

Access to Justice  
SPOTLIGHT

# Fines & Fees



**Office for Access to Justice**  
U.S. Department of Justice | 2023

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# LETTER FROM ASSOCIATE ATTORNEY GENERAL VANITA GUPTA



In April of this year, the U.S. Department of Justice issued a letter to our state and local colleagues addressing the assessment of fines and fees against both juveniles and adults. The letter clarified the constitutional and statutory framework governing the imposition and enforcement of fines and fees, as well as highlighted significant public policy concerns that extend beyond the clear confines of the law.

Legal system fines and fees can be devastating to individuals and their families when imposed without regard for economic circumstances. Individuals who are unable to pay court-imposed assessments often face dramatic penalties that can lead to escalating and inescapable cycles of

debt, extended periods of probation and parole, drivers' license suspension, and repeated, unnecessary incarceration. They can lose their job, driver's license, home, or even custody of their children.

When fines and fees are assessed against juveniles, the consequences to youth and their families can be particularly acute, with the potential to push young people further into the criminal justice system, drive children and their parents into debt, and put considerable strain on familial relationships. In many cases, unaffordable fines and fees only undermine public safety by impeding successful reentry, increasing recidivism, and weakening community trust in government.

Many leaders, at all levels of government, have taken considerable and innovative steps to address these unintended consequences. As highlighted in this report, numerous jurisdictions and local leaders from across the country are working alongside advocates, impacted communities and experts to redress the often harmful and counter-productive impacts of fines and fees on the communities they serve. Those efforts deserve amplification and in many instances replication. To that end, I directed the Office for Access to Justice to prepare a report on promising practices from around the country, building on the recommendations detailed in the Dear Colleague Letter and shining a spotlight on innovative work by states, municipalities, juvenile justice agencies, and court leaders in this area – work that has been bipartisan across the country.

Eliminating the unjust imposition of fines and fees is one of the most effective ways for jurisdictions to support the success of youth and low-income individuals, honor constitutional and statutory obligations, and reduce racial disparities in the administration of justice. I hope this report will serve as resource for policymakers invested in promoting a more just and equitable criminal justice system and look forward to continuing to collaborate with leaders and stakeholders in the criminal legal system to develop and share solutions, such as those detailed in this report.

Vanita Gupta

Associate Attorney General  
U.S. Department of Justice

# LETTER FROM ACCESS TO JUSTICE DIRECTOR RACHEL ROSSI



Today, the Office for Access to Justice is pleased to release this spotlight report, summarizing some of the most common and some of the most innovative approaches to reducing reliance on fines and fees taking place across the country.

The Office for Access to Justice is a standalone agency within the U.S. Department of Justice that plans, develops, and coordinates the implementation of access to justice policy initiatives of high priority to the Department and the executive branch. Our mission is to ensure all communities have access to the promises and protections of our legal systems. We advance this goal by working to ensure justice belongs to everyone, not only those with wealth or status.

Legal system fines and fees, when imposed without regard for discriminatory impact or ability to pay, can exacerbate many of the longstanding, systemic inequities that undermine this goal. In April 2023, ATJ proudly co-signed the Department’s Dear Colleague Letter to state and local courts and juvenile justice agencies, clarifying key legal constraints and highlighting public policy concerns related to the imposition and enforcement of fines and fees. Associate Attorney General Vanita Gupta then tasked our office with creating a report “highlighting innovative work by states, municipalities, and court leaders in this area.”

We know the simple reality is that courts and government agencies have come to rely on fines and fees, for both revenue and punishment. We must offer alternatives, resources, and support as jurisdictions explore different approaches. We hope this report can assist to provide such support.

Our office has spent the past few months conducting listening sessions with, and soliciting written feedback from, dozens of organizations, policymakers, advocates, academics, and court leaders pursuing a more just approach to fines and fees. Our findings are impressive. State and local jurisdictions across the country have recognized the need for reform and have implemented a wide range of responsive policies aimed at tackling the different harms legal system fines and fees have caused.

In short, as the report makes clear, the last few years have seen remarkable progress in this field. But there is still much to do. The Office for Access to Justice looks forward to continuing to serve as a partner in this critical work and to continuing to advance Attorney General Garland’s directive to “make real the promise of equal justice under law” through “innovation, collaboration and leadership across all levels of government and beyond.”

Rachel Rossi  
Director, Office for Access to Justice  
U.S. Department of Justice

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# BACKGROUND

On April 20, 2023, the Department of Justice issued a [Dear Colleague Letter](#) (“Letter”) to state and local courts and juvenile justice agencies, clarifying legal obligations and highlighting important considerations related to legal system fines and fees (“fines and fees”).<sup>1</sup> The Letter detailed seven constitutional principles relevant to the imposition and enforcement of fines and fees, and reminded courts that recipients of federal financial assistance, including court systems, must additionally comply with statutory prohibitions against discrimination. The Letter also touched on public policy and practical concerns raised by the imposition of fines and fees on individuals who cannot afford to pay. It encouraged courts and legislatures to decrease reliance on fines and fees as a source of revenue.

As noted in the Letter:

Imposing and enforcing fines and fees on individuals who cannot afford to pay them has been shown to cause profound harm. Individuals confront escalating debt; face repeated, unnecessary incarceration for nonpayment of fines and fees; experience extended periods of probation and parole; are subjected to changes in immigration status; and lose their employment, driver’s license, voting rights, or home. This practice far too often traps individuals and their families in a cycle of poverty and punishment that can be nearly impossible to escape. The detrimental effects of unjust fines and fees fall disproportionately on low-income communities and people of color, who are overrepresented in the criminal justice system and already may face economic obstacles arising from discrimination, bias, or systemic inequities.<sup>2</sup>

The Letter also previewed that the Office for Access to Justice (“ATJ”) would issue a report expanding upon the principles the Department set forth in the letter, “highlighting innovative work by states, municipalities, and court leaders in this area.”<sup>3</sup> This report aims to assist jurisdictions that may wish to pivot from reliance on fines and fees by providing some ideas of where to begin.

Local leaders across the country are developing innovative alternatives to fines and fees, often with promising outcomes for both the communities they serve *and* the systems in which they work. This report summarizes some of the most common and most innovative fines and fees approaches from across the country and provides concrete examples of implementation at various levels of government. This report aims to serve as a resource for policymakers looking to decrease systemic reliance on fines and fees as a source of revenue and to redress the harms fines and fees can cause.

