the dollar out of circulation where consumer spending is the biggest driver for a local economy. The practice of assessing fees is counterproductive, harming individuals and communities, and being a resource drain on governments and the local economy. **For these reasons, the Maryland Center on Economic Policy respectfully requests that the Senate Judicial Proceedings Committee make favorable report on Senate Bill 728.**

Equity Impact Analysis: Senate Bill 728

Bill summary

Senate Bill 728 repeals the requirement for the Maryland Parole Commission to assess a fee against an individual on parole and supervised by the Division of Parole and Probation under certain circumstances, and repeals authorization for the Division of Parole and Probation to require a supervisee of the Division who is on parole to pay for certain drug or alcohol abuse testing under certain circumstances.

Background

In Maryland, parolees are required to pay monthly supervision fees on top of any court-ordered alcohol or drug testing and other fees, such as those for electronic monitoring or the cost of defense counsel. Such fees can account for large portions of an individual's income, reducing their household resources and challenging their financial health. While fines and fees are often lumped together, fees are distinct from fines; fees are not intended to be punitive and exist only to generate revenue. Fees operate as a regressive tax, forcing those least able to pay to fund the justice system, rather than evenly distributing the burden among everyone that it serves. These fees trap people in a perpetual cycle of debt and punishment when they are unable to pay.

- Approximately 1 in every 75 people are under probation or parole in the United States.¹
- Assessing these fees can entrench families and communities in a cycle of poverty, putting jobs, housing, and sometimes even families in constant uncertainty.

And when people inevitably miss a payment, their liberty is at stake. When a person fails to pay in Maryland, parole can be revoked, causing individuals to go back to a state of incarceration. This damages their pathways to opportunity and success, along with those of their family, the larger community, and at an extensive cost to the government. These technical violations have long-term impacts, even making individuals ineligible for future expungement where they may otherwise meet the criteria.

Equity Implications

Senate Bill 728 would be a positive move toward ending harmful fees in Maryland. While many states authorize supervision fees for those on parole, a growing number of states do not. Recognizing the harms of these fees, states are ending these practices, creating better opportunities for those reentering to succeed.

- In recent years, Delaware, New York, California, Oregon, and Massachusetts ended these fees, joining a handful of other states that do not authorize the use of these fees.

Impact

Senate Bill 728 would likely **improve racial and economic equity** in Maryland.

-
- i <https://finesandfeesjusticecenter.org/content/uploads/2022/05/Probation-and-Parole-Fees-Survey-Final-2022-.pdf>
 - ii <https://www.prisonpolicy.org/blog/2022/02/08/employment/>
 - iii <https://nicic.gov/resources/nic-library/state-statistics/2021/maryland-2021>
 - iv <https://www.brennancenter.org/sites/default/files/legacy/publications/MD.Fees.Fines.pdf>
 - v https://finesandfeesjusticecenter.org/content/uploads/2023/05/Debt_Sentence_FFJC-Wilson-Center-May-2023.pdf

SB 728 - Correctional Services - Parole Supervisio

Uploaded by: Kam Bridges

Position: FAV

JOTF JOB OPPORTUNITIES TASK FORCE

Advocating better skills, jobs, and incomes

Testimony in Support of Senate Bill 728

Correctional Services - Parole Supervision Fees and Drug and Alcohol Abuse Test Payment - Repeal

TO: Hon. William C. Smith, Jr., and Members of the Senate Judicial Proceedings Committee

FROM: Job Opportunities Task Force

DATE: February 28, 2024

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-wage workers and job seekers in Maryland. **JOTF supports Senate Bill 728, which would repeal the requirement for the Maryland Parole Commission (MPC) to assess a monthly \$50 fee as a condition of supervision for each individual on parole and supervised by the Division of Parole and Probation (DPP), and would repeal the authorization for DPP to require an individual on parole and supervised by DPP to pay for drug and alcohol abuse testing ordered by MPC.**

While fines and fees are experienced together, fees are distinct from fines; fees are not intended to be punitive and exist only to generate revenue. Fees operate as a regressive tax, forcing those least able to pay to fund the justice system, rather than evenly distributing the burden among everyone that it serves. These fees trap people in a perpetual cycle of debt and punishment when they are unable to pay. The specific fees being addressed in SB 728 particularly harmful, as they inflict additional economic burdens on individuals reentering society as well as their families. For people attempting to reengage in their communities, with employment, and be valuable members of society after serving a time of incarceration, an additional \$50 monthly fee that is tied to their freedom creates a tremendous burden to individuals and society at large.

In Maryland, approximately 8,800 individuals are on parole. A 2009 study by the Brennan Center found 77% of parole supervision debt went unpaid at the end of parole and was referred to the state's Central Collections Unit, where it was subject to a 17% collection fee penalty. It is far more fiscally responsible to eliminate these fees altogether, considering they are not being paid anyway, and the people being reincarcerated due to lack of payment add more financial burdens onto the state that far exceed what would have been collected had they paid their parole supervision debt. JOTF believes that SB 728 will help reverse the negative effects of this regressive system and ultimately benefit individual Marylanders and the state as a whole.

For these reasons, JOTF supports Senate Bill 728 and urges a favorable report.

For more information, contact:

Kam Bridges / Senior Public Policy Advocate / Kam@jotf.org

SB 728 - parole fees repeal favorable .pdf

Uploaded by: Melissa Rothstein

Position: FAV



NATASHA DARTIGUE
PUBLIC DEFENDER

KEITH LOTRIDGE
DEPUTY PUBLIC DEFENDER

MELISSA ROTHSTEIN
CHIEF OF EXTERNAL AFFAIRS

ELIZABETH HILLIARD
ACTING DIRECTOR OF GOVERNMENT RELATIONS

POSITION ON PROPOSED LEGISLATION

BILL: SB0728 Correctional Services - Parole Supervision Fees and Drug and Alcohol Abuse Test Payment - Repeal

FROM: Maryland Office of the Public Defender

POSITION: Favorable

DATE: 2/27/2024

The Maryland Office of the Public Defender (OPD) respectfully requests that the Committee issue a favorable report on Senate Bill 728. Fees for parole supervision and payments for drug and alcohol testing impose costs on our most impoverished residents and stymie successful reentry.

Fees and costs imposed on those involved in the criminal system perpetuates a cycle of poverty and incarceration that disproportionately harms communities of color. OPD represents the majority of criminal defendants, while even more qualify as indigent. With few resources prior to arrest, and the potential loss of income during any incarceration before release, imposition of these costs are impossible to meet.

Non-payment of these required fees is a violation that can result in arrest and incarceration. It can also result in proceedings with the Central Collections Unit, which adds an additional cost on to the debt and hurts an individual's credit score, making it more difficult to secure housing and further increasing the risk of recidivism.

As Black and Brown individuals are both disproportionately targeted for criminal prosecution and more likely to be poor, they are especially impacted by these costs and the penalties of non-payment. The spiraling debt does not just impact the individual, but their entire family that will be required to assist with payments to avoid the re-incarceration of their loved

one. Repeal of these payments is therefore an important racial justice measure to reduce disparities in Maryland's criminal system.

In light of the inequities and inefficiencies of the many costs imposed on justice-involved individuals, in 2017, OPD repealed the administrative fee authorized for public defender services. Before then, OPD was only able to collect approximately 10 percent of the fees imposed, with the remainder going to Central Collections Unit. The majority of our clients were not seeking to skirt mandated payments, they simply lacked the funds to do so. Thus, the collections process exacerbated the financial issues that the majority of our clients faced and wasted precious state resources on trying to secure funds that were not available. Parole and testing costs, which target the same individuals are subject to the same issues.

Rather than spend state resources taxing our most impoverished residents, repealing parole supervision fees and drug and alcohol testing costs would encourage positive reentry and promote the economic stability that individuals who are on parole or mandated for drug and alcohol testing need.

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue a favorable report on Senate Bill 0728.

Submitted by: Government Relations Division of the Maryland Office of the Public Defender.

**Authored by: Melissa Rothstein, Chief of External Affairs,
melissa.rothstein@maryland.gov, 410-767-9853.**

FINAL BUILD Written Testimony for Parole Fees Bill

Uploaded by: Minister Thomas Anderson

Position: FAV



WRITTEN TESTIMONY
**THE IMPORTANCE OF ENDING PAROLE SUPERVISION FEES
& FEES FOR DRUG AND ALCOHOL TESTING IN MARYLAND
(SB 728 / HB 531)**

Submitted by: BUILD (Baltimoreans United in Leadership Development)

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Again and again, we heard stories about the impact of parole fees – \$52 per month for most people returning home from incarceration. It was ratified as a top concern for our leaders' work on criminal justice issues around the state.

- We heard stories from people struggling to pay these fees at a time when they did not have a job or housing;
- We heard about people who were consistently afraid of being sent back to prison or who considered actions that may have led to recidivism because they were behind on payments;
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- We heard about people in debt, who were now in collections and owed 17% in interest on top of monies they should have been exempt from in the first place.

Today, you will hear a story from Alicia Shaw about her direct experience with this issue and how it has impacted her.

But it has been a problem for decades. It has put barriers in front of people returning home, encouraging recidivism for decades. It was the subject of a study by the Brennan Center for Justice in 2009, nearly 15 years ago. But these fees have continued to impact some of the most vulnerable people in our state.

The Brennan Center's 2009 report – which you will hear more about today – includes some of the following highlights:

- It recommended that parole fees be eliminated;
- It found that the system of applying for exemptions was broken;
- It found that the State of Maryland pursues people who do not pay for debt, adding a 17% surcharge;
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NCADD-MD - 2024 SB 728 FAV - Parole Fee Repeal - S

Uploaded by: Nancy Rosen-Cohen

Position: FAV



Senate Judicial Proceedings Committee

February 28, 2024

Senate Bill 728

**Correctional Services - Parole Supervision Fees and
Drug and Alcohol Abuse Test Payment - Repeal
Support**

NCADD-Maryland supports Senate Bill 728. In Maryland, fees are charged to people who are under parole and probation supervision. Fees are also charged for things like drug testing which is often required for many whose convictions are linked to drug use. When these are not paid, people are eligible to have their supervision violated and they can potentially be re-incarcerated.

A report from the Fines and Fees Justice Center and REFORM Alliance did a 50-state survey and found when people cannot afford probation and parole fees, they are often re-incarcerated and the length of supervision can be extended.¹ A survey from 2023 by the Prison Policy Initiative did a close look at data collected by the National Survey on Drug Use and Health (NSDUH). Among the facts discussed include:

Three in 10 people under community supervision have substance use disorders, four times the rate of substance use disorders in the general population. Similarly, 1 in 5 people under community supervision has a mental health disorder, twice the rate of the general population.²

With people on parole and probation more like to have serious health problems, behavioral health disorders, and a lack of health insurance³, the challenges to find a job in order to have an income sufficient to afford housing and other basic needs, plus the supervision fees required by Maryland can be insurmountable. According to a 2022 report from the Department of Public Safety and Correctional Services, 66.7% of people released from prison from FY 2016 to FY 2019 were released under some form of post-release supervision. Of those, 39% returned to incarceration due to technical violations of community supervision.⁴

(over)

¹ <https://finesandfeesjusticecenter.org/articles/50-state-survey-probation-and-parole-fees/>

² https://www.prisonpolicy.org/blog/2023/04/03/nsduh_probation_parole/

³ Ibid.

⁴ https://dpscs.maryland.gov/publicinfo/publications/pdfs/2022_p157_DPSCS_Recidivism%20Report.pdf

NCADD-Maryland believes that these fees established by the state set people up for failure. This kind of policy change is a necessary component to significantly improving our communities. When people have served their time, they should have the opportunities and supports needed to ensure they are able maintain productive lives and livelihoods with their families. Removing some of the barriers to success will also help people with substance use disorders maintain their recovery.

We urge your support of Senate Bill 728.

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TESTIMONY IN SUPPORT OF SENATE BILL 0728:

Correctional Services – Parole Supervision Fees and Drug and Alcohol Abuse Test Payment – Repeal

TO: Hon. Will Smith, and members of the Senate Judicial Proceeding Committee

FROM: Priya Sarathy Jones, Deputy Executive Director, Fines and Fees Justice Center

DATE: Tuesday, February 26, 2024

The Fines and Fees Justice Center (FFJC) thanks the Maryland Senate Judicial Proceedings Committee for scheduling this important hearing and **urges a favorable report on Senate Bill 0728.**

Justice system-mandated fees are imposed in every state across the country, and the state of Maryland is no exception. These fees frequently attach to a person the minute they come into contact with the criminal justice system. This can trap thousands of Maryland residents in an inescapable cycle of poverty and punishment. The specific fees being addressed in SB0728 are particularly harmful, as they inflict additional economic burdens on individuals reentering society as well as their families. **For people attempting to reengage in their communities, gain employment, and be valuable members of society after serving a time of incarceration, an additional \$50 monthly fee that is tied to their freedom creates a tremendous burden to individuals and society at large.** BUILD requested that FFJC provide testimony on SB0728, and **we urge the Committee to pass SB0728.** This would be a first step toward eliminating at least one very harmful set of fees that will have a meaningful and direct impact on the residents of this state. More importantly, this is the best way to move towards practices that create opportunity rather than inflicting additional harm on our most vulnerable communities across the state.

