



House Bill 82

Criminal Procedure - Pretrial Release - Reimbursement of Special Condition Costs

MACo Position: **OPPOSE**

To: Judiciary Committee

Date: January 28, 2020

From: Natasha Mehu

The Maryland Association of Counties (MACo) **OPPOSES** HB 82 as it broadly and unreasonably requires counties to reimburse certain defendants for the costs of pretrial conditions that have been imposed upon them by the courts. While the intention of HB 82 may be to address costs incurred by defendants, the bill may have unintended consequences that may disincentivize pretrial programs and subsequently harm the very defendants it is intending to help.

HB 82 would require counties to reimburse defendants that have been found not guilty for costs they incurred to comply with pretrial conditions judges have imposed on them. When a defendant has been found not guilty, the judge or a jury has decided the evidence did not prove beyond a reasonable doubt that the individual committed a crime. Using figures from the 2018 Maryland Judiciary Statistical Abstract included in the bill's fiscal note, it can be estimated that over 7,660 cases in district and circuit court resulted in a not guilty disposition.

Maryland Rule 216.1(d) lists several special conditions that may be imposed on a defendant to help ensure their appearance in court or to ensure the safety of victims or members of the community. These conditions range from no contact orders and curfews to drug and mental health treatment and surety bonds. It would be unreasonable to require the reimbursement of pretrial condition fees for such a broad range of conditions. Many counties do not charge fees for their pretrial programs and fees for indigent defendants are already waived in many circumstances across the criminal justice system. The costs that remain are nebulous and potentially significant - they include transportation associated with the special conditions and expenses for substance use disorder or mental health treatment. Counties would also be forced to reimburse for corporate surety fees and certain opt-in services, like private electronic monitoring. Because the ultimate disposition of a case is outside of their control, counties would not even be able to budget for these reimbursements.

As a result, counties may be forced to reconsider their use of limited resources. If HB 82 passes, some counties may have to consider whether it is feasible to offer pretrial services and whether they have the fiscal resources to reimburse for them, if necessary. It is possible that some will decide not to offer pretrial services at all and avoid the fiscal uncertainty. In recent years, reforms to Maryland's criminal justice system have encouraged the expansion of pretrial services as an equitable best practice. HB 82 may unintentionally hinder that progress. Accordingly, MACo **OPPOSES** HB 82.