The examples provided in each SPOTLIGHT do not represent exhaustive lists of jurisdictions implementing promising practices related to fines and fees. These lists are designed to provide a range of examples at all levels of government. For some of the promising practices included below, there are many jurisdictions implementing similar policies to those that are listed. If they have not been included here, it was solely to prevent repetition and preserve readability. Further, many of the examples cite to a narrow portion of a statute or policy that illustrates a specific promising practice. Inclusion of an example in this report does not indicate endorsement of the jurisdiction's entire policy or legislative scheme, nor does it represent an attestation to the jurisdiction's implementation of that policy or a determination by the Department regarding the jurisdiction's compliance with applicable federal or state laws.



# OVERVIEW AND SCOPE

States, localities, courts, and prosecutor offices are among the entities that levy legal system fines and fees. The categories of fines and fees, affiliated costs, and discretion to impose or waive them, can vary greatly between, and even within, jurisdictions. However, there are certain common features.

“Fines,” as utilized in this report, refers to financial penalties that are imposed upon criminal conviction, including misdemeanor and felony convictions, or upon juvenile delinquency adjudication, or when a judgment is entered for a civil infraction. A civil infraction includes citations that often can be paid in lieu of going to court, such as some quality-of-life offenses, traffic tickets, and municipal property code violations, among others. Fines are often imposed as a form of punishment or deterrence.<sup>4</sup>

“Fees,” as utilized in this report, refers to itemized, financial assessments that are imposed on litigants to fund court or other government functions. They can arise at any stage of legal-system involvement. For example, pre-trial litigants may face clerk fees, fees for requesting a public defender, filing fees, fees for using a public defender, or fees for entering a diversion program. Litigants who exercise their right to a trial may be assessed jury fees or fees for using an expert witness. In addition, individuals who are incarcerated may face in-custody fees for room and board, phone and email services, medical co-payments, library access, and basic hygiene necessities. Upon release, or as a condition of pre-trial release or diversion, individuals may face fees for probation supervision, drug testing, entrance into a DNA database, electronic monitoring, or drug and alcohol classes. Further, if a defendant is a minor, many jurisdictions will impose these fees on the child’s parent(s) or legal guardian(s). Unlike fines, fees are often imposed as mechanisms for funding criminal justice systems and other government functions.<sup>5</sup>

Additional financial obligations may result from the assessment and enforcement of fines and fees themselves: processing fees; penalties for late payments; interest; fees for paying through a payment plan; fees for paying online; driver’s license reinstatement fees; and third-party debt collection fees, among others. Some courts also impose fees to fund specific programs, like facilities upkeep. This report treats these additional charges as “fees,” although they are often referred to as “surcharges.”

In this report, “assessment” refers to the amount of the fines or fees levied against an individual litigant, or the process to make such determination. “Enforcement” refers to the processes that jurisdictions use to compel litigants to pay fines and fees that have been assessed against them. Enforcement mechanisms may range from written warnings to financial penalties, wage garnishment, license and permit suspensions, and even arrest and incarceration.<sup>6</sup>

Notably, this report focuses on fines and fees assessed against litigants accused by a government entity of criminal offenses, delinquent acts, or civil infractions. There are several categories of legal financial obligations (“LFOs”) that are outside the scope of this report, including restitution, bail bonds, and fees in civil cases that are not initiated by a government entity.

# PROMISING PRACTICES

## ASSESSMENTS

This section focuses on steps that states, counties, municipalities, courts, and district attorneys' offices throughout the country have taken to decrease the total costs and categories of fees they are assessing against litigants. The most direct approach to addressing the adverse impacts of unjust fines and fees is to eliminate them.<sup>7</sup> However, in jurisdictions that continue to assess fines and fees, capping assessments, requiring robust and effective ability-to-pay hearings, and providing community-based alternatives to fines that do not exacerbate inequities are all practices that, when fully implemented, can significantly mitigate the considerable hardship that fines and fees can impose on low-income individuals, families, and communities.

### Eliminating Fines and Fees

The Department's Dear Colleague Letter strongly encouraged court leaders and criminal and juvenile justice stakeholders "to consider alternative ways to obtain resources other than through the assessment of fines and fees."<sup>8</sup> Many jurisdictions have begun to do just that.

Increasingly, state legislatures and local governments have passed legislation and annual budgets that eliminate specific categories of fines and fees. Several local courts and prosecutors' offices have likewise issued orders stating they will not assess or seek imposition of fees that are within their discretion to waive.

These efforts have taken several forms. Some jurisdictions have eliminated all or many fines and fees within their discretion. Others have prioritized eliminating fines and fees that policymakers and advocates have identified as disproportionately harmful, discriminatory, or counter-productive. As described in more detail below, these include elimination of fines and fees imposed on minors, fees for requesting and using a public defender, fees for diversion programs, fees related to probation or parole, and fees imposed on incarcerated individuals.

# Eliminating All or Many Fines and Fees

As mentioned above, some jurisdictions have eliminated all or many categories of fines and fees that are in their discretion to waive. Some have done so incrementally, while others have done so all at once.<sup>9</sup>

## SPOTLIGHT ▪ STATES

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### **California.**

In 2023, the California Legislature passed the “Families Over Fees Act,” a comprehensive statute eliminating 23 categories of criminal legal system fees, including fees for public defenders and court-appointed counsel, arrest and booking fees, parole and probation supervision fees, home detention fees, certain electronic monitoring fees, fees for work release and work furlough programs, and more.<sup>10</sup> The legislation also declared all outstanding balances on previously assessed fees in these categories uncollectible and appropriated to counties \$65 million annually for five years to backfill for lost revenue.<sup>11</sup> *See infra*, “[Discharging Existing Fines & Fees Debt.](#)”

### **New Mexico.**

In 2023, New Mexico passed House Bill 139, eliminating all post-adjudication fees for adults.<sup>12</sup>

## SPOTLIGHT ▪ COUNTIES AND MUNICIPALITIES

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### **Los Angeles County, CA.**

Between 2009 and 2019, the Los Angeles County Board of Supervisors eliminated all criminal administration fees the County had the discretion to waive. In 2009, the Board ordered the Probation Department to stop assessing fees on parents and guardians for the incarceration of children.<sup>13</sup> In 2017, the Board eliminated the registration fee for requesting court-appointed counsel.<sup>14</sup> In 2018, the Board discontinued collection from and forgave outstanding debt for youth in the custody of probation.<sup>15</sup> Finally in 2019, the Board passed a motion eliminating remaining “Los Angeles County Criminal System Administrative Fees,” including fees related to probation supervision, work furlough, misdemeanor and drug diversion programs, pretrial electronic monitoring, and court-appointed counsel.<sup>16</sup> The ordinance also discharged all existing debt resulting from previous imposition of these fees.<sup>17</sup>