Fines and Fees Justice Center

The Fines and Fees Justice Center is a national hub for information, advocacy, and collaboration for the reform of fines and fees. Our mission is to eliminate fees in the justice system, ensure that fines are equitably imposed, and end abusive collection practices. Fines and fees in the justice system hurt millions of Americans – entrenching poverty, exacerbating racial disparities, diminishing trust in our courts and police, and trapping people in perpetual cycles of punishment. FFJC convenes the bipartisan [End Justice Fees coalition](#), along with Americans for Prosperity and the ACLU, which supports the elimination of fees, like the supervision fees addressed in this critical legislation, charged in the justice system.¹

Justice Fees: Parole, Drug & Alcohol Testing Fees

While Fines and Fees are experienced together, **fees are distinct from fines; fees are not intended to be punitive and exist only to generate revenue. Fees operate as a regressive tax**, forcing those least able to pay to fund the justice system, or the state budget at large, rather than evenly distributing the burden among everyone that it serves. These fees trap people in a perpetual cycle of debt and punishment when they are unable to pay.

Approximately 1 in every 75 people are under probation or parole in the United States.²

Millions of people are being assessed fees for their supervision and the drug and alcohol testing that may be part of their extended supervision. These costs can total hundreds of dollars every month, a cost that can be nearly impossible for many to pay. In the first few months after being released, formerly incarcerated individuals were earning just 53% of the median US worker's wage.³ After four years of seeking and obtaining irregular employment, the study population was making less than 84 cents for every dollar of the US median wage. When those individuals are Black and Native American, the disparities in earnings seem to grow over time, with the lowest wages for these demographics.⁴ **Fees even as “low” as \$50 a month can be crushing for those barely getting by.** When additional fees for the required drug and or alcohol testing are added, like those in Maryland, to the required monthly parole fee, **the system is setting individuals and their families up for financial stress and likely failure.**

And when people inevitably miss a payment, their liberty is at stake. Maryland provides that when a person fails to pay, parole can be revoked, causing individuals to go back to a state of incarceration, damaging their pathways for opportunity and success, along with those of their family, the larger community, and at an extensive cost to the government. These technical violations have long-term impacts, even making individuals ineligible for future expungement where they may otherwise meet the criteria.

In Maryland, approximately 8,800 individuals are on parole.⁵ A 2009 study by the Brennan Center found **75% of parole supervision fees were referred to the state's Central Collections Unit because they went unpaid at the end of parole**⁶ The Central Collections

¹ More information available at www.endjusticefees.org.

² [50 State Survey: Probation and Parole Fees FFJC](#)

³ <https://www.prisonpolicy.org/blog/2022/02/08/employment/>

⁴ <https://www.prisonpolicy.org/blog/2022/02/08/employment/>

⁵ <https://nicic.gov/resources/nic-library/state-statistics/2021/maryland-2021>

⁶ Rebekah Diller et al., [Maryland's Parole Supervision Fee: A Barrier To Reentry](#), Brennan Center for Justice (May 2009). <https://www.brennancenter.org/sites/default/files/legacy/publications/MD.Fees.Fines.pdf>.

Unit then **adds a 17% collection fee penalty, compounding the debt.**⁷ Ending this practice can not only bring immediate benefits to these individuals, but it also provides a benefit to the government. Given the inconsequential amount of collections, **the fiscal impact of eliminating these fees is not significant to the overall state budget, and when individuals are reincarcerated for these violations the costs of incarceration far exceed the cost of eliminating these fees.**

When Maryland authorized this fee in 1991 it understood that those on parole would be unable to pay the fees, and built-in exemptions that would allow for the fees to be waived. However, what we know, is that **even though most people on parole are unemployed, only 7% of them were granted exemptions.**⁸ This fee has been in place for over 30 years, with **collection rates documented at 17%.** Those funds are negligible to the general fund, where they are directed, and a devastating loss and burden to the individuals and the families that pay them.

Economic Harms:

Taking money out of the pockets of lower-income families and individuals takes the dollar out of circulation where consumer spending is the biggest driver for a local economy. The practice of assessing fees, especially these fees, is counterproductive, harming individuals, and communities and being a resource drain on governments and the local economy. A 2023 study by the Fines and Fees Justice Center and the Wilson Center for Science and the Law at Duke University found that **1 in 3 adults in the U.S. had fine or fee debt** in the previous 10 years. Of those with debt, **35% had challenges obtaining food as a result** and **27% reported the debt causing hardships related to housing.**⁹ According to the Federal Reserve, one-third of Americans with a family income less than \$25,000 per year are unable to pay off their monthly bills, even without unexpected emergencies.¹⁰ Eliminating the fees in SB0728 would immediately keep critical, life-sustaining dollars in the pockets of Maryland families who are already struggling financially and stop the accumulation of any further debt as a result of this fee.

Assessing these fees can entrench families and communities in a cycle of poverty, putting jobs, housing, and sometimes even families in constant jeopardy. In a study that interviewed individuals on [probation in Texas](#), half of the income of participants who had full- or part-time employment went towards just paying probation fees. **We know that those on parole in Maryland are required to pay monthly supervision fees on top of any court-ordered alcohol or drug testing, along with other fees, such as those for electronic monitoring or the cost of defense counsel. Such fees can account for large portions of an individual's income, reducing their household resources and challenging their financial health. These fines and fees not only impact a person's current financial circumstances but can have a bearing on future earnings as well.** [One study](#) estimates that the annual earnings loss associated with misdemeanor and felony convictions to be \$5,100 and \$6,400, respectively. **Fines and Fees are obstacles to record clearing in Maryland, threatening an individual's long-term economic advancement.** An individual who has a criminal record is only half as

⁷ Id.

⁸ <https://www.brennancenter.org/sites/default/files/legacy/publications/MD.Fees.Fines.pdf>

⁹ Fines and Fees Justice Center & Wilson Center for Science and Justice at Duke Law, *Debt Sentence: How Fines And Fees Hurt Working Families* (May 2023), available at <https://finesandfeesjusticecenter.org/articles/debt-sentence-how-fines-and-fees-hurt-working-families/>.

¹⁰ Report on the Economic Well-Being of U.S. Households in 2022 - May 2023,

<https://www.federalreserve.gov/publications/2023-economic-well-being-of-us-households-in-2022-expenses.htm>

likely to get a callback or job offer as a result and **lost wages** for people touched by the criminal legal system amount to **more than \$372 billion annually**.

Fees and Public Safety:

In addition to individual and community economic harms, fines and fee practices can also jeopardize public safety and contribute to more social harm. A study of misdemeanor assessment fees in Milwaukee, Wisconsin found that **a new fee** of \$200 on all misdemeanor convictions **increased the overall likelihood of re-offense within two years**. These increased fees are linked to increases in both recidivism and its severity. A survey of 980 people facing court-related debt, found that **individuals faced with fines and fees admitted to committing new, and frequently worse, offenses to pay off their court debt**. Other studies have found that using law enforcement to enforce and or collect legal debt can **negatively affect crime-solving and case closures**. **In Maryland, 64 percent of violent crimes were not solved in 2022, 2 percentage points worse than the national average.**¹¹ In 2023 United States Department of Justice explained in Dear Colleague letter, “Unaffordable fines and fees undermine rehabilitation and successful reentry and increase recidivism for adults and minors.”¹²

Maryland SB0728

Passage of SB0728 would be a positive move toward ending harmful fees in Maryland. While many states authorize supervision fees for those on parole, a growing number of states do not. Recognizing the harms of these fees, states are ending these practices, creating better opportunities for those reentering to succeed. In recent years, Delaware, New York, California, Oregon, and Massachusetts ended these fees, joining a handful of other states that do not authorize the use of these fees.¹³

Conclusion

Maryland’s pursuit to eliminate these harmful and regressive fees is in step with the bipartisan movement toward reform and is in line with the national direction on this issue.

The Fines and Fees Justice Center will continue to work for a more just and equitable system. We know this Committee will, too. We look forward to doing it together.

Thank you for the opportunity to submit this testimony. **We respectfully urge a favorable report on SB0728.**



Priya Sarathy Jones
Deputy Executive Director

¹¹ Criminal Justice Data Snapshot Council of State Governments:

<https://csgjusticecenter.org/wp-content/uploads/2023/11/Maryland-Criminal-Justice-Data-Snapshot.pdf>

¹² U.S. Dept. of Justice Office of the Associate Attorney General, Dear Colleague Letter to Courts Regarding Fines and Fees for Youth and Adults (Apr. 20, 2023), *available at*

https://www.justice.gov/d9/press-releases/attachments/2023/04/20/doj_fines_and_fees_dear_colleague_letter_final_with_signatures_0.pdf

¹³ <https://www.brennancenter.org/sites/default/files/legacy/publications/MD.Fees.Fines.pdf>

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MARYLAND'S PAROLE
SUPERVISION FEE:
A BARRIER TO REENTRY

Rebekah Diller, Judith Greene, and Michelle Jacobs

ABOUT THE BRENNAN CENTER FOR JUSTICE

The Brennan Center for Justice at New York University School of Law is a non-partisan public policy and law institute that focuses on fundamental issues of democracy and justice. Our work ranges from voting rights to redistricting reform, from access to the courts to presidential power in the fight against terrorism. A singular institution – part think tank, part public interest law firm, part advocacy group – the Brennan Center combines scholarship, legislative and legal advocacy, and communications to win meaningful, measurable change in the public sector.

ABOUT THE BRENNAN CENTER'S ACCESS TO JUSTICE PROJECT

The Access to Justice Project at the Brennan Center for Justice at NYU School of Law is one of the few national initiatives dedicated to helping ensure that low-income individuals, families and communities are able to secure effective access to the courts and other public institutions. The Center advances public education, research, counseling, and litigation initiatives, and partners with a broad range of allies – including civil legal aid lawyers (both in government-funded and privately-funded programs), criminal defense attorneys (both public defenders and private attorneys), policymakers, low-income individuals, the media and opinion elites. The Center works to promote policies that empower those who are vulnerable, whether the problem is eviction; predatory lending; government bureaucracy (including, in some instances, the courts themselves); employers who deny wages; abusive spouses in custody disputes or in domestic violence matters; or other problems that people seek to resolve in reliance on the rule of law.

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Michelle Jacobs teaches law at the University of Florida, Levin College of Law. She received her A.B. *cum laude* from Princeton University in 1977 and obtained her Juris Doctorate from the Rutgers University School of Law- Newark in 1982. Professor Jacobs began teaching after practicing as a criminal defense lawyer in New York and New Jersey. She is currently a tenured professor at the University of Florida, Levin College of Law, where she teaches Criminal Law, International Criminal Law, Critical Race Theory and a seminar on women defendants on the criminal justice system. Her scholarship explores the issue of access to justice for the poor, particularly in the criminal justice context. Most recently, she has focused specifically on the issues of women who are prosecuted for criminal offenses. Professor Jacobs recently assisted in preparing a section of the U.S. shadow report for the UN's Committee to Eliminate Racial Discrimination.

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EXECUTIVE SUMMARY

In this report, we conclude that billing individuals on parole \$40 per month for their supervision is a penny-wise, pound-foolish policy that undercuts the State of Maryland's commitment to promoting the reentry of people into society after prison. Implemented nearly two decades ago during a national wave of new supervision fees, the Maryland policy was intended to raise extra revenue for general state functions. However, our research shows that the fee is largely uncollectible due to the dire financial situation in which parolees find themselves and that the paper debt it creates does more harm than good. Moreover, the imposition of the fee is out of step with Maryland's move toward supervision policies that protect the public by promoting the ability of parolees to reenter society successfully.

To assess the impact and operation of the fee, we examined data from the Maryland Division of Parole and Probation ("DPP"), spoke with DPP personnel, reentry service providers and parolees, and reviewed the literature detailing the challenges of reentry. From this research emerges a portrait of a population ill-equipped to subsidize state coffers. Many on parole are struggling at the most basic levels. They face significant challenges finding housing and employment and reestablishing family and community ties.

