

~~[(d)] (C) If a loan or advance is made to a stock insurer or mutual insurer under a notice of deficiency made by the Commissioner under § 3-109 of this subtitle, the loan or advance may not be repaid or withdrawn without the express written consent of the Commissioner.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2006.

May 26, 2006

The Honorable Michael E. Busch
Speaker of the House
State House
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed House Bill 514 – *Criminal Procedure – Supervised Probation – Exemptions from Program and Supervision Fees*.

This bill would allow a court, in addition to the Division of Parole and Probation, to waive the statutorily required program fee for offenders ordered to participate in the Drinking Driver Monitor Program.

The aim of the current law is to ensure that persons convicted of driving under the influence and other related crimes pay the full costs of their supervision. According to information presented during the General Assembly's consideration of House Bill 514, the bill was an effort to address two issues arguably arising from the existing statute. The first is that offenders who do not receive an exemption from paying the fee, but are unable to do so, are subject to a violation of probation proceeding that could result in the imposition of a jail sentence. This clearly should not be the case. According to the Department of Public Safety and Correctional Services, the fee "is not court-imposed and is not part of the court's probation order. Therefore, a supervisee cannot be violated simply for not paying the program fee." The department's remedy for nonpayment is to refer the matter to the Central Collection Unit.

To the extent that there is any confusion on this matter, I have directed that the Department clarify this issue with its employees.

The second issue is that the Division of Parole and Probation is not exercising its discretion in granting exemptions from the fee. Under the current provisions of Correctional Services Article, Section 6-115(d), there are five grounds upon which the Division may grant an exemption from paying all or part of the fee. They are: (1) good faith lack of employment or insufficient income; (2) status as a student; (3) handicap limiting employment; (4) a duty to support dependents and payment of the fee would be an undue hardship; or (5) other extenuating circumstances exist. I have instructed the Division to review its practices and procedures to ensure that it is fully complying with the law in regard to exercising its discretion to waive the fee in the statutorily appropriate circumstances.

House Bill 514, however, would simply allow an offender to have two chances to have