### **San Francisco County, CA.**

In 2018, the San Francisco County Board of Supervisors passed Ordinance 131-18, abolishing all justice-system fines and fees under San Francisco County’s control, including all discretionary financial penalties for misdemeanor and felony offenses and all fees associated with probation, diversion programs, home detention, and court administration.<sup>18</sup> The ordinance also waived all related outstanding debt. San Francisco never imposed fees on parents or guardians of children incarcerated in Juvenile Hall.<sup>19</sup>

## **SPOTLIGHT • COURTS**

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### **Seattle Municipal Court.**

In 2020, after a study commissioned by the City of Seattle’s Office for Civil Rights concluded that Seattle’s criminal system fines and fees disproportionately burden people of color, Seattle Municipal Court judges voted unanimously to eliminate all discretionary fines and fees imposed in criminal cases. These included probation supervision fees, record fees, work crew fees, and community service setup fees.<sup>20</sup>

## **SPOTLIGHT • DISTRICT ATTORNEY OFFICES**

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### **Wasco County, OR.**

In 2023, the District Attorney for Wasco County, Oregon, issued a memorandum announcing they “will not seek to impose any discretionary fees and fines and will object if the Court or any other party seeks to impose them, with an exception for compensatory fines, which are meant to go to victims.”<sup>21</sup>

# Eliminating Juvenile Fines and Fees

As emphasized in the Department’s Letter, “[f]ines and fees can be particularly burdensome for youth, who may be unable to pay court-issued fines and fees themselves, burdening parents and guardians who may face untenable choices between paying court debts or paying for the entire family unit’s basic necessities, like food, clothing, and shelter.”<sup>22</sup> In short, “there are practical realities that weigh substantially against imposing fines and fees against youth.”<sup>23</sup>

Recognizing the practical implications and the particularly acute burden of imposing financial obligations on justice-involved youths and their families, eight states and multiple local governments and juvenile justice agencies have eliminated all juvenile fines and fees, while six states and a number of local governments and juvenile justice agencies have taken the intermediate step of eliminating all juvenile fees.<sup>24</sup> A number of other jurisdictions have abolished certain categories of juvenile fees, such as fees for diversion programs and appointed counsel.<sup>25</sup>

## SPOTLIGHT • STATES

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### **Illinois.**

In 2023, Illinois passed Senate Bill 1463, eliminating all fines and fees assessed against minor defendants or their legal guardians in juvenile court or in cases where the juvenile defendant has been excluded from juvenile court or transferred to adult court.<sup>26</sup> The bill also cancelled all outstanding collections and waived all existing debt.

### **New Jersey.**

In 2020, the New Jersey legislature abolished all fines in the juvenile system and repealed a delinquency adjudication fee.<sup>27</sup> In 2022, the legislature abolished all remaining juvenile fees and vacated all outstanding fines-and-fees-related debt.<sup>28</sup>

### **New Mexico.**

In 2021, the New Mexico legislature passed House Bill 183, eliminating all fines and fees previously assessed under the state’s Juvenile Delinquency Act, as well as the application fee for a public defender in Children’s Court.<sup>29</sup>

### **Oregon.**

In 2021, the Oregon General Assembly passed Senate Bill 817, eliminating all juvenile fines and fees.<sup>30</sup> The bill also discharged all existing juvenile fines-and-fees-related debt.<sup>31</sup>

## SPOTLIGHT ▪ COUNTIES AND MUNICIPALITIES

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### **Dane County, WI.**

In 2018 and 2020, the Dane County Board of Supervisors Board passed two measures that collectively eliminated “all fees and debts associated with the Dane County Juvenile Court Program.”<sup>32</sup>

## SPOTLIGHT ▪ COURTS

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### **Macomb County Circuit Court.**

In 2021, following a year-long study on juvenile court fees in Macomb County, MI, the Circuit Court announced it would no longer assess discretionary juvenile court fees, including pay-to-stay fees, fees for court-appointed counsel, and fees for probation supervision.<sup>33</sup> The Court also discharged all related debt.<sup>34</sup>

### **Orleans Parish, LA.**

In 2018, the Chief Judge of the Orleans Parish Juvenile Court signed a resolution stating the court would no longer assess or collect juvenile administrative fees—including examination fees, care and treatment fees, diversion program fees, counsel fees, or probation supervision fees—from youth or families in delinquency adjudications.<sup>35</sup>

## SPOTLIGHT ▪ DISTRICT ATTORNEY OFFICES

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### **County of Kaua‘i, HI.**

In 2021, the Office of the Prosecuting Attorney for the County of Kaua‘i issued a memorandum to all Deputy Prosecuting Attorneys, stating that the Office “shall not seek to impose any discretionary [juvenile] fees and fines and shall object if the Court or any other party seeks to impose them.”<sup>36</sup> The memorandum also provided justification for this policy, and instructed Deputy Prosecuting Attorneys to “refer to [the] memo and any of the research contained [t]herein when objecting to the imposition of discretionary fees and fines.”<sup>37</sup>

# Eliminating Fees for Requesting and/or Using a Public Defender

There are two types of assessments commonly imposed on individuals attempting to access a public defender or court-appointed counsel. The first are flat rate application or appointment fees that some jurisdictions automatically impose on defendants that request court-appointed counsel. The second are recoupment fees that generally are imposed after disposition to recover the costs for representation. Research has shown that both categories of fees can chill the exercise of the Sixth Amendment right to counsel<sup>38</sup> and undermine trust in the attorney-client relationship.<sup>39</sup>

At least seven states, and a number of counties, have abolished or do not authorize fees related to court-appointed counsel for indigent defendants. Those states are California, Delaware, Hawaii, Nebraska, New York, Pennsylvania, and Rhode Island.<sup>40</sup>

## SPOTLIGHT ▪ STATES

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### **New Jersey.**

In 2023, New Jersey eliminated public defender recoupment fees in all felony cases.<sup>41</sup>

### **Utah.**

The state of Utah has, since 1980, expressly prohibited upfront application fees for court-appointed counsel.<sup>42</sup>



# Eliminating Fees for Diversion Programs

Diversion programs provide an alternative to traditional criminal prosecution. They often allow participants to avoid criminal convictions, harsh penalties, and even incarceration, while providing rehabilitative or educational services. As noted in the Dear Colleague Letter, some courts have held that individuals should not be barred from participating in or completing a diversion program, be subjected to more onerous conditions for participating in a diversion program or have a diversion program extended because they cannot pay fees.<sup>43</sup> Eliminating fees associated with diversion programs can help ensure that income does not determine access to diversionary programs.