In fact, when it enacted the fee, the Legislature, too, was aware that individuals on parole would be unable to afford the fee and, accordingly, created categorical exemptions. Yet, the Legislature vested the Parole Commission, a body with which parolees have little ongoing contact, rather than the Division of Parole and Probation, whose Supervision Agents meet regularly with parolees, with the exclusive authority to grant exemptions. The Parole Commission imposes the fee routinely, without conducting evaluations of whether parolees should receive exemptions. As a result of this practice, and of the cumbersome process for securing exemptions after parole has begun, Maryland rarely grants exemptions to parolees even though most parolees are likely eligible.

When exemptions are not granted, as is overwhelmingly the case, the fees accrue as debt owed by persons on parole. Individuals who cannot pay receive automatically generated letters from DPP that threaten them with parole revocations (although parole is almost never revoked solely for failure to pay the fee). At the end of a parole term, the paper debt is transferred from the Division of Parole and Probation to the state's Central Collection Unit ("CCU"), which continues the dunning process – in some cases, seeking civil judgments that mar credit reports – and which adds a one-time 17 percent surcharge onto the underlying debt.

Parole Supervision Agents, reentry service providers and individuals on parole agree that the strain of owing money that cannot be paid and the repeated receipt of threatening letters undermine efforts to reenter society successfully. The supervision fee debt is often just one of many

financial obligations that parolees accrue during prison and parole in Maryland. Others include back child support, drug and alcohol testing charges, and fees for participation in drug treatment and other programs.

Because it hinders reentry goals by burdening parolees with debt they are unable to pay, we recommend abolishing the parole supervision fee, a step Virginia took in 1994. Although it raises a small amount of revenue – \$334,752 in fiscal year 2008 – the fiscal benefit is outweighed by the risk that the fee contributes to recidivism, and thereby results in higher incarceration costs. The fee is out of step with Maryland’s shift toward supervision policies that promote reentry and is a distraction from the crime-prevention mission of the Division of Parole and Probation. In the alternative, we recommend improving the way the fee is implemented to ensure that exemptions are approved where due. Our key findings and recommendations are set forth below.

KEY FINDINGS

1. When it authorized the fee in 1991, the Legislature knew that most parolees would be unable to afford the fee, and therefore built in exemptions. The Legislature created a set of exemptions for individuals who were unemployed, disabled, obtaining job training, contending with family obligations and undue hardship, or enduring other extenuating circumstances.

2. Most parolees are, in fact, unemployed and unable to afford the fee. Only one-quarter are employed full-time when parole begins. Only one-third are employed full-time when their parole term ends.

3. The system for granting exemptions is broken. Although these exemptions are “on the books” and most parolees would qualify for one, they are not generally used. The fee is routinely imposed on the vast majority of parolees who are not employed full-time and therefore unable to pay.

4. On average, parolees are ordered to pay \$743 in supervision fees over the course of their parole terms. Many are ordered to pay other sums as part of parole, such as fees for drug and alcohol testing and community service. Many also have unpaid child support debt.

5. Only 17 percent of the supervision fees assessed are collected by the end of parole. Nine out of 10 individuals have outstanding supervision fee debt when parole ends. In 75 percent of the cases, the debt was turned over by the Division of Parole and Probation to the Maryland Central Collection Unit to pursue collection.

6. Revenue generated by the supervision fee is not dedicated to financing parole supervision. Instead, it is diverted to the state's general revenue fund, from which it is used to finance any Maryland state government function.

7. Dunning by the Division of Parole and Probation and by the Central Collection Unit pressures individuals, undermines reentry, and is out-of-step with Maryland's effort to reduce recidivism. Fee collection pulls parole agents away from more important duties such as helping parolees find jobs.

RECOMMENDATIONS

We recommend that the four state bodies administering the parole supervision fee in Maryland – the Legislature, Parole Commission, Division of Parole and Probation, and Central Collection Unit – take the following steps to fix Maryland's parole supervision fee:

Legislature:

- **Abolish the parole supervision fee outright.** The Maryland Legislature should abolish the supervision fee outright in light of the inability of most parolees to afford it, the limited revenue it raises, and the detrimental effect it has on reentry. This is the path that Virginia chose in 1994 after finding that its parole supervision fee undermined correctional goals and was too difficult to collect.

In the alternative, the Legislature should:

- **Implement a sliding scale fee tailored to an individual's financial circumstances.** Those parolees who can pay more should pay more. Those who are able to pay very little or nothing should have their obligations adjusted accordingly.

- **Ensure that the obligation to pay the fee does not commence until a Division of Parole and Probation agent has done an initial assessment of the parolee's circumstances.** The DPP is better positioned than the Parole Commission to evaluate an individual's ability to afford the fees and make payment.

Parole Commission:

- **Evaluate exemptions up front.** Even without a legislative change, the Parole Commission should conduct front-end evaluation of whether parolees should be considered exempt based

on disability, enrollment in job training and other educational programs, family obligations combined with undue hardship, and other extenuating circumstances.¹

Division of Parole and Probation:

• **Direct parole agents to help individuals apply for exemptions.** Even without a legislative change, the DPP should reverse current policy, and direct agents to help supervisees apply for exemptions, effectuating the Legislature’s goal of ensuring that qualified individuals receive exemptions.

Central Collection Unit:

• **Eliminate the 17 percent surcharge added to parole supervision fee debt.** Even without a legislative change, the CCU should eliminate the 17 percent surcharge that automatically enlarges supervision fee debt solely because the parolee was unable to afford the fee during parole. This undercuts reentry and is bad policy.

1 An up-front assessment also would be desirable for the first, and most common, exemption ground—unemployment. However, the current statute contemplates such an exemption later in the parole term “after the supervisee has diligently attempted but has been unable to obtain employment ...” MD. CODE ANN. CORR. SERVS. § 7-702(d)(1) (2008).

I. INTRODUCTION

Given the increasing use of economic sanctions by state governments, people entering the criminal justice system are unlikely to leave it without incurring new debt. For example, Maryland law authorizes charges for everything from an individual's initial arrest, to the costs of a constitutionally mandated public defender, to the costs of the individual's supervision on probation or parole.¹

Most of these charges are unrelated to the criminal system's putative goals of punishment, deterrence, incapacitation, and rehabilitation. Instead, they are designed to subsidize state budgets. This growing category of debt – created by fees levied to generate revenue – is distinct from fines and restitution, the two more traditional categories of criminal justice-related “legal financial obligations,” or “LFOs.” Fines are the traditional monetary penalty, usually based on the severity of crime, imposed to punish an individual.² Restitution, a court-ordered payment by the offender to compensate the victim for financial loss resulting from the crime,³ is rooted in a restorative justice approach that emphasizes repairing the harm of criminal behavior.

Revenue-generating “fees,” on the other hand, are assessed not for any criminal justice purpose, but rather to fund state budgets. They are imposed on a largely indigent population, rather than on the general tax-paying populace. And, they are imposed without regard to their impact on the ability of persons convicted of a crime to reenter society after completing court-mandated punishment. The parole supervision fee in Maryland – a monthly obligation of \$40 that totals of hundreds of dollars over the course of the parole term – is just such a charge.

Enacted in 1991, the Maryland parole supervision fee law was part of an understandably popular trend to charge persons convicted of crimes for the costs of their punishment. By 1990, 26 states had implemented probation fees and parole fees.⁴ Prompted by increasing costs, reduction of resources, and increased public support for shifting costs to offenders, states increasingly turned to fees not to further penological policy, but rather to raise revenue.⁵ Revenue enhancement was the parole supervision law's primary goal, too. As the Maryland Attorney General stated, “[t]he legislative history files reflect that the primary concern of the General Assembly in enacting the bills was to develop a new source of revenue in difficult economic times.”⁶ Although the fee is connected to the individual's parole status, the revenue generated by the fee does not finance the parolee's supervision and, instead, is deposited in the state's general fund, where it is used to finance general state operations.⁷

Nearly two decades after the enactment of the supervision fee, there is a growing awareness of the substantial barriers that persons leaving prison face when they attempt to reenter society. A body of research – much of which has focused on the Baltimore area – has confirmed that persons leaving prison face significant hurdles in obtaining employment, housing and other social

services.⁸ Many individuals also face financial burdens from staggering child support arrears, drug and alcohol testing fees, and, in some cases, fees for participation in drug treatment and other programs that are conditions of their parole. In short, the parolees from whom the state seeks to subsidize its coffers are often struggling to get by at the most basic levels.

At the same time, there is a growing recognition among policy-makers and the public at large that criminal justice policy needs to promote successful reentry in order to prevent recidivism, protect public safety, and reduce ballooning costs borne by taxpayers for imprisonment. Governor Martin O'Malley has recognized the need to take "concrete steps to make sure offenders who have served their debt to society have the tools and resources they need to re-enter society."⁹ Each year the Maryland Division of Corrections ("DOC") releases approximately 15,000 prisoners back into the community.¹⁰ Currently 51 percent of those released are reconvicted and return to custody (either for a new offense or for revocation of probation or parole) within three years.¹¹

In response to these high recidivism rates, the Maryland Department of Public Safety & Correctional Services ("DPSCS") has put renewed emphasis on promoting successful reentry.¹² In keeping with this focus, DPSCS's Division of Parole and Probation ("DPP") pioneered a model of supervision to enable people leaving prison to reenter the community and succeed.¹³ Titled, "Proactive Community Supervision," the approach relies on individualized assessments to identify risks and needs of each ex-offender. Drug and alcohol treatment, mental health treatment, educational assistance, and job skills training are provided, as appropriate. DPP has cut supervision agents' caseloads so they can spend more time in the supervisees' communities, working one-on-one with supervisees and building relationships with their families, friends and neighbors.¹⁴ This model has proven successful, reducing re-arrest rates and technical parole violations by 42 percent and 20 percent, respectively. It has demonstrated that such programs can effectively slow or stop the "revolving door" to prison.¹⁵

The parole supervision fee – which most believe does not further a rehabilitative purpose – is out of step with these innovations that have made Maryland a leader in advancing effective supervision and reentry approaches. Given the massive unemployment rates among parolees, the substantial financial hardships they face, and the undermining effect of new fee debt, this report urges elimination of the parole supervision fee as a revenue source in Maryland. We hope that Maryland policy-makers will reevaluate the wisdom of imposing the fee obligation in light of the findings set forth below. Although this report is confined to Maryland's particular experience with the parole supervision fee, we believe it will prove useful to other communities attracted to the short-term solution of new criminal justice fee debt when budgets are tight.

II. METHODOLOGY

To examine the impact of the parole supervision fee on people reentering their home communities from prison, we examined data obtained from the Maryland Division of Parole and Probation for all 7,524 parole supervision cases that were closed (*i.e.*, the parole supervision term was completed, or parole supervision was revoked, etc.) by the DPP between July 1, 2006 and June 30, 2007.¹⁶ Because most people released from prison in Maryland are placed “on parole,”¹⁷ the data is reflective of the population returning home from prison in general.

To further illuminate the impact of the fee, we interviewed 20 people currently reentering society after having been incarcerated. To ensure a free exchange, interviewees were assured that their names would remain confidential. We also interviewed 20 reentry service providers and public defenders. Finally, a focus group of supervision agents drawn from DPP district offices from across the state helped us to understand DPP policies and operational practices from the perspective of those who administer them “in real time.” Those parole agents were speaking for themselves and not as conveyers of official DPP policy. Top managers at the DPP provided a wealth of additional insights about a raft of complex issues.

This report also builds on the work of other reentry advocates and criminal justice experts, who have drawn attention to imposition of financial penalties and obligations on those convicted of crimes.¹⁸

III. MOST PAROLEES IN MARYLAND ARE UNABLE TO PAY THE SUPERVISION FEE

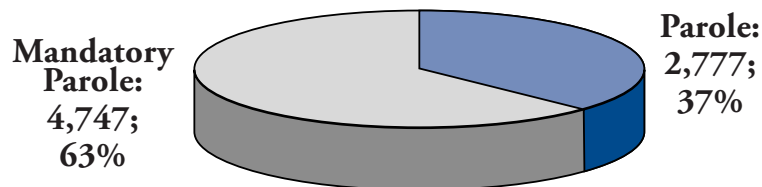
Most people released from prison face hurdles to obtaining personal and financial stability in the community, and few are equipped to comply with legal financial obligations such as the supervision fee. In our interviews, parole agents, defenders and reentry service providers all identified a similar list of the obstacles that people face at reentry: 1) insufficient job and training opportunities that would allow the returning person to earn a living wage; 2) lack of affordable and appropriate housing; 3) lack of support services, including mental health services as well as other forms of health treatment; and 4) lack of adequate drug treatment facilities. All of these factors combine to make payment of the supervision fee extremely difficult, if not impossible, for most parolees.

