

Limiting “Pay-to-Stay” Housing Fees for Prisoners Without Work Opportunities

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THESIS

To reduce debt caused by fees that prisoners cannot pay, and thus reduce recidivism rates, the Commonwealth of Virginia should not charge housing fees to prisoners who are not on work release.

BACKGROUND & ANALYSIS

In 1985, the Macomb County Jail, in Mount Clemens, Michigan, instituted the first corrections fee, through which the sheriff and county Board of Commissioners began collecting up to \$60 a day from inmates to offset rising operating costs. Today, many corrections facilities across the country—including those in the Commonwealth of Virginia—bill prisoners for operating costs. These so-called “pay-to-stay” fees include charges for room and board, work release, physicals, dental visits, medication, prescriptions, nurse sick calls, and hospital medical treatment.¹ As a result of their interaction with the criminal justice system, 10 million individuals nationwide have incurred more than 50 billion dollars in debt. This debt has greatly reduced the success rate of reintegration, which was the original goal of the penitentiary system. In fact, the debt that inmates incur from pay-to-stay fees has been shown to increase recidivism rates.² The issue inordinately affects people of color. In Virginia, Black Americans comprise roughly 20 percent of the adult population, yet they make up more than 60 percent of the inmate population at state-run facilities.³ Virginia has an obligation to stop charging housing fees to those who are incarcerated and are, therefore, unable to pay such fees.

KEY FACTS

- Nationwide, 10 million individuals have incurred more than 50 billion dollars in debt because of their interaction with the criminal justice system; pay-to-stay fees contribute to this debt.⁸
- An estimated 80 percent of inmates in jail are indigent, making it nearly impossible for them to afford the \$3 per day charge for room and board without new income.⁹
- Criminal justice fees, such as pay-to-stay fees, cause cycles of poverty and increase the chances that those who contact the criminal justice system will contact it again.¹⁰

TALKING POINTS

- Prohibiting an inmate from earning money, while forcing said inmate to pay for room and board, increases the probability that the inmate will enter into a state of indebtedness, which in turn decreases the chance that he or she will successfully reenter society.
- The debt that inmates incur from pay-to-stay fees increases recidivism rates.⁴
- Reducing room-and-board fees and the resulting debt incurred by prisoners will encourage a higher reentry success rate, reduce incidence of recidivism, and ultimately cost taxpayers less.

THE POLICY IDEA

Virginia should limit sheriffs' abilities to collect room-and-board fees in its jails to prisoners who are on work release and lower the maximum fee that sheriffs are allowed to impose from \$3 a day, as permitted in state code §53.1-131.3, to \$1 a day. This policy change will help reduce debt being incurred by indigent prisoners, which will in turn encourage a higher reentry success rate. Furthermore, prisoners who are not able to work should not be charged housing fees.

POLICY ANALYSIS

An estimated 80 percent of inmates in jail are indigent, making it nearly impossible for them to afford the \$3 per day charge for room and board.⁵ Restricting payment of room and board in jails to inmates who are on work release and capping the maximum room and board payment to \$1 per day will reduce both the debt incurred by inmates being housed in Virginia jails and the total expenditures of Virginia's jails.

Inmates are not the only ones who would benefit from this proposed policy. Virginia's jails spent \$995.6 million to house inmates for a total of 10.3 million days in FY 2016 (or approximately \$85.17 per inmate per day).⁶ That means that taxpayers spent at least \$82.17 to house a single prisoner for a single day, which is more than 27 times what any inmate paid for his or her own room and board. Since pay-to-stay fees can actually *cause* inmates to reoffend if said fees force inmates into debt, preventing indebtedness by limiting how much inmates are charged for room and board will help prevent recidivism, thereby ultimately benefitting taxpayers.⁷ The potential cost of housing indebted reoffenders negates the benefits Virginia taxpayers gain by imposing current fees.

NEXT STEPS

We will reach out to those whom are focused on criminal justice reform, prison systems, and legal aid. Key stakeholders include the Virginia General Assembly, prisoners, educators, labor unions, prison staff, the Virginia Department of Corrections, reentry programs, law enforcement officials, and mental health specialists. In particular, we will schedule meetings with local Fairfax County prisons and prison workers. Communication and messaging will be done through a comprehensive list of media outlets and social media platforms. We plan to share this policy with local representatives within the Virginia House of Delegates for potential bill submission for 2019.

ENDNOTES

1. Eisen, Lauren-Brooke. "Paying for Your Time: How Charging Inmates Fees behind Bars May Violate the Excessive Fines Clause." *Loyola Journal of Public Interest Law*, vol. 15, no. 2, 2014, p. 319.
2. Lauren-Brooke Eisen, "Charging Inmates Perpetuates Mass Incarceration" 2, (Brennan Center for Justice 2015)
3. Justice Policy Initiative, "Virginia's Criminal Justice System: Expensive, Ineffective and Unfair" (Justice Policy Institute, November 2013) http://www.justicepolicy.org/uploads/justicepolicy/documents/va_justice_system_expensive_ineffective_and_unfair_final.pdf
4. Eisen, "Charging Inmates Perpetuates" 2
5. Criminal Justice Policy Program, "Confronting Criminal Justice Debt: A guide for Policy Reform" 12, (Harvard Law School 2016)
6. Compensation Board, "FY 2016 Jail Cost Report" iii, (Report to the General Assembly November 2017) <http://www.scb.virginia.gov/docs/fy16jailcostreport.pdf>
7. Eisen, "Charging Inmates Perpetuates" 2
8. Alicia Bannon, Mitali Nagrecha, and Rebekah Diller, "Criminal Justice Debt: A Barrier to Reentry" (Brennan Center for Justice, 2010); Lauren-Brooke Eisen, "Charging Inmates Perpetuates Mass Incarceration" 1 (Brennan Center for Justice, 2015)
9. Criminal Justice Policy Program, "Confronting Criminal Justice" 12
10. Alexis Harris et al., "Drawing Blood from Stones: Legal Debt and Social Inequality in the Contemporary United States", 155 *Am. J. of Sociology* 1753, 1777 (2010)