## SPOTLIGHT ▪ STATES

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### **Rhode Island.**

The Rhode Island Diversion Program—a joint effort between the Superior Court and state Attorney General’s Office, does not charge a participation fee.<sup>44</sup> Rhode Island law also prohibits charging electronic monitoring fees for individuals who have not been convicted of a criminal offense, including those in a diversion program.<sup>45</sup>

## SPOTLIGHT ▪ COUNTIES

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### **Dane County, WI.**

In 2020, the Dane County Board of Supervisors eliminated fees and associated debt for two diversion programs that provide alternatives to incarceration.<sup>46</sup>

# Eliminating Fees Related to Supervision

Probation and parole are both forms of supervision following a criminal conviction. Probation is often imposed as part of a criminal or juvenile sentence, either instead of, or in addition to, incarceration. Parole may be granted to incarcerated individuals who have served part of their sentence in prison but who, having satisfied certain criteria, have been released before the completion of their full sentence. Defendants may also be subject to supervision before conviction, in lieu of pre-trial detention. The objectives of supervision include protecting public safety and ensuring justice-involved individuals successfully reenter or remain in their communities.

There are a number of fees that jurisdictions have attached to supervision. These include generic “supervision” fees, electronic monitoring fees, fees for drug testing, fees for mandatory programming or counseling, and more. Some policymakers have moved to eliminate these fees on the grounds that imposing additional legal debt on individuals at this vulnerable juncture can undermine these objectives and increase recidivism.<sup>47</sup>

In the last few years, a number of jurisdictions have eliminated fees affiliated with supervision, as demonstrated in the below examples. Others have eliminated fees associated with aspects of supervision, such as electronic monitoring.

## SPOTLIGHT ▪ STATES

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### **Massachusetts.**

The Massachusetts legislature used the General Appropriations Act for FY 2023 to eliminate all parole and probation fees (including supervision fees, administrative probation fees, and victim services surcharges).<sup>48</sup>

### **Oregon.**

In 2021, the Oregon General Assembly passed Senate Bill 620, eliminating the authority to assess probation supervision fees.<sup>49</sup>

**Baltimore County, MD.**

In 2021, the Baltimore County Executive eliminated fees imposed on individuals participating in two programs providing alternatives to incarceration: the County's Home Monitoring Program (participants include both pre-trial and sentenced individuals) and the County's Pretrial Community Supervision program (which provides an alternative to pre-trial detention).<sup>50</sup>

**Multnomah County, OR.**

In 2020, before Oregon implemented statewide change, *see supra*, the Multnomah County Board of Commissioners eliminated, through the adopted budget, the monthly supervision fee imposed on individuals on probation and parole and allocated \$1 million annually from the general fund to cover the lost revenue.<sup>51</sup>

**Ramsey County, MN.**

In 2020, the Ramsey County Board of Commissioners eliminated the county's probation supervision fee and daily fee for home electronic monitoring for working people.<sup>52</sup>

# Eliminating Carceral Fees

Carceral fees are assessed against individuals while they are incarcerated and may include room and board (or “pay-to-stay” fees), fees for phone calls, emails, medical co-payments, mark-ups for commissary items, law library fees, and fees for accessing the money family members deposit into commissary accounts, among others. Citing public policy concerns,<sup>53</sup> states and counties have begun to eliminate specific categories of carceral fees.<sup>54</sup>

## SPOTLIGHT ▪ COUNTIES AND MUNICIPALITIES

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### **Alachua County, FL.**

In 2023, the Alachua County Commission voted to end all fees assessed against individuals detained in the county jail, including room-and-board fees, medical copays, and fees for phone calls.<sup>55</sup>

### **New York, NY.**

In 2018, the New York City Council passed a local law, “Introduction 714-A,” which gave the city 270 days to make phone calls free for individuals detained in jails operated by the New York City Department of Corrections.<sup>56</sup> The law also prohibits the city from receiving any revenue for providing telephone services to incarcerated individuals.<sup>57</sup> To ensure correctional facilities were not incentivized to limit phone calls as a result of the additional costs, the implementation plan provided that individuals detained in general population are entitled to make up to 21 minutes of calls every three hours, with no single call lasting longer than 15 minutes.<sup>58</sup>

### **Ramsey County, MN.**

In 2020, the County Board eliminated fees for diabetes supplies and over-the-counter medications for people in custody.<sup>59</sup> The Ramsey County Board of Commissioners had already eliminated the County’s jail booking fee in 2017.<sup>60</sup>

### **San Francisco, CA.**

In 2019, San Francisco instituted free telephone and video calls for individuals detained in San Francisco jails.<sup>61</sup> To provide this service, the San Francisco Sheriff’s Office negotiated a first-of-its-kind, fixed-rate contract with a carceral telecom vendor. The contract established fixed monthly rates per phone line, instead of the standard approach of charging individuals per minute, per call.<sup>62</sup> Significantly, this ensures there is no financial incentive to place limits on phone access for individuals in detention. The city also eliminated all revenue generated through commissary markups.<sup>63</sup> The plan was funded by the City of San Francisco’s FY 2019-20 budget.<sup>64</sup>

**Maine.**

In 2022, the Maine legislature eliminated the “county jail reimbursement fee,” which had previously been assessed, at the court’s discretion, to offset the cost of “room and board” when an individual was sentenced to a county jail.<sup>65</sup>

## Eliminating Fees for Individuals Who are Acquitted or Whose Case is Dismissed

Research has shown that, when jurisdictions do not waive legal system fees upon dismissal or acquittal, it can significantly erode trust in the justice system.<sup>66</sup> To that end, most, although not all, jurisdictions waive fees if a litigant is acquitted or if their case is dismissed, and at least 10 states with municipal courts either ban or do not authorize courts to impose fees on a defendant who has been acquitted or whose charges have been dismissed. Those states are Colorado, Georgia, Indiana, Kansas, Missouri, Montana, New Jersey, New Mexico, New York, and Washington.<sup>67</sup>