A. Profiles of persons on parole in Maryland.

There are two types of parole in Maryland. The first type, which comprised thirty-seven percent of the cases in our data sample (and is referred to below simply as “parole”) involves the discretionary and conditional release of people into the community following a Parole Commission

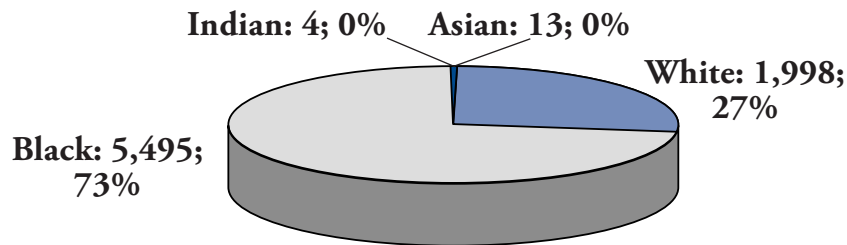
hearing that considers such factors as the circumstances surrounding the crime, behavior while incarcerated, societal compatibility and attitude, and others. The second type, which comprised 63 percent of our cases (and is referred to below as “mandatory parole”) involves people released into the community before the end of their sentences as a result of sentence reduction credits for good behavior and other factors.¹⁹

Type of Post-prison Supervision



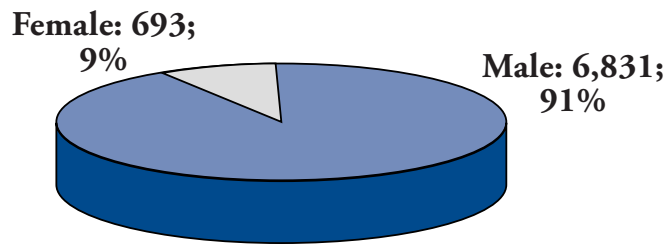
The majority of all parole cases involved Black men. The median age at release was 35. Most cases involved people who were not married. Almost half (47 percent) of the cases involved parolees who had been sentenced in Baltimore City, and another 11 percent were sentenced in Baltimore County.

Race of Parolees



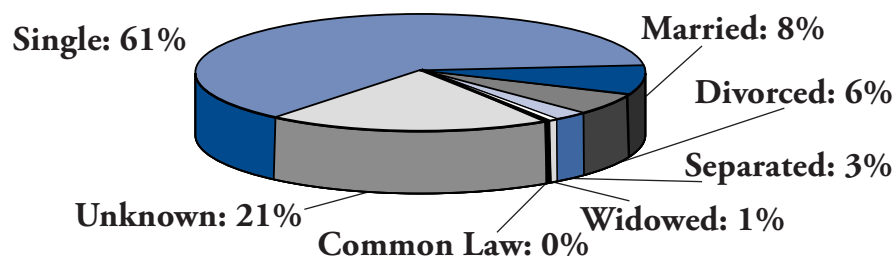
Of those on parole, 91 percent were male and 9 percent were female.

Sex of Parolees



Most were unmarried.

Marital Status of Parolees

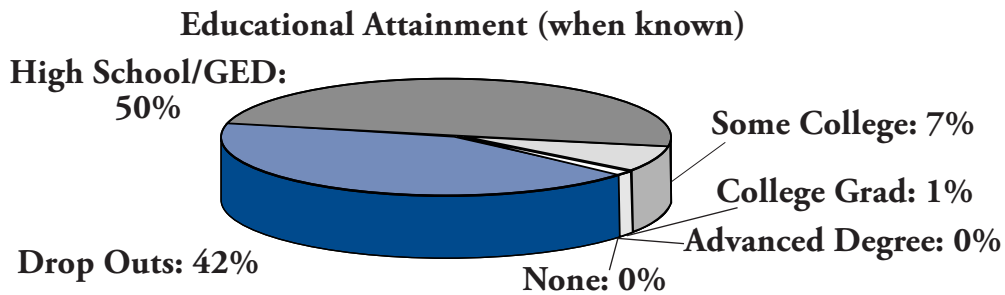


B. Parolees return from prison ill-prepared to obtain employment and resume stable lives.

An extensive study by the Urban Institute of those returning from prison to Baltimore City found that most people left prison with few financial resources beyond “gate money.” The median amount of money on hand was reported to be just \$40. During the first few months back home, a majority was dependent on financial support from family members, and 80 percent were living with family.²⁰ More than one third had one or more dependants relying on *them* for financial support. Thirty-nine percent reported child-support obligations four to six months after release.²¹

Most return quite ill-prepared for entry into the labor market, the Urban Institute found. Most of Maryland’s ex-prisoners lacked stable pre-prison employment histories.²² Just 13 percent had been able to improve their level of educational attainment while incarcerated. Fewer than a quarter had been able to participate in a job-training program while in prison.²³ Most people returning to Baltimore reported some drug (78 percent) or alcohol use (61 percent) prior to prison. More than 40 percent reported daily heroin use.²⁴

The data we obtained from the DPP indicate that while almost half of parole cases involved people who had graduated from high school or obtained a GED, very few had gone beyond that level of educational attainment to acquire the skills required to qualify for a job with good pay and benefits in today’s economy. Of the sample, 42 percent had dropped out prior to completing high school.



Many people in reentry whom we interviewed said that they had found it difficult to obtain reliable long-term employment. They often reported securing low-wage jobs where employment lasted four to six months, but said that finding sustainable work was difficult because of lack of skills, low levels of education, felony records, and gaps in employment history that frequently come with bouts of incarceration or extended periods of drug addiction.

Parole agents are well-aware of the labor market barriers.

Most parolees don't want to go back to prison, but they need to find employers who will hire them. All the system does is re-convict them. The felony conviction is a cap on job opportunities.

— Parole Agent

We need to look at the population's obstacles. The felony charge right there is a huge obstacle for the parolee because he can't get a job. I try to get them federally bonded, but the hardest thing for them is to become employable and get a job.

— Parole Agent

On top of the difficulty finding employment, those released from Maryland's prisons also face barriers to obtaining housing. The Public Housing Authority in Baltimore takes account of criminal history in considering applicants for affordable housing, and maintains an outright bar against those convicted of drug-related and violent crimes.²⁵

The majority of people give addresses to their mothers' houses when they leave jail, or give addresses for housing projects that they can't live in anymore [because of their conviction]. Most of the time there's no home, or plan for a job.

— Parole Agent

A person returning may or may not have a support network to help with the transition back to society. If a formal reentry program is not ordered by the Parole Commission, it is up to the individual to make effective use of resources in the community. That is a difficult task for some. Initial efforts to locate and effectively use resources can be unsuccessful, making it impossible for the returning person to meet daily needs.

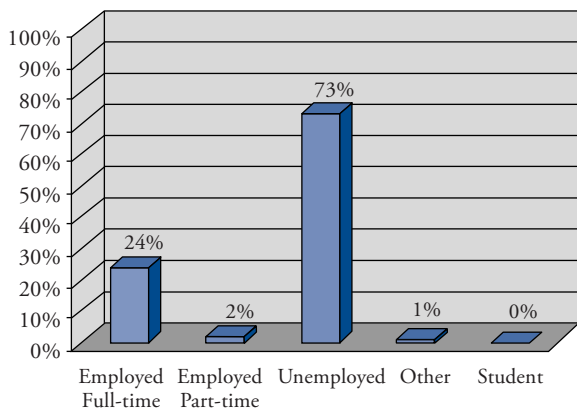
My family passed while I was inside. I have no family out here. I got out in November 2007 after fifteen years ... I've been here [Goodwill] three weeks. I do a little on my own. I don't want to go back in [the] street.

— Goodwill Client

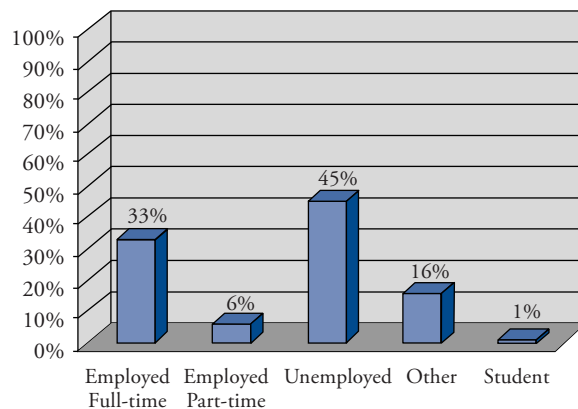
C. The vast majority of parolees are unemployed.

It is not surprising, then, that the data show that most people returning to their communities after serving a prison sentence are unemployed. Overall, less than one-quarter of parole cases involved people who had secured full-time employment as they began parole supervision. As the second pair of charts shows, Blacks were more likely to be unemployed than Whites. Employment status showed improvement (especially for Whites) over the course of parole, yet by the time the cases were closed, just one-third of parolees had obtained full-time employment.²⁶

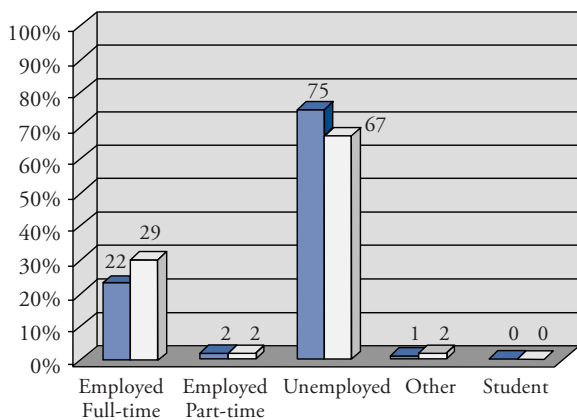
Overall Employment Status at Case Activation



Overall Employment Status at Case Close

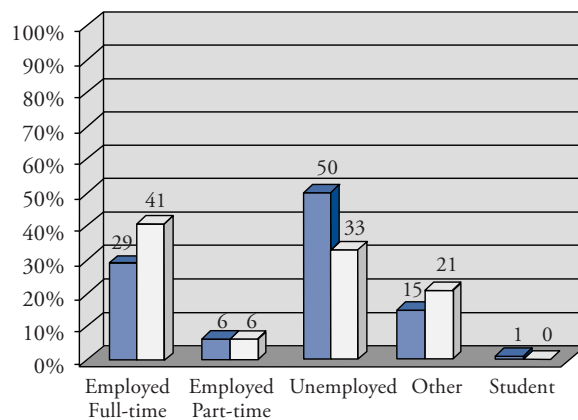


Employment Status at Case Activation by Race



■ Black
□ White

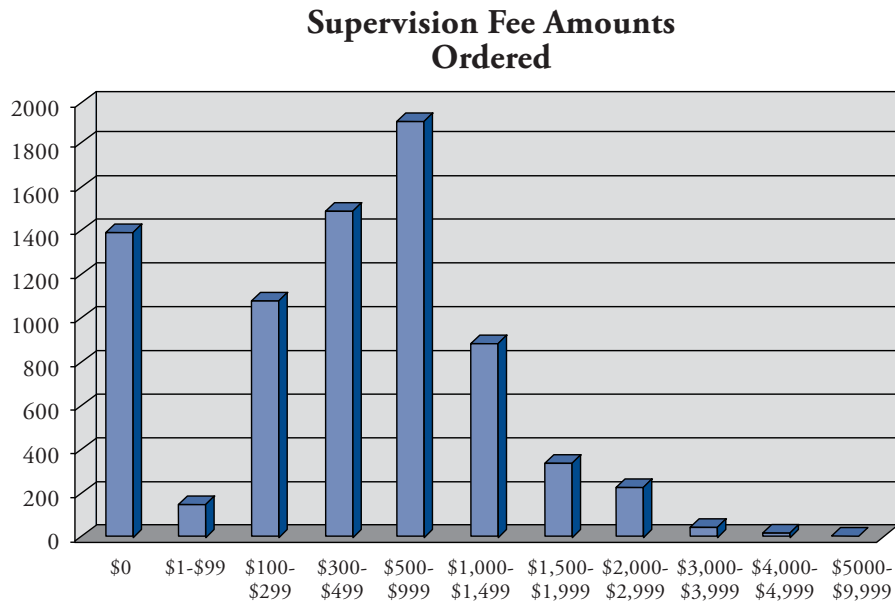
Employment Status at Case Close by Race



Even for those parolees who do find work, financial resources are thin. Although the DPP dataset we studied did not include information about the types of jobs these parolees secured, nor about the wages or benefits that they received, the Urban Institute found that the median hourly wage received by the people interviewed in Baltimore was just \$8.²⁷ For a single adult living in Baltimore City, the average monthly cost of living, including housing, food, transportation, health care, miscellaneous expenses, and taxes totals \$1,881.²⁸ Working full-time at \$8 an hour would allow a person to earn \$1,280 a month, falling more than \$600 below a self-sufficiency level.