### SPOTLIGHT ▪ STATES

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#### **North Carolina.**

North Carolina law prohibits any court from assessing any fees or surcharges when a case is dismissed.<sup>68</sup> State law also specifies that defendants detained pre-trial will not be liable for the state's pay-to-stay fee "if the case or proceeding against him is dismissed, or if acquitted, or if judgment is arrested, or if probable cause is not found, or if the grand jury fails to return a true bill."<sup>69</sup>

## Requiring Legislative Authorization and Imposing Caps

Over time, local governments and courts have sought to address revenue shortfalls by introducing new categories of fees and/or increasing the amount assessed for an individual fine or fee.<sup>70</sup> This can lead to exorbitant cumulative costs, disproportionate financial penalties, and increase the likelihood that a litigant will be unable to pay.<sup>71</sup> It can also create conflicts of interest and undermine trust in government.<sup>72</sup>

At least six states have passed legislation barring courts and municipalities from assessing new fees, or fees that exceed a certain aggregate threshold, without explicit authorization from the state legislature. Those states are Alabama, Arkansas, Kansas, Missouri, New Jersey, and Wisconsin.<sup>73</sup> Likewise, the overwhelming majority of states have set caps on how much a defendant can be fined for a violation of a local ordinance.<sup>74</sup> A few states, such as Missouri, highlighted below, and New Mexico,<sup>75</sup> have imposed more restrictive caps on municipal fines.

### SPOTLIGHT ▪ STATES

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#### **Arkansas.**

Arkansas law provides that “[n]o town, city, or county shall authorize and no state district court or circuit court shall assess or collect any other court costs other than those authorized by [state statute].”<sup>76</sup>

#### **Missouri.**

State law in Missouri caps the aggregate of fines and court costs at \$225 for minor traffic violations, \$200 for the first municipal ordinance violation within twelve months, \$275 for the second, \$350 for the third, and \$450 for all additional municipal ordinance violations within twelve months.<sup>77</sup>

#### **Ohio.**

In 2023, the Ohio legislature used the annual budget to impose a cap on certain municipal court fees.<sup>78</sup> Before the budget bill’s passage, state law imposed a mandatory fee for record sealing and expungement applications but did not address potential additional surcharges by municipal courts, leading to high cumulative costs in certain jurisdictions.<sup>79</sup>

## Proportionate Alternatives to Fines

Many jurisdictions allow litigants to complete community service in lieu of paying a fine.<sup>80</sup> However, as the Dear Colleague Letter cautions, community service can also “exact a financial consequence if individuals are required to pay costs for participation, take unpaid leave from their jobs, pay for childcare, or miss educational opportunities to fulfill it.”<sup>81</sup> And if the available alternatives are limited, disproportionate, or imposed without regard for an individual’s circumstances, they can have the unintended consequence of imposing a greater burden on the defendant than the original fine.

There are several steps jurisdictions have taken to mitigate these potential unintended consequences. These include:

- **No associated fees.** When community service is imposed in lieu of a fine due to a litigant’s inability to pay, public policy considerations counsel in favor of ensuring there are no fees associated with performing that community service.<sup>82</sup>
- **Expansive definitions of community service.** Jurisdictions that adopt expansive definitions of “community service” are better able to ensure that the service a court assigns does not inadvertently impose a greater burden than the financial penalty the service replaced. What’s more, jurisdictions with flexible definitions have the benefit of being able to offer options that further rehabilitative goals and improve public safety. Examples include, but are not limited to, educational programs, drug and alcohol support, job skills programs, and counseling. In contrast, when a jurisdiction does not provide flexible and proportionate community service options, litigants whose circumstances make compliance difficult may face harsher penalties for failing to fulfill those service obligations than they would have faced for being unable to pay the underlying fine.<sup>83</sup>
- **Allow courts to tailor community service hours and location to an individual’s circumstances.** When community service is imposed without consideration for a person’s circumstances, a litigant may be forced to choose between completing the community service and satisfying existing obligations, such as work, school, medical appointments, and dependent care. Likewise, if a litigant does not have reliable access to transportation, compliance with community service obligations that require extensive travel can be particularly difficult. These concerns are especially acute for children and youth, who often do not have easy access to independent transportation, and who, in addition to the practical considerations detailed above, could be forced to



miss school, vocational opportunities, or other developmentally appropriate obligations to perform court-imposed community service.”<sup>84</sup> Jurisdictions that receive federal financial assistance must also ensure that individuals with disabilities can access community service options, including by making reasonable modifications to community service requirements,<sup>85</sup> and that litigants who have limited English proficiency have meaningful language access to community service activities.<sup>86</sup>

- **Credit litigants at a reasonable hourly rate.** A number of jurisdictions—such as California and New Mexico, highlighted below—ensure community service is proportionate to the underlying offense by crediting litigants for the community service they complete at a fair hourly rate, such as twice the jurisdiction’s minimum wage, to pay off the fine or fee amount.

## SPOTLIGHT ▪ STATES

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### **California.**

The California Penal Code instructs courts to permit defendants convicted of an infraction to “perform community service in lieu of paying the total fine that would otherwise be imposed” “upon a showing that payment of the total fine would pose a hardship on the defendant or the defendant’s family.”<sup>87</sup> The statute then sets the rate at which a defendant performing community services is credited towards paying off the fine at no less than twice the California minimum wage.<sup>88</sup> The statute also authorizes courts to permit defendants to complete community service by attending an educational program.<sup>89</sup>

### **New Mexico.**

In 2023, the New Mexico legislature passed House Bill 139, which expanded the options available to a defendant completing community service to discharge a fine, fee, or other court cost.<sup>90</sup> Specifically, the Bill states assigned community service “shall be meaningful ... and shall be of a type that benefits the public at large or any public, charitable or educational entity or institution, including enrollment in job training or an academic or vocational program or participation in social service or rehabilitation programs....”<sup>91</sup> The bill also established the rate at which a person performing community service receives credit towards the court costs “at twice the rate of the prevailing state hourly minimum wage.”<sup>92</sup>

## **Texas.**

The Texas Code of Criminal Procedure authorizes courts to have indigent defendants (and defendants who have failed to pay previously assessed fines or fees) discharge fines-and-fee-related debt, in whole or in part, through community service.<sup>93</sup> The statute’s definition of “community service” includes: work or job skills training programs; educational programs; alcohol or drug abuse programs; rehabilitation programs; mentoring programs; work for a governmental entity, nonprofit organization, or educational institution; or “any similar activity.”<sup>94</sup>

Texas law also authorizes a court to waive both fines and fees *and* community service for an indigent defendant if community service would impose an “undue hardship.” The statute provides guidance on what factors may contribute to a finding of undue hardship, including, among other factors: significant impairment or disability; pregnancy and childbirth; substantial family commitments; work responsibilities and hours; transportation limitations; and homelessness and housing insecurity.<sup>95</sup>

## **SPOTLIGHT ▪ CRIMINAL JUSTICE AGENCIES**

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### **Multnomah County, OR.**

Multiple times per year, the Multnomah County District Attorney’s Office, the Multnomah Circuit Court, and the Metropolitan Public Defender collaborate to provide a “Legal Services Day.”<sup>96</sup> The program allows indigent participants to discharge \$100 in fines-and-fees-related debt for every hour of non-mandatory community service.<sup>97</sup> Participants need only provide proof that they have completed the eligible activity, including drug and alcohol treatment, parenting classes, or volunteer work with a nonprofit.<sup>98</sup> The program has an 80-hour cap on community service, at which point all remaining fines and fees are waived.<sup>99</sup>

## SPOTLIGHT

# FUNDING VICTIMS SERVICES

State victim compensation programs help victims and their families recover from the aftermath of crime by providing financial reimbursement for crime related costs such as counseling, funeral and burial expenses, medical treatment, and loss of income.<sup>100</sup> Local leaders have stated that when victims' compensation programs are dependent on fines and fees, it can create an unreliable funding base.<sup>101</sup>

Six states currently fund their victims' compensation programs through a direct appropriation from the state general fund that is not tied to fines and fees or any specific revenue source: Illinois, North Carolina, Massachusetts, Utah, Washington, and Wisconsin.<sup>102</sup>

# PRACTICES RELATED TO A LITIGANT'S ABILITY TO PAY

Assuming a jurisdiction has not eliminated fines and fees, it is a best practice for jurisdictions to assess fines or fees only upon determining a litigant's ability to pay. As the Dear Colleague Letter explains,

Consideration of an individual's economic circumstances is a logical approach because fines and fees will affect individuals differently depending on their resources. When a person already cannot afford a basic need, such as housing, a fine or fee of any amount can be excessive in light of that person's circumstances, and thus may not be appropriate even if it were legally permitted.<sup>103</sup>

In the context of fines, the Dear Colleague Letter further notes that some courts have interpreted the Eighth Amendment mandate that punitive fines not be "grossly disproportional to the gravity of the defendant's offense"<sup>104</sup> as "*requir[ing]* consideration of an individual's economic circumstances."<sup>105</sup>

The Dear Colleague Letter also addresses ability-to-pay determinations in the context of enforcement. As a baseline, the due process and equal protection principles of the Fourteenth Amendment prohibit incarcerating individuals who do not pay fines and fees because they cannot afford to do so.<sup>106</sup> Further, "[i]t is the position of the United States that imposing certain serious adverse consequences for failure to pay an unaffordable fine or fee, where alternative approaches could serve the government's interest, violates the Fourteenth Amendment."<sup>107</sup> Accordingly, the Dear Colleague Letter recommends that states and localities not impose adverse consequences that implicate an individual's liberty or property interests for nonpayment of fines and fees (e.g., longer or more onerous terms of supervision, driver's license revocation) without first conducting an ability-to-pay analysis and concluding that the nonpayment was willful.<sup>108</sup>

## Meaningful Ability-to-Pay Determinations and Sliding-Scale Waivers

The Dear Colleague Letter identifies several features that can make ability-to-pay policies meaningful and effective. Those include:

- **Codifying Presumptions of Indigence.** Jurisdictions that have not adopted the best practice of eliminating juvenile fines and fees should adopt the presumption “that children and youth are indigent and unable to pay.”<sup>109</sup> Further, as the Dear Colleague Letter explains, it is appropriate to presume that people who receive means-tested benefits such as food stamps and other public assistance, people who are unhoused or serving a term of confinement, and people below a certain income threshold cannot afford to pay fines and fees.<sup>110</sup> For the same reason, public policy considerations support considering a presumption of indigency for people who receive Supplemental Security Income (SSI); the federal government has already determined that these individuals have little to no income or resources and disabilities that eliminate or limit their ability to work.<sup>111</sup> “This approach is logical because individuals who cannot afford to pay for their basic needs also cannot afford to pay fines and fees out of their already insufficient incomes.”<sup>112</sup> Applying these presumptions “conserves court resources by removing the obligation to conduct duplicative ability to pay assessments.”<sup>113</sup> Many jurisdictions already codify presumptions of indigence with regard to eligibility for a public defender. Others have taken the additional step of establishing presumptions of indigence in the context of ability-to-pay hearings for fines and fees.
- **Uniform and Consistent Procedures.** As noted in the Dear Colleague Letter, ensuring defendants receive notice “that their ability to pay will be considered by the court,” and providing defendants “a meaningful opportunity...to be heard,” are both important—and, in the case of ability-to-pay determinations preceding incarceration, constitutionally required—features of meaningful ability-to-pay determinations.<sup>114</sup>
- **Ensure Litigants Can Meet Basic Needs.** When assessing an individual’s ability to pay, an appropriate inquiry is whether the person “has sufficient income and financial resources to pay the [cost] at issue while still meeting basic needs.”<sup>115</sup>
- **Provide Adequate Training.** Having a meaningful ability-to-pay policy on paper can only go so far. The Dear Colleague Letter encourages jurisdictions “to provide appropriate training for judges, prosecutors, and probation officials regarding fines and fees.”<sup>116</sup> Providing meaningful training to other system actors, including public

defenders, court clerks, and administrators, can further ensure ability-to-pay policies are put into practice.<sup>117</sup> Detailed bench cards, with clear standards, can serve as a helpful reference for judges and clerks.<sup>118</sup> Jurisdictions may also establish meaningful oversight mechanisms to ensure the quality and consistency of implementation.