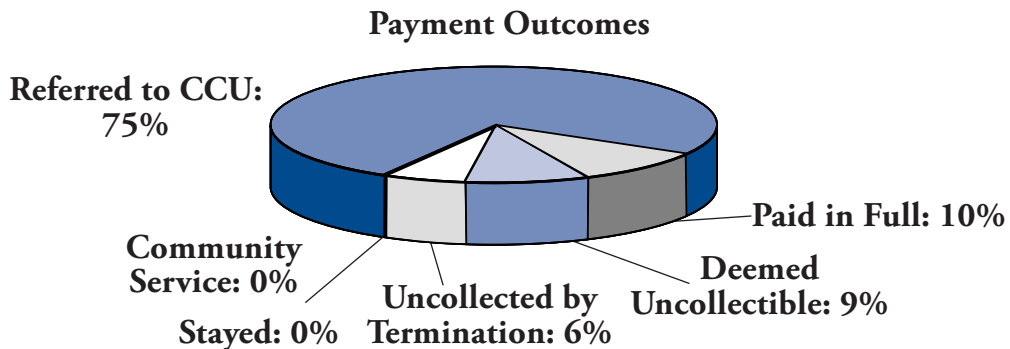
D. The majority of parolees accumulate substantial debt as a result of their inability to pay the fee.

The parole supervision fee is imposed as a monthly obligation, rather than as a single lump sum at case activation.²⁹ Therefore, the total sum for a particular individual will be the product of the number of months the person is under supervision multiplied by the standard monthly fee amount (\$40).³⁰ For the parolees whose cases we analyzed, supervision fees ranged from \$5 to \$5,600. The mean amount was \$743 and the median was \$560.³¹



In light of the circumstances in which most parolees find themselves, it is not surprising that nine out of ten people on parole will have failed to pay the full amount of supervision fee debt when they exit the parole system.

Thus, of the total amount of supervision fees ordered in our sample, only 17 percent, or \$752,838, was collected. In the overwhelming majority – 75 percent – of cases, the accumulated outstanding fee debt was turned over to the Central Collection Unit (“CCU”) of the Maryland Department of Budget and Management, which, as is described below, uses civil legal means to demand payment.³²



Payment outcomes are somewhat associated with employment status at case activation. Thus, cases involving people who were fully employed at case activation were more likely to result in full payment of legal financial obligations,³³ with 13 percent making payment in full. For individuals employed part-time, or who were unemployed, only 8 percent made payment in full.

Payment Outcomes and Employment Status at Case Activation

	Employed Full-time	Employed Part-time	Unemployed	Other	Student	Grand Total
Paid in Full	13%	8%	8%	32%	43%	10%
Deemed Uncollectible	7%	6%	9%	4%	0%	9%
Uncollected by Termination	4%	1%	4%	9%	0%	4%
Stayed	0%	1%	0%	0%	0%	0%
Community Service	0%	0%	0%	0%	0%	0%
Referred to the CCU	75%	84%	78%	55%	57%	77%

Payment outcomes are more strongly associated with employment status at case closing. Cases involving people with full-time employment were significantly more likely to result in payments of \$100 or more than cases involving the unemployed.

Supervision Fee Amounts Paid and Employment Status at Case Closing

	Employed Full-time	Employed Part-time	Unemployed	Other	Student	Grand Total
\$0	53%	68%	82%	76%	79%	71%
\$1-\$99	9%	11%	8%	9%	5%	9%
\$100-\$299	13%	10%	6%	8%	8%	9%
\$300-\$499	9%	6%	2%	4%	5%	5%
\$500-\$999	9%	3%	1%	2%	3%	4%
\$1,000-\$1,499	3%	1%	0%	1%	0%	1%
\$1,500-\$1,999	2%	0%	0%	1%	0%	1%
\$2,000-\$2,999	1%	0%	0%	0%	0%	1%
\$3,000-\$3,999	0%	0%	0%	0%	0%	0%

Payment outcomes appear to be somewhat associated with race. Cases involving Whites were somewhat more likely to result in full payment than cases involving Blacks, but the great majority of cases for both racial groups resulted in unpaid obligations being referred to the Central Collection Unit. Given their low rates of employment relative to Whites, it is not surprising that payment outcomes were lower for Blacks.³⁴

Payment Outcomes and Race

	White	Black
Paid in Full	17%	7%
Deemed Uncollectible	8%	10%
Uncollected by Termination	6%	6%
Stayed	0%	0%
Community Service	0%	0%
Referred to the CCU	68%	77%

In fiscal year 2008, the DPP and the CCU collected only \$334,752 in parole supervision fee revenue, adding a negligible sum to state funds.

E. The parole supervision fee is just one of a multiple of financial obligations.

The recurring parole supervision fee is often not the sole monetary burden that parolees face on their return from prison. Many have additional financial obligations, most notably child support, which in many instances continues to accrue during incarceration and can total tens of thousands of dollars. A 2005 University of Maryland study found that there were 17,214 child support cases in Maryland with incarcerated parents or previously incarcerated parents. The average arrears owed for each incarcerated parent was \$15,933 and average arrears for parolees was \$13,472.³⁵

Many parolees find themselves obliged to participate in treatment on an “out-patient” or residential/halfway house basis or in other programs – many of which charge fees for services – as a condition of their parole. The added costs are collected directly by the treatment program staff, not by the DPP, and information about these fees was not included in the data we received from the DPP. However, supervision agents reported that non-payment of program fees and related costs can cause their clients to be terminated from program participation, which could lead – in turn – to revocation of parole.

Lots of programs push people out for nonpayment, even if they are doing well on the program.

— Parole Agent

These programs won't let the person back in because of nonpayment, so it looks like the person is violating their parole conditions even when they're doing well.

— Parole Agent

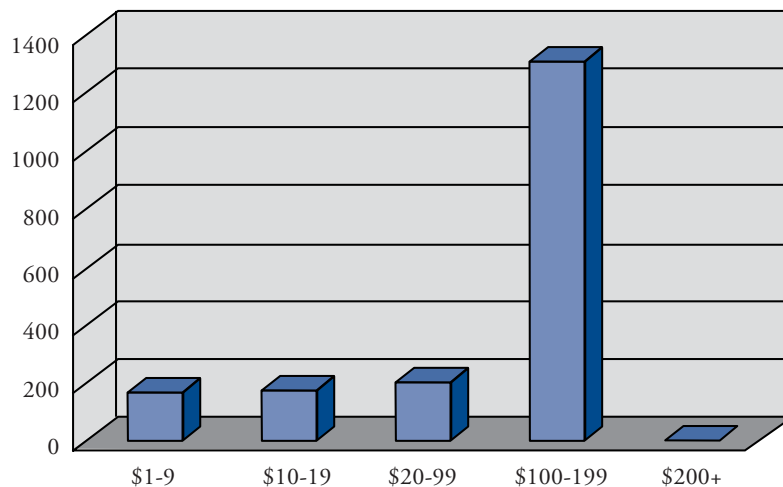
For those enrolled in residential programs, there may be extended periods of time when employment is not permitted and thus the parolee cannot earn money. When employment is finally allowed, program fees are deducted from the person's wages, and can result in the withholding of a portion of forced savings, leaving very little cash for covering costs of transportation to work, support for family members or to pay bills and other financial obligations.

When you come in, it's free [the program], then it's a give back. Once you get employed they take a percentage. If you make \$100: 50 percent goes into savings, 25 percent to Marian House and 25 percent in your pocket. I work cleaning a treatment facility and bring home a check every two weeks for \$198 and I was getting \$48 every two weeks for myself.

— Marian House Participant

In addition, if an individual was convicted of a drug offense, or has a history of drug use or addiction, he or she may be obliged to pay for urine testing. A parole agent may require such drug or alcohol testing if he or she believes that a parolee is "slipping back" to a substance abuse habit. DPP data show that testing fees were ordered in 25 percent of the parole supervision cases.³⁶ For drug testing by schedule, there is a one-time flat fee of \$100. The fee for a random drug test is \$6. The standard testing fee amount for alcohol testing is \$1 per month. According to the data provided by the DPP, total testing fee amounts imposed ranged from \$4 to \$1,280. The mean average amount was \$91, but the median was \$120. The total amount of testing fees ordered in these 1,867 cases was \$170,756.

Testing Fee Amounts Ordered



People in reentry told us that some individuals are ordered to submit to urine testing as often as two or three times a week in the period immediately following release. Some of those interviewed said that individuals from Baltimore City were ordered to undergo urinalysis even if the criminal charges had nothing to do with drugs or drug addiction.

Additional program fees and costs may also be entailed if the DPP requires participation in domestic violence counseling or anger management. Sex offenders, in particular, may be ordered to pay fees for polygraph tests. Community service programs also charge admission fees. We found in our interviews that the parole supervision fee, in combination with other “program” fees, can quickly add up to as much as \$200 per month. Parolees, parole agents, and others, said that the combined burden can be overwhelming.

Maryland law also authorizes the imposition of other fees related to criminal court proceedings. Defendants who seek the services of the “free” public defender are charged a \$50 application fee.³⁷ Restitution may be ordered if, among other reasons, property was stolen or damaged, if the victim suffered monetary losses or incurred certain expenses, or if the government incurred certain expenses.³⁸

However, restitution, along with certain other court fees, may be waived up-front by judges if the defendant is indigent.³⁹ This process stands in marked contrast to the process for imposing the parole supervision fee, in which there is no up-front evaluation of ability to pay and therefore extremely limited use of exemptions for unemployment and other causes. The DPP data show that only a small fraction of parolees in Maryland, less than one percent, owe fees and/or restitution stemming from the underlying criminal court proceedings.

As Maryland Circuit Court Judge Allen Schwait explained, the imposition of court fees is often viewed as an exercise in futility:

In my court I handle major felonies cases. With a population such as I see before me, imposition of monetary penalties does no good to anyone. During plea bargaining defense counsel routinely ask me to waive all fines, supervision fees,⁴⁰ and court costs and I have no problem doing that. Imposition of such items doesn't enter into my consideration at sentencing because I know that they would not be paid. Restitution may be something else, because where there is an aggrieved victim the prosecutor will generally ask for something to be ordered. I may accept, but frankly, will do so knowing that by and large it's an exercise in futility — which troubles me, because I know that this raises an expectation for the victim that is very likely to be disappointed.

IV. THE PAROLE SUPERVISION FEE UNDERCUTS REENTRY EFFORTS

Most of the parole agents and reentry professionals whom we interviewed believe that the parole supervision fee undermines their efforts to assist persons on parole in their transition to life outside prison. Many of the parolees we interviewed spoke of the undermining effect that constant dunning has on their efforts to get back on their feet.

A. **Persistent threats of parole revocation undercut reentry prospects.**

Whenever a parolee fails to pay his or her monthly fee, the DPP sends letters (relying on an automated computer program) that threaten parole revocation. The letters warn that “failure to comply or pay as indicated will cause your case to be referred for a summons or warrant.”

The dunning practice is routine, even though the DPP’s practice generally is not to seek actual revocation of parole based solely on non-payment of the parole supervision fee. DPP practice is consistent with constitutional limitations on fee collection. Were the DPP to seek revocation for failure to pay the supervision fee, it would have to demonstrate before the Parole Commission that the failure to pay was willful and not a result of the parolee’s indigency.⁴¹ When the DPP seeks revocation of parole for other reasons, it takes failure to pay the supervision fee into consideration, but failure to pay the fee is not used as a cause for seeking revocation.⁴²

While revocation of parole is unlikely, the paper debt for failure to pay continues to accrue over the parole period. Many parolees said that the pressure of constant dunning letters that threaten revocation cause stress that undercuts prospects for successful reentry. One reentry professional explained that the DPP’s computer-generated dunning letters pose a constant threat, and that the frustration created among his clients sometimes pushes some over the edge, to re-offend.

You’re walking around with pressure. The threat you are receiving is putting you under pressure and the pressure is making you live a miserable life. Just the threat of having a warrant is hard.

— Client at Goodwill

I have a drug-related offense. I’m on parole until March 2009. Right now I’m in a residential treatment program, and you can’t work while you are in there. I get a letter saying I have to pay these costs. They keep shooting letters at you. It makes you depressed and it can mess around and make you use. But I’ve learned that’s not the way. I can’t get bus fare to see my parole officer. The bus costs \$3.50 twice a month and then I have urinalysis every week. Some people have it twice a week or even

three times. You need bus fare for each of those times and the urinalysis fee. If you get in a job program they want you to train, so you're not getting paid, so you have to manage to live without getting paid. Even your family doesn't want to take care of a grown man. It can drive some one into the street just to make ends meet. Then you get violated.

— Narrative of “Tom”

I had three cases. I couldn't pay the money. The agent started calling me to say come and see them. They would call during the job time. I told them I couldn't right now, I'm working and they would say, “It's your responsibility. Keep the job and go to jail or come and see me.” My appointments were between 9am and 1pm. I didn't go. I had to work. They did come and lock me up.

— Client at Goodwill

It's stressful. You come home with three felonies and are faced with a large fee. You have a felony and you're trying to find a job with felonies. I owed \$3200 got it down to \$2000 and haven't paid a penny since. My other bills are lacking. I'm faced with violation of parole. I don't want to go back.

— Marian House Participant

In our conversations with parole agents, reentry workers and people under parole supervision, we were advised repeatedly that parole agents often “waive” payment of supervision fees. However, during the course of the study it became apparent that the word “waive” was being used to refer to an agent telling someone not to worry about the payment obligation at a particular moment in time. Because this does not constitute actual legal waiver, the unpaid parole supervision fees continue to accrue as debt, and the DPP continues to issue automatic dunning notices advising parolees of the failure to pay and warning that the failure will trigger a summons or warrant for arrest. As noted above, substantial sums may accrue.

Some parolees report having returned to crime to pay their past debts. While it is impossible to know just how often this occurs, given average costs of almost \$32,000 for a year in prison,⁴³ even if the supervision fee had a role in just 11 parolees returning to prison for a year, the costs to the state would surpass the \$334,752 raised by the fee in fiscal 2008.

It feels like we are being penalized twice. Incarceration is supposed to rehabilitate you. But, people are out here doing stuff in the streets just to pay the fees. It's very stressful. If I hadn't been in the program I would have been out there selling drugs to get the money. The first time I came out I owed \$3600 paid it down to \$500 before I went back in. I sold drugs to get the money and then went back to prison.

— Marian House Participant

I'm on parole to 2011. They give you the whole fee, \$2000. People who are on the street will just try to find a way to pay.... I went back to boosting [stealing] before because they threatened to lock me up. I was thinking "I just did time in prison, does that count for anything." ...It's a little discouraging to get out and owe \$2000 right away.

— Marian House Participant

Although parolees possess limited financial resources, as noted above, the DPP is more aggressive in pursuing collection of the restitution obligations ordered as a condition of parole. If the parolee's restitution arrearage reaches the amount of four monthly restitution payments, the agent must request a summons or subpoena to bring the parolee back to the sentencing court for a violation hearing and to notify the victim to whom restitution is owed. If parolees owing restitution are employed, their wages may be garnished. Interviews with public defenders and reentry specialists confirmed that the DPP will seek parole revocation for failure to pay restitution.

B. Transfer to the Central Collection Unit adds more debt and mars credit reports.

At the end of the parole term, the DPP routinely refers to the Central Collection Unit any unpaid debt owed by parolees that exceeds a threshold amount of \$30.⁴⁴ A division of Maryland's Department of Budget and Management, the CCU is charged with collecting delinquent debt owed to the state.

When debt accounts are transferred by the DPP to the CCU, the amount of debt is substantially increased. The CCU adds an automatic one-time 17 percent charge for "collection costs" on top of the outstanding debt amount.⁴⁵

The CCU then sends two initial notices at 30-day intervals to debtors' homes or places of employment informing them that they must either establish payment plans to repay outstanding balances or face the collection methods employed by the CCU.⁴⁶ Without a response, additional dunning letters from the CCU follow, as the collection process moves forward, with each letter offering fewer outs to the debtor even if the individual's financial circumstances remain unchanged.

Beyond the letters, the collection method used by the CCU depends on the amount of debt and on the types of assets, if any, held by the individual. If the total debt is less than \$750, as is often the case with parole supervision fee debt, the CCU relies on the automated Tax Refund Intercept Program ("TRIP"), which intercepts state income tax refunds every year until the entire debt, plus the 17 percent CCU surcharge, is paid. According to a CCU manager, the CCU generally does not report debt referred from the DPP to credit agencies.

If the debt is \$750 or more and if the debtor has attachable assets, the Attorney General of the State of Maryland files a civil action in state court to secure a civil judgment against the debtor. Once a civil judgment is obtained, the state can enforce it through wage garnishment and property liens.⁴⁷ Additionally, as civil judgments enter the public record, they are routinely discovered by credit reporting agencies and incorporated into individuals' credit reports.

For an individual pursuing reentry into society, the inclusion of an adverse judgment for debt is a significant event, sometimes further compromising a credit report that is already shaky, and sometimes damaging a credit report that was previously clean. It can increase the level of difficulty in acquiring a stable post-release home, make more difficult the challenge of obtaining affordable housing, prompt utility companies to require large deposits for basic services such as electric, gas and telephone, and increase the cost of car insurance. It may be a source of significant additional stress.

I'm trying to get into the Habitat program now, where I can get my own house. I passed everything last year except the income qualification. I had A-1 credit but I didn't earn enough money. During parole the agent told me not to worry about the fee. I finished my parole in March 2007. No one said anything to me about the balance of the fees for supervision. In June 2007 I got a phone call from a collection agency saying I owe \$2800. They said it's from the \$40 a month I was supposed to pay. Now, they want me to pay \$150 a month and it's on my credit report. They took my tax return. Now I have income but I have the credit report problem, so that's a hardship for me. My fear is that the credit report will stop me. It's hindering my advancement in society. I'm really struggling to pay the \$150.

— Marian House Participant

C. Fee collection is at odds with the mission of parole.

There was wide agreement among parole agents and reentry professionals that most individuals were unable to afford the supervision fee, and that the creation of supervision fee debt places a significant burden on individuals ill-equipped to handle it. The financial burden can also give the individual a sense that the system is not interested in having him or her succeed; that punishment just continues in a new form after time in prison has been served.

The fee payment plan puts them into debt right away. The first thing they do when they get out of jail is visit the parole agent and hear about the total debt (the monthly fee times length of supervision). So already they feel like a failure. That first payment is due on day one.

— Parole Agent

A number of parole agents also believed that the task of collecting revenue-enhancing fees is inconsistent with their crime-prevention mission of ensuring that supervisees obtain the support they need to avoid offending again. Some parole agents believe the supervision fee should be eliminated, explaining that it does not advance parole supervision, in contrast to the legal financial obligation of restitution, which they see as benefiting the victim of a crime and performing a restorative function for those convicted.

I really want agents to get out of money collection. That would free so much time [for more important priorities].

— Parole Agent

I don't want to be a bill collector – if the person has a drug problem it's more important to get them counseling and to stay out of trouble with police.

— Parole Agent

Instead of supervisory fees for indigent people, I'd like to see them go to a day program where their time is accounted for, to ensure they're doing something constructive with their time.

— Parole Agent

I think it's a big deal for these parolees just to make it crime-free and they should be rewarded, not punished at the end of their supervision with the fee and the 17 percent CCU interest.

— Parole Agent

The parole agents in our focus group recognized that many individuals were unable to afford fee payments, and frequently mentioned the importance of granting exemptions, but some believed that the fee obligation could promote responsibility, particularly for the subset of individuals able to afford payment.

As a supervision agent, I often feel that the fee is standing in the way of parolees. ...But I feel torn about the fees because, on the one hand, many people have no job prospects or skills – yet paying the fee can help them learn responsibility. And I do know some who have the income to pay.

— Parole Agent

I know people who have the money to pay and still get the fee waived, while others who are very poor must pay – that's unfair. I think they should keep the fee to start, and if there's a hardship, then the agent should start the process to get it waived.⁴⁸

This would require an extra report by the agent but it also might keep the opportunities to collect that exist, and be more fair. I know of people who have been in jail for a while but have a good job skill and can pay the fee.

— Parole Agent

I think the fee should be imposed – it reminds the parolee that he has to pay fees and bills. I would only revoke for willful nonpayment. For example, I had a parolee who is a contractor -- working and paying child support, but not the fee -- so I violated him. I think the fee is an incentive.

— Parole Agent

Most of the parole agents we interviewed believed that individualized determinations of ability to pay would improve administration of the parole supervision fee. Most agreed that evaluating the financial situation of each parolee would help provide a basis for setting realistic payment goals. A sliding scale system was seen as useful, as was the idea of developing specific policies to grant discretionary “waivers” for good cause (such as waiving the fee if a parolee has child support payment obligations, or allowing a “grace period” without fees for the first six to twelve months while parolees work to build a stable, crime-free life in the community). Some objected, however, that income verification and investigation of circumstances would take too much time from busy agents.

Some think that investigation of financial circumstances under the current system before imposing supervision fees would be advisable.

The Commission could look into working with the parole case managers inside the jailhouse before people are released.

— Parole Agent

Several other jurisdictions have recognized that individualized determinations, scaled to ability to pay, improve payment outcomes. For example, as part of its move toward increased use of “day fines” in lieu of confinement, Pennsylvania’s Commission on Sentencing has recommended scaling the amount of fines imposed to an individual’s ability to pay.⁴⁹ A pilot program in Maricopa County, Arizona, also found that consolidating all legal financial obligations into one payment plan, scaled to an individual’s ability to pay, improved collection rates.⁵⁰

D. The Virginia experience: abolishing the fee.

Many of the concerns of the Maryland supervision agents in our focus group echo conclusions that Virginia, too, reached in the mid-1990s regarding its supervision fee. In 1994, Virginia abolished its parole supervision fee, which had proved to be a “nightmare” for parole officers to collect. In the

pre-1994 system, Virginia parole officers were required to collect a \$30 per month supervision fee, revenue from which was deposited into the state's general fund, as is the case in Maryland.⁵¹

The fee proved to be “a huge hassle to collect,” according to a Virginia corrections official.⁵² In addition to the problems inherent in requiring parole officers to be fee collectors, the associated administrative and accounting tasks made collection by the Department of Corrections too burdensome relative to the small amount of revenue generated by the fee.⁵³ Some within the Department, including parole officers, objected to the fee and to the parole officers' role in the collections process, not only because of the administrative challenges, but also because collection undermined their other duties: “Parole officers are not loan sharks,” stated Walter Pulliam, Chief of Operations in Virginia's Division of Community Corrections.⁵⁴

Virginia no longer charges an ongoing fee for post-release supervision. Instead, a single flat fee is levied at the time of sentencing against persons convicted of a crime, and is then collected by the court clerk. This fee is meant to finance a range of adjudicative and corrections-related costs, including the costs of post-release supervision, warrants, courthouse maintenance, and witness expenses.⁵⁵ The fee amount ranges from \$61 for certain misdemeanor convictions to \$350 for felony convictions, and the amount ultimately collected is distributed, in percentages fixed by statute, to funds associated with the various court and corrections costs.⁵⁶ While post-release supervision is one of the items the flat fee is meant to cover, any revenue distributed under the heading of “supervision” is returned to the state's general fund.⁵⁷ It is unclear how this court-imposed obligation affects indigent defendants.

V. EXEMPTIONS

Many of the problems with the parole supervision fee could be prevented if the exemptions that the Legislature intended were actually used. Fully appreciating the goal of raising revenue from the fee, the Legislature nevertheless recognized explicitly that many parolees would not be in a position financially to pay the fee. The General Assembly predicted at the time of the fee's adoption that only 60 percent of persons on parole would be employed and that only 25 percent of that group – or 15 percent of the total parolee population – could actually pay the fee.⁵⁸ Thus, it created exemptions for individuals unable to afford payment.⁵⁹

But the exemptions, while on the books and clearly intended by the Legislature to offer relief to parolees unable to pay, are rarely used in practice. As a result, numerous parolees incur substantial debt from a fee from which they would be exempt if the process worked as intended.

A. The Parole Commission has exclusive authority to grant exemptions.

The Parole Commission has exclusive authority to eliminate or reduce the supervision fee for any of the following five reasons:

- the supervisee is unable, despite diligent attempts, to find a job that enables him or her to afford the fee;
- the supervisee is enrolled in school or a job training program;
- the supervisee is responsible for the support of dependents and paying the fee would constitute an undue hardship; or
- “other extenuating circumstances” exist.⁶⁰

In contrast, while the very same exemptions apply to drug and alcohol testing fees, the statute confers authority on the DPP to grant exemptions to those fees directly, without requiring approval by the Parole Commission.⁶¹

Although the Legislature anticipated that most parolees would be unable to pay and created exemptions for them,⁶² the continued allocation to the Parole Commission of exclusive exemp-

The **Maryland Parole Commission** determines whether inmates serving sentences of at least six months are eligible for release under supervision. Its decisions are made through hearings in which parole is granted based partly on the following factors: i) the circumstances surrounding the crime, ii) behavior while incarcerated, iii) societal compatibility and attitude, iv) mental, physical and moral qualifications, and v) intended plans for employment and housing upon release. Aside from rehearings, which are held when parole is not granted at a first hearing, the Parole Commission does not have a continuing relationship with inmates or parolees.