As illustrated by the examples that follow, *infra*, some jurisdictions have introduced additional measures to promote meaningful and effective ability-to-pay determinations. Those include:

- **Universal Discretion to Waive Fines and Fees.** Some jurisdictions have ensured, as a baseline, that judges always have discretion to waive or modify assessments based on a defendant's financial circumstances.<sup>119</sup>
- **Timely Ability-to-Pay Hearings.** A number of jurisdictions ensure that preliminary ability-to-pay determinations are made when the fines and fees are first imposed—generally at sentencing. This approach can conserve court resources by avoiding subsequent hearings, prevent low-income litigants from experiencing unnecessary hardship when attempting to make payments they cannot afford, decrease the risk of unnecessary adverse consequences, and increase the likelihood that litigants have legal representation when navigating these processes.
- **Standardized Waivers.** A number of jurisdictions have established guidelines for what happens after a court determines that a litigant is unable to pay, in full or in part. This may include automatic reductions up to a certain percent upon a finding of indigence; alternatives to fines, such as community service; or penalty-free payment plans. Again, these protocols streamline judicial processes and protect low-income litigants from undergoing disproportionate and unnecessary hardship. Here, researchers have encouraged courts and legislatures to look at the international “day fines” model, where fines are assessed as a percentage of the defendant's income as opposed to a set cost.<sup>120</sup>
- **Minimizing the Burden on Litigants.** Ability-to-pay determinations can create unnecessary obstacles for indigent litigants. For example, unhoused individuals may not be able to obtain copies of documentation proving eligibility for benefits, and repeated or prolonged requirements to appear in court may present particular challenges for individuals who cannot take time off of work, access transportation, or arrange childcare, as well as for individuals with disabilities. A number of jurisdictions have taken steps to ensure ability-to-pay determinations do not place undue burdens on indigent litigants.

- **Conducting Comprehensive Evaluations.** When evaluating a litigant’s ability to pay, jurisdictions can ensure courts consider all of an individual’s expenses, including medical debt, childcare, and transportation costs. The Dear Colleague Letter further explains that, historically, “courts have not considered how an individual spends money” when conducting an ability to pay analysis, but instead have focused on their available resources.<sup>121</sup>

## SPOTLIGHT ▪ STATES

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### **California.**

In 2021, California passed Assembly Bill No. 143.<sup>122</sup> Among other reforms, AB 143 instructed the state’s Judicial Council to “develop an online tool for adjudicating infraction violations, including ability-to-pay determinations.” The Act provided certain parameters for the tool, including that it “shall recommend” to the courts using it: 1) “a reduction of 50 percent or more of the total amount due for all defendants who are in receipt of [certain enumerated public] benefits” and 2) a payment plan of no more than \$25 month for eligible applicants who request an installment plan.<sup>123</sup> The Act also requires the Judicial Council to provide the online tool in English and Spanish.<sup>124</sup>

The Judicial Council has since introduced “MyCitations” as this online tool.<sup>125</sup> Individuals can use the MyCitations online portal to ask a judge to reduce their citation, for more time to make a payment, to authorize a payment plan, or to authorize community service in lieu of a fine.<sup>126</sup> Users are taken through a series of steps where they indicate whether they receive benefits, state their families size, enter their income, and list their expenses and existing financial obligations, including, for example, outstanding medical bills. Users are invited, but not required, to upload proof that they receive public benefits.<sup>127</sup> The platform is designed to be as user friendly as possible; it is optimized for a mobile device, uses plain language, does not require a username or password, provides multiple methods for looking up a citation, and generally takes only 5-6 minutes to complete. The court order is then sent to the email the defendant provides.<sup>128</sup> The defendant never has to appear in court to receive the adjudication.

AB 143 requires all California courts to employ the software by June 30, 2024. However, MyCitations originally launched as a pilot program and many courts have elected to implement the software early.<sup>129</sup>

## **Illinois.**

The Illinois Criminal and Traffic Assessment Act codifies a sliding scale fee waiver for defendants with income up to 400% of the federal poverty level as defined by United States Department of Health and Human Services.<sup>130</sup> Any defendant may apply, within 30 days of sentencing, for an assessment waiver. For defendants with income between 300% and 400% of the federal poverty level, the court “shall” grant a partial waiver of 25% of the total costs. For defendants with income between 250% and 300% of the poverty level, the court “shall” grant a partial waiver of 50%. For defendants with income between 200% and 250% of the poverty level, the court “shall” grant a partial waiver of 75%. The court shall waive the assessment in full if the defendant earns under 200% of the federal poverty level or is otherwise indigent. The statute defines “indigent person” to include any defendant who is receiving public assistance or who the court determines is “unable to proceed in an action with payment of assessments and whose payment of those assessments would result in substantial hardship to the person or his or her family.”<sup>131</sup>

## **Massachusetts.**

When a court is considering incarceration for failure to pay, an indigent defendant shall not be charged a fee for court-appointed counsel at the requisite ability-to-pay hearing.<sup>132</sup>

## **Oklahoma.**

In 2023, Oklahoma passed House Bill 2259 (HB 2259).<sup>133</sup> Among other provisions, the Act authorizes courts to conduct ability-to-pay, or “cost hearings” at the time of sentencing, “or at any point thereafter until the debt is either paid or waived,” either on the court’s initiation or upon motion or affidavit by the defendant.<sup>134</sup> The Act then codifies a list of factors courts “shall consider” when evaluating ability to pay, including, but not limited to, the defendant’s income, living expenses, number of dependents, child support obligations, health conditions, and “any other factors relevant to the ability of the defendant to pay.”<sup>135</sup> The Act also prohibits courts from considering child support income, public assistance benefits, or “assets exempt from bankruptcy” as income or assets.<sup>136</sup> Finally, HB 2259 establishes a presumption of indigency for defendants who are designated disabled by any government disability program, receive enumerated public benefits, receive a government housing subsidy, or earn below 150% of the federal poverty level.<sup>137</sup>



**Washington.**

Washington law codifies the factors courts must consider when assessing a defendant's ability to pay fines and fees.<sup>138</sup> Those factors include "basic costs of living" and other legal financial obligations.<sup>139</sup> The statute also codifies a presumption of inability to pay if a defendant is receiving public assistance, has been involuntarily committed to a public mental health facility, or is receiving a post-tax income of equal to or less than 125% of the federal poverty level.<sup>140</sup> Finally, the statute states that if a defendant is unhoused or mentally ill, as defined by law, their failure to pay a court-imposed assessment shall not be deemed willful and they shall not be subject to additional penalties.<sup>141</sup>

## Flexible Payment Options

As noted in the Dear Colleague Letter, if a jurisdiction does not entirely waive assessments for indigency, flexible payment options can both mitigate the inequitable impacts of fines and fees and increase the likelihood that jurisdictions will be able to collect the underlying debt.<sup>142</sup>

The Dear Colleague Letter touches on several factors that can make payment of fines and fees more equitable and effective. These include:

- **Penalty-free payment plans.**<sup>143</sup> When payment plans require additional fees or assess interest, they can have the effect of penalizing poverty by forcing litigants who cannot afford to pay upfront to pay a greater amount over time.
- **Opportunities for adjustment following changed circumstances.** For the same reason ability-to-pay hearings and flexible payment plans are important in the first instance, public policy considerations support jurisdictions ensuring that individuals are able to seek adjustments to their assessments and payment plans when their circumstances change.<sup>144</sup>