The **Division of Parole and Probation**, through 700 locally based agents, supervises persons serving sentences outside of state and local correctional facilities through regular meetings with and monitoring of offenders. A small portion of DPP agents work as investigators for the Parole Commission and other criminal justice agencies, gathering information on individuals for pre-sentence and pre-parole reports.

tion authority makes it difficult for individuals ever to extinguish their obligation to pay.

Up-front exemptions are almost never granted due both to the way the underlying law is written and to the practice of the Parole Commission. Some of the exemptions authorized under current law – such as those for “disability” and for “family obligations combined with undue hardship” – may be granted at the moment parole commences. Yet even though parolees might qualify for some of the enumerated

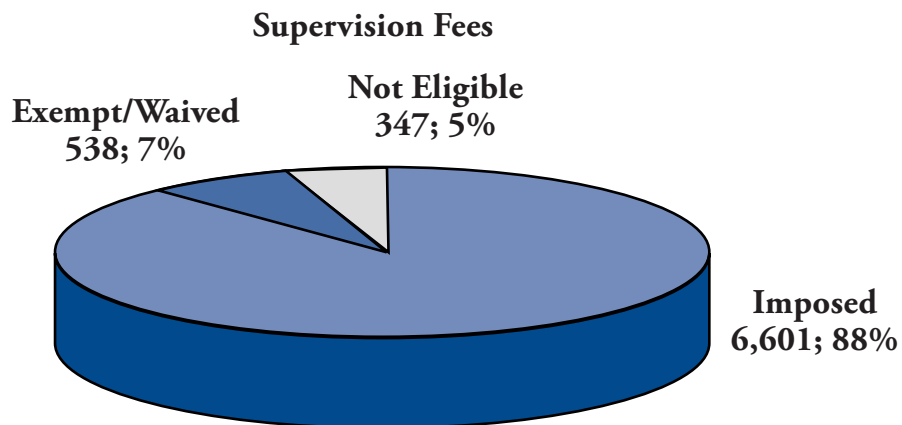
exemptions when parole begins, the practice of the Parole Commission is to impose the fee automatically and not make an up-front assessment of whether an individual is entitled to an exemption.

In contrast, the most widely applicable exemption – for unemployment – is only available later in the parole term, after the supervisee has made diligent attempts to find a job.⁶³ However, once parole is under way, the Parole Commission is, as an operational matter, unaware of the individual’s ongoing financial situation. To obtain a formal exemption, a parolee would have to seek legal help or proceed *pro se* in front of the commission. DPP parole agents, who do maintain regular contact with the individual, are largely cut out of the process. Nonetheless, parole agents with whom we spoke described an informal practice in which some agents assist individuals with requests to the Parole Commission for exemptions. DPP policy, however, is formally to forbid such assistance, according to a senior official. If a parolee asks his agent for an exemption, the parole agent is supposed to inform him or her “that the Division is without authority to exempt the offender from the payment obligation” and “[m]ay advise the offender to consult with legal counsel regarding requesting an exemption from the court or Parole Commission.”⁶⁴

This DPP policy would appear to foreclose the one route by which parolees actually obtain exemptions. When we interviewed a member of the Parole Commission, he told us that he could not recall ever seeing an application for a fee exemption presented directly by a parolee or parolee’s lawyer. In contrast, he did say that, on occasion, he receives letters from parole agents asking for waivers, often because a parolee is unable to work and is receiving disability benefits. He grants these requests, which are infrequent.

B. The fee is imposed with few exemptions.

As a result of the parole supervision fee law, and of Parole Commission and DPP practice, exemptions are rarely granted and a fee that all concerned know is unpayable is nonetheless repeatedly imposed on most parolees.



Thus, it is unsurprising that an individual’s employment status when parole begins (*i.e.*, when a parole case “is activated”) appears not to have any effect on whether the parole supervision fee is imposed. Cases involving people who are unemployed are just as likely to have fees imposed as those involving people with full-time jobs.⁶⁵

Imposition of Supervision Fees and Employment Status at Case Activation

	Imposed	Exempt/Waived	Not Eligible
Employed Full-time	88%	8%	4%
Employed Part-time	95%	2%	3%
Unemployed	89%	7%	4%
Other	83%	8%	9%
Student	75%	13%	13%
Grand Total	88%	7%	5%

VI. RECOMMENDATIONS

In light of the detrimental effect that the parole supervision fee has on parolees, the many factors that impede individuals' reentry from prison into society, and the widespread inability of individuals to pay, this report raises serious questions about the continued use of the parole supervision fee as a revenue source in Maryland. In keeping with suggestions made by many reentry professionals, parole personnel and formerly incarcerated persons on parole, we recommend that the each of the four state bodies that administer the supervision fee take the following steps.

Legislature:

- **Abolish the parole supervision fee outright.** The Maryland Legislature should abolish the supervision fee outright in light of the inability of most parolees to afford it, the limited revenue it raises, and the detrimental effect it has on reentry. This is the path that Virginia chose in 1994 after finding that its parole supervision fee undermined correctional goals and was too difficult to collect.

In the alternative, the Legislature should:

- **Implement a sliding scale fee tailored to an individual's financial circumstances.** Those parolees who can pay more should pay more. Those who are able to pay very little or nothing should have their obligations adjusted accordingly.
- **Ensure that the obligation to pay the fee does not commence until a Division of Parole and Probation agent has done an initial assessment of the parolee's circumstances.** The DPP is better positioned than the Parole Commission to evaluate an individual's ability to afford the fees and make payment.

Parole Commission:

- **Evaluate exemptions up front.** Even without a legislative change, the Parole Commission should conduct front-end evaluation of whether parolees should be considered exempt based on disability, enrollment in job training and other educational programs, family obligations combined with undue hardship, and other extenuating circumstances.⁶⁶

Division of Parole and Probation:

- **Direct parole agents to help individuals apply for exemptions.** Even without a legislative change, the DPP should reverse current policy, and direct agents to help supervisees apply for exemptions, effectuating the Legislature's goal of ensuring that qualified individuals receive exemptions.

Central Collection Unit:

- **Eliminate the 17 percent surcharge added to parole supervision fee debt.** Even without a legislative change, the CCU should eliminate the 17 percent surcharge that automatically enlarges supervision fee debt solely because the parolee was unable to afford the fee during parole. This undercuts reentry and is bad policy.

APPENDIX: TEXT OF THE MARYLAND PAROLE SUPERVISION LAW

Maryland Code Annotated, Correctional Services § 7-702. Fees

- (a) In this section, “supervisee” means an individual supervised by the Division of Parole and Probation for the Commission.
- (b) Unless a supervisee is exempted by the Commission under subsection (d) of this section, the Commission shall assess a monthly fee of \$40 as a condition of supervision for each supervisee.
- (c) (1) The fee assessed under subsection (b) of this section shall be paid to the Division of Parole and Probation.
- (2) The Division of Parole and Probation shall pay all money collected under this section into the General Fund of the State.
- (d) The Commission may exempt a supervisee wholly or partly from the fee assessed under subsection (b) of this section if:
- (1) the supervisee has diligently attempted but has been unable to obtain employment that provides sufficient income for the supervisee to pay the fee;
- (2) (i) the supervisee is a student in a school, college, or university or is enrolled in a course of vocational or technical training designed to prepare the supervisee for gainful employment; and
 (ii) the institution in which the supervisee is enrolled supplies certification of student status to the Commission;
- (3) the supervisee has a disability that limits possible employment, as determined by a physical or psychological examination that the Commission accepts or orders;
- (4) the supervisee is responsible for the support of dependents and the payment of the fee constitutes an undue hardship on the supervisee; or
- (5) other extenuating circumstances exist.
- (e) The fee assessed under subsection (b) of this section is in addition to court costs and fines.

- (f)
 - (1) If a supervisee does not comply with the fee requirement:
 - (i) the Division of Parole and Probation shall notify the Commission; and
 - (ii) the Commission may revoke parole or mandatory supervision.
 - (2) The Commission shall conduct a hearing to determine if there are sufficient grounds to find the supervisee in violation of the fee requirement.
 - (3) At a hearing under this subsection, the Commission may consider:
 - (i) any material change in the supervisee's financial status;
 - (ii) good faith efforts of the supervisee to pay the fee; and
 - (iii) alternative means to assure payment of the fee before the period of supervision ends.
- (g)
 - (1) In addition to the fee assessed under subsection (b) of this section, the Division of Parole and Probation may require a supervisee to pay for drug or alcohol abuse testing that the Commission orders.
 - (2) If a supervisee fails to pay for drug or alcohol abuse testing as required by the Division of Parole and Probation, the Commission may revoke parole or mandatory supervision.
 - (3) If the Division of Parole and Probation determines that any of the criteria specified in subsection (d) of this section are applicable, the Division may exempt a supervisee wholly or partly from a payment for drug or alcohol abuse testing.
- (h) The Division of Parole and Probation shall:
 - (1) adopt guidelines for collecting the supervision fee;
 - (2) adopt guidelines for collecting the cost of drug and alcohol abuse testing; and
 - (3) investigate requests for an exemption from payment if the Commission requests an investigation.
- (i) The Division of Parole and Probation shall:
 - (1) keep records of all payments by each supervisee; and
 - (2) report delinquencies to the Commission.

ENDNOTES

- 1 See MD. CODE ANN., CTS. & JUD. PROC. § 7-402(a), (b) (2008) (authorizing sheriff to collect \$40 for taking someone into custody); MD. CODE ANN., ART. 27A § 7(c) (requiring defendants to reimburse the state for public defender services unless the defendant does not have the ability to make such reimbursement); MD. CODE ANN., CORR. SERVS § 7-702 (probation and parole supervision fees).
- 2 For example, assault in the second degree may be punished under Maryland law by a fine of up to \$5,000. MD. CODE ANN., CRIM. LAW § 3-203(c)(3) (2008). In addition to any other costs required by law, convicted defendants will also be required to pay \$45 in circuit court, MD. CODE ANN., CTS. & JUD. PROC. § 7-409(b) (2008), or \$35 in district court, *Id.* § 7-409(c), plus another \$3 in any court (even when the defendant waived the right to trial), *Id.* § 7-409(d). These assessments, like most Maryland court costs, may be waived for indigency. *Id.* § 7-405.
- 3 MD. CODE ANN., CRIM. PROC. § 11-603 (2008).
- 4 Kathryn Morgan, *A Study of Probation and Parole Supervision Fee Collection in Alabama*, 20 CRIM. JUST. REV. 44, 44 (1995).
- 5 DALE PARENT, NAT'L INST OF JUST., RECOVERING CORRECTIONAL COSTS THROUGH OFFENDER FEES 1 (1990).
- 6 Letter from J. Joseph Curran, Jr., Attorney General of Maryland, to Donald Shaefer, Governor of Maryland (Apr. 29, 1991).
- 7 MD. CODE ANN., CORR. SERVS. § 7-702(c)(2) (2008).
- 8 See, e.g., CHRISTY VISHER ET AL., URB. INST., BALTIMORE PRISONERS' EXPERIENCES RETURNING HOME (Mar. 2004), available at http://www.urban.org/UploadedPDF/310946_BaltimorePrisoners.pdf; CHRISTY VISHER ET AL., URB. INST., RETURNING HOME: UNDERSTANDING THE CHALLENGES OF PRISONER REENTRY (Jan. 2004), available at http://www.urban.org/uploadedPDF/410974_ReturningHome_MD.pdf.
- 9 Press Release, Maryland Governor Martin O'Malley (August 29, 2007), available at <http://www.governor.md.gov/pressreleases/070829.html>.
- 10 Maryland Department of Public Safety & Correctional Services, Reentry Goals and Priorities, <http://www.dpss.maryland.gov/rehabservs/reentry.shtml>.
- 11 Maryland Department of Public Safety & Correctional Services, Rehabilitation Services, <http://www.dpss.maryland.gov/rehabservs/>.
- 12 *Id.*
- 13 Maryland Department of Public Safety & Correctional Services, Proactive Community Supervision (PCS), <http://www.dpss.state.md.us/rehabservs/dpp/pcs.shtml>.
- 14 *Id.*
- 15 Faye S. Taxman, *No Illusions: Offender and Organizational Change in Maryland's Proactive Community Supervision Efforts*, 7 CRIMINOLOGY & PUB. POL'Y 2 (2008).
- 16 The 2007 fiscal year ran from July 1, 2006 through June 30, 2007. DPP's electronic data files represent 7,524 individual *cases*, not individual *parolees*. A parole case is normally "closed" when the parolee reaches the end of his or her prison sentence (i.e., the person has served the remainder of their sentence under supervision after having been released from prison, either at the discretion of the parole board, or after receiving certain diminution credits). Other reasons for closing a case include revocation for violation of parole conditions or commission of crime; reversal of the conviction on appeal; commutation of the sentence; case transfer out of state; or death. It is possible that a few individuals had more than one case closing during the period. All cases that were closed during the period were included in the analysis; the findings do not represent a "sample" of cases.