As illustrated by the examples that follow, *infra*, some jurisdictions have introduced additional measures related to payments of fines and fees to mitigate inequities. These include:

- **Income-proportionate payment plans.** As highlighted in the examples below, some jurisdictions have set caps on monthly installment amounts that so that they do not exceed a percentage of an individual's income. This can help ensure litigants are able to make the payments without experiencing undue hardship and are not set up for failure.<sup>145</sup>
- **Allowing partial payments.** A number of jurisdictions allow litigants to make partial monthly payments towards their court-related debt. This can help ensure that indigent individuals are not charged with failure to appear, assessed late fees, or charged unnecessary interest when they make good faith attempts to pay down their debt.
- **Enabling multiple methods of payment.** Many jurisdictions allow litigants to make payments through multiple methods, including, for example, both in person or online. This approach can ensure individuals who do not have access to credit or who cannot, for any number of reasons, easily travel to the courthouse during operating hours do not confront a disproportionate burden when trying to pay fines and fees. To ensure alternative payment options are equitable, however, jurisdictions might consider ensuring there are no convenience—or “pay-to-pay”—fees, such as fees for using a credit card or paying by phone.<sup>146</sup>

**California.**

California law prohibits courts and counties from charging an administrative fee for requesting an ability-to-pay determination or participating in an installment plan to litigants who have been convicted of an infraction.<sup>147</sup>

**Delaware.**

In 2022, Delaware's General Assembly passed House Bill 244 (HB 244). Among other provisions related to fines and fees, HB 244 bans courts from charging interest or imposing additional fees for late payments, failure to pay, or for paying in installments.<sup>148</sup>

**Florida.**

In 2022, the Florida legislature directed courts to offer indigent litigants the opportunity to enter into monthly payment plans for unpaid fines and fees at a rate no higher than two percent of the person's annual net income, divided by 12, or \$25, whichever is greater, unless the court can demonstrate that the individual can pay at a higher rate.<sup>149</sup> The law also caps the amount a clerk can request as a downpayment on the plan at \$100 or 10% of the amount the individual owes, whichever is less.<sup>150</sup>

**New Mexico.**

As of 2023, New Mexico courts must allow any individual sentenced to pay a court-imposed fine or fee to use a payment plan.<sup>151</sup> The law also authorizes courts to adjust payment plans based on changed circumstances.<sup>152</sup>

**Oklahoma.**

Oklahoma's HB 2259 requires courts to instruct defendants, at the time of a plea or sentencing, of their right to request a cost hearing at any time following sentencing, including upon any change in circumstances affecting the ability of the defendant to pay.<sup>153</sup> The Act also authorizes defendants to pay fines and fees in full or in installments.<sup>154</sup>

### **Tennessee.**

Under Tennessee state law, clerks of the court are required to “offer a payment plan, which must be reasonable and based on a person’s income and ability to pay,” to any person who is convicted of a criminal offense and requests one.<sup>155</sup> The statute also requires the court to grant “modifications to the payment plan upon a change in the person’s financial circumstances or upon good cause shown,” and provides for a right to appeal should the request for modification be denied.<sup>156</sup> The statute does not authorize additional fees or interest.

### **Virginia.**

State law requires courts to provide defendants with “written notice of the availability of deferred, modified deferred, and installment payment agreements,” and to offer such arrangements if requested, even if the fines and fees have been referred to collections.<sup>157</sup>

### **Washington.**

In 2018, the legislature barred courts and criminal justice agencies from assessing interest on unpaid fines and fees imposed upon a criminal conviction.<sup>158</sup>

## **SPOTLIGHT ▪ COURTS**

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### **Cook County, IL.**

Effective 2005, the Cook County Circuit Court issued a general order, instructing the Court’s Clerk to accept partial payments for all “. . . fines, fees, costs, reimbursements and other monetary penalties ordered by the court in all matters involving criminal and non-traffic quasi-criminal offenses.”<sup>159</sup>

### **Houston, TX.**

Houston municipal courts allow individuals to pay fines by mail, online, in person, or by Western Union, and by check, money order, or credit card.<sup>160</sup>

## SPOTLIGHT

# GLOBAL APPROACHES TO FINES & FEES

### **Canada.**

Canadian sentencing courts are required to determine a defendant's ability to pay before imposing a punitive fine.<sup>161</sup>

### **Germany.**

In Germany, courts are typically required to base punitive fines on the average net income that a litigant earns or could earn in one day—which in turn is converted into a “daily rate” based on the severity of the offense. When assessing the daily rate, the higher German courts clarify that a convicted person must be left with “at least the minimum of their income necessary to subsist.”<sup>162</sup>

### **Kosovo.**

In July 2020, the Kosovo Judicial Council launched a Criminal Fine Calculator that was developed by the Department of Justice's Office of Overseas Prosecutorial Development, Assistance, and Training (OPDAT) and sponsored by the Department of State's Bureau of International Narcotics and Law Enforcement Affairs (INL).<sup>163</sup> The calculator is based on the Guidelines for Imposing Criminal Fines approved by the Kosovo Supreme Court in February 2020. The tool allows for adjustment of a criminal fine based on a defendant's culpability, financial status, and the harm caused by the criminal conduct. Judges have the discretion to consider other circumstances that may affect the amount of the final fine. The Judicial Council also created an informational video on the tool as a public service announcement and to improve transparency.<sup>164</sup>

### **The United Nations Office of the High Commissioner for Human Rights.**

The 2012 United Nations Guiding Principles on Extreme Poverty and Human Rights called for UN Member States to review laws which require the payment of disproportionate fines by persons living in poverty, and to consider abolishing prison sentences for non-payment of fines for those unable to pay.<sup>165</sup>

### **The African Commission on Human and People's Rights.**

In 2017 the African Commission on Human and People's Rights called on State Parties to decriminalize certain petty offenses, which may include low-value fines and the failure to pay fines.<sup>166</sup>

# ENFORCEMENT

The mechanisms for enforcing legal system debt can exacerbate the disproportionate burden fines and fees place on low-income individuals.<sup>167</sup> As the Dear Colleague Letter emphasizes, individuals who are unable to pay the fines and fees assessed against them can “confront escalating debt; face repeated, unnecessary incarceration for nonpayment of fines and fees; [and] experience extended