- 17 A much smaller number of people are under probation supervision after being released from prison. Parole differs from probation in that it is the discretionary and conditional release of a prisoner into the community by the Parole Commission prior to the completion of his or her sentence, allowing the offender to serve the remainder of the original sentence under supervision. In contrast, probation supervision is ordered by a judge at the point of conviction and is a sentence releasing a person convicted of a crime into the community or a treatment facility either instead of, or after a period of, incarceration.
- 18 *See, e.g.*, Alan Rosenthal & Marsha Weissman, Justice Strategies, Sentencing for Dollars: The Financial Consequences of a Criminal Conviction (Feb. 2007), *available at* <http://www.communityalternatives.org/pdfs/financial%20consequences.pdf> (documenting growing use of financial penalties in New York); RACHEL L. McLEAN & MICHAEL D. THOMPSON, COUNCIL OF STATE GOVERNMENTS JUSTICE CENTER, REPAYING DEBTS (Working Paper, 2007), *available at* http://tools.reentrypolicy.org/repaying_debts/ (making policy recommendations to rationalize the collection of debts from the formerly incarcerated); RHODE ISLAND FAMILY LIFE CENTER, COURT DEBT AND RELATED INCARCERATION IN RHODE ISLAND FROM 2005 THROUGH 2007 4 (Apr. 2008), *available at* <http://www.ri-familylifecenter.org/pagetool/reports/CourtDebt.pdf>. (analyzing the cost of Rhode Island's incarceration of individuals for court debt, finding that in 13% of cases the incarcerations cost the state more than the amount owed by the individuals); David Weisburd et. al., *The Miracle of the Cells: An Experimental Study of Interventions to Increase Payment of Court-Ordered Financial Obligations*, 7 CRIMINOLOGY & PUB. POL'Y 9 (2008) (studying the effect of an increased threat of possible incarceration on the collection of fees from New Jersey probationers). For an earlier study on the reform of a financial penalty system in one Arizona county, *see* Susan Turner & Judith Greene, *The FARE Probation Experiment: Implementation and Outcomes of Day Fines for Felony Offenders in Maricopa County*, 21 JUST. SYS. J. 1 (1999-2000).
- 19 Under Maryland law most prisoners have an initial parole hearing when they have served about one quarter of their total prison sentence. Some prisoners receive a hearing before the 25 percent mark; those convicted after 1994 of certain violent crimes must serve 50 percent of the full term before receiving a hearing. *See* Md. Code Regs. §§ 12.08.01.17(1), (3) (West 2008). If a prisoner is not granted parole release, he or she may still be entitled to certain sentence reduction credits (e.g., for good behavior or performance of institutional assignments) that effect a "diminution" of their term of confinement. *See* Md. Code Ann. Corr. Servs. §§ 3-701 to 3-711 (West 2008); Md. Code Regs. § 12.08.01.13. Calculation of a prisoner's "diminution credits" determines the date when a prisoner is eligible for release to mandatory parole supervision. *See* Md. Code Ann. Corr. Servs. § 7-501; Md. Code Regs. § 12.08.01.13.
- 20 CHRISTY VISHER ET AL., URB. INST., BALTIMORE PRISONERS' EXPERIENCES RETURNING HOME 5-6 (Mar. 2004), http://www.urban.org/UploadedPDF/310946_BaltimorePrisoners.pdf.
- 21 CHRISTY VISHER ET AL., URB. INST., RETURNING HOME: UNDERSTANDING THE CHALLENGES OF PRISONER REENTRY 55-56 (Jan. 2004), http://www.urban.org/uploadedPDF/410974_Returning-Home_MD.pdf.
- 22 *Id.* at 35.
- 23 *Id.* at 36-40.
- 24 VISHER ET AL., *supra* note 20, at 6-7.
- 25 NANCY G. LAVIGNE & VERA KACHNOWSKI WITH JEREMY TRAVIS, REBECCA NASER, & CHRISTY VISHER, URBAN JUSTICE INSTITUTE, A PORTRAIT OF PRISONER REENTRY IN MARYLAND 63 (Mar. 2003), http://www.urban.org/UploadedPDF/410655_MDPorraitReentry.pdf.
- 26 People who are released from prison are instructed that they must report to a parole office in the community within 48 hours, at which time their parole case is "activated." If they do not report as required, parole officials will "activate" their parole case as soon as they receive a file of records about the parolee from the Department of Corrections. A parole case is normally "closed" when the parolee reaches the end of their prison sentence (i.e., the parolee has served the remainder of the

sentence under supervision after having been released from prison, either at the discretion of the parole board, or after receiving certain diminution credits. Other reasons for closing a case include revocation for violation of parole conditions or commission of crime; reversal of the conviction on appeal; commutation of the sentence; case transfer out of state; or death.

- 27 CHRISTY VISHNER ET AL., *supra* note 21, at 50.
- 28 DIANA PEARCE & JENNIFER BROOKS, THE SELF-SUFFICIENCY STANDARD FOR MARYLAND 9 (Dec. 2001), *available at* <http://www.wowonline.org/ourprograms/fess/state-resources/SSS/The%20Self-Sufficiency%20Standard%20for%20Maryland.pdf>. Monthly costs adjusted for inflation to 2007 dollars using the Bureau of Labor Statistics “Inflation Calculator,” *available at* <http://data.bls.gov/cgi-bin/cpicalc.pl>.
- 29 A lump sum projecting the total parole supervision fee *is* calculated at case activation, but the actual amount a parolee is legally obligated to pay cannot be determined until the end of the supervision term, since cases may terminate before the expected expiration date (e.g., if parole is revoked).
- 30 While an expected fee amount is calculated up front based on an estimate of the length of the supervision, if a parolee exits earlier (e.g. if they are revoked) the fee for the months not served is not legally “imposed.” The actual total amount of the fee is not known until the person exits supervision – the figures here are not based on the initial estimation.
- 31 The total amount of parole supervision fees ordered in our sample’s cases was \$4,556,130.
- 32 The data on payment outcomes also include payment of restitution, fines, and court-imposed fees. However, these other categories of legal financial obligations were imposed so rarely in this parolee sample that the data can be said to reflect fairly the rates of payment of just the parole supervision fee.
- 33 Again, this data also includes rates of payment for rarely imposed restitution, fines, and court fees.
- 34 Again, the number of cases involving people classified as Indian and Asian is too small (two and 12, respectively) for the apparent employment advantages shown here to be meaningful.
- 35 Pamela C. Ovwigho, Catherine E. Born and Correne Saunders, Intersection of Incarceration and Child Support: A Snapshot of Maryland’s Caseload, University of Maryland School of Social Work, July 2005.
- 36 DPP officials say that the parole board does not order drug testing as a routine condition of parole. A requirement of testing is more likely to be imposed by a parole agent when a parolee’s behavior suggests that drug abuse may be an issue. Additionally, a parolee who participates in a substance abuse treatment program may be tested as part of the therapeutic regimen, but those fees would not be reflected here.
- 37 MD. CODE ANN., CORR. SERVS. §14.06.03.07(B) (2008).
- 38 MD. CODE. ANN., CRIM. PROC. §11-603(a).
- 39 *See* MD. CODE ANN., CRIM. LAW § 3-203(c)(3) (2008) (authorizing courts to waive fees and surcharges); MD. CODE. ANN., CRIM. PROC. § 11-605(a) (authorizing the court to waive the imposition of restitution). If the court decides not to issue a judgment of restitution it must state on the record its reasons for doing so. *Id.* § 11-605(b).
- 40 Under Maryland law, a judge may grant an exemption to the probation, but not parole, supervision fee. *See* CRIM. PROC. § 6-226(d).
- 41 *See Bearden v. Georgia*, 461 U.S. 660, 668-75 (1983) (holding that probation cannot be revoked for failure to pay fine unless court first performs inquiry into reasons and that only when “alternative measures are not adequate to meet the State’s interests in punishment and deterrence may the court imprison a probationer who has made sufficient bona fide efforts to pay”); *Turner v. State*, 307 Md. 618, 626 (1986) (“a defendant may not be imprisoned solely for failure to pay a fine where his failure

to pay arose from his indigency”).

- 42 However, for one category of parolees – sex offenders – revocation for failure to pay the parole supervision fee is more common, according to lawyers interviewed. In this instance, parole is sometimes revoked for failure to pay because parole agents see revocation as a way to reduce risk of continued offending, and are unable to prove any violation other than a failure to pay the parole supervision fee.
- 43 American Correctional Association. “2007 Directory of Adult and Juvenile Correctional Departments, Institutions, Agencies, and Probation and Parole Authorities.” White Plains, MD: Automated Graphics Systems, 2007. p. 18
- 44 Maryland law instructs agencies to write off accounts with a value of less than \$30 each month after obtaining the approval of the Abatement Committee of the CCU. MD. CODE REGS. §§ 17.01.01.05 (2007).
- 45 MD. CODE REGS. 17.01.01.07 (2007).
- 46 Telephone Interview with Roderick Morant, Delinquent Accounts/Loan Manager, Department of Management and Budget, Office of the Secretary, Central Collection Unit (July 29, 2008).
- 47 Telephone Interview with Roderick Morant, Delinquent Accounts/Loan Manager, Department of Management and Budget, Office of the Secretary, Central Collection Unit (July 2, 2008).
- 48 Although agents on occasion assist supervisees with the exemption process, official DPP policy prohibits them from providing such assistance.
- 49 PENNSYLVANIA COMMISSION ON SENTENCING, PROPOSED REVISIONS TO SENTENCING GUIDELINES 3 (2008), *available at* <http://pcs.la.psu.edu/2008%20Public%20Hearings%20-%20Proposed%20Revisions/PCS.GuidelineRevisions.Intro.PublicHearings.01052008.pdf>.
- 50 Susan Turner and Judith Greene, *The FARE Probation Experiment: Implementation and Outcomes of Day Fines for Felony Offenders in Maricopa County*, *The Justice System Journal* 21.1 (1999).
- 51 VA ST §53.1-150 (1994)
- 52 Interview with Walter Pulliam, Chief of Operations, Virginia Department of Corrections, Division of Community Corrections (Jan. 8, 2009).
- 53 Interview with Walter Pulliam, Chief of Operations, Virginia Department of Corrections, Division of Community Corrections (Jan. 8, 2009); Interview with Richard Crossen, Virginia Department of Corrections, Community Corrections Manager (Jan. 12, 2009).
- 54 Interview with Walter Pulliam, Chief of Operations, Virginia Department of Corrections, Division of Community Corrections (Jan. 8, 2009).
- 55 *See, e.g.*, VA. CODE ANN. § 17.1-275.1.
- 56 *See* VA. CODE ANN. §§ 17.1-275.1; 17.1-275.2; 17.1-275.7; 17.1-275.8; 16.1-69.48:1(B) and (C) (2009). In addition to any other costs required by law, convicted defendants will also be required to pay \$100 in circuit court. *See* VA. CODE ANN. §§ 17.1-275.1; 17.1-275.2; 17.1-275.7; 17.1-275.8; 16.1-69.48:1 (2009).
- 57 *See id.*
- 58 William R. Miles, Supervising Analyst, Department of Fiscal Services, Division of Fiscal Research, Maryland General Assembly, FISCAL NOTE REVISED HB 198 2 (1991).
- 59 *See* MD. CODE ANN., CORR. SERVS. § 7-702(d) (2008) (listing five grounds for exemption).
- 60 MD. CODE ANN., CORR. SERVS. § 7-702(d) (2008). A full copy of the statute is reprinted in the Appendix.
- 61 *See* MD. CODE ANN., CORR. SERVS. § 7-702(g)(3) (2008).

- 62 *See* William R. Miles, Supervising Analyst, Department of Fiscal Services, Division of Fiscal Research, Maryland General Assembly, FISCAL NOTE REVISED HB 198 2 (1991)
- 63 MD.CODE ANN., CTS. & JUD. PROC. § 7-405 (2008).
- 64 DPP Supervision and Monitoring Manual, Chapter 7, Section 07: Collection of Offender Payment Obligations (draft dated February 2007).
- 65 Students appear more likely to have their fee waived, or to be deemed not eligible for a fee, but just eight cases involved students, too small a number for a confident funding.
- 66 An up-front assessment also would be desirable for the first, and most common, exemption ground—unemployment. However, the current statute contemplates such an exemption later in the parole term “after the supervisee has diligently attempted but has been unable to obtain employment ...” MD. CODE ANN., CORR. SERVS. § 7-702(d)(1) (2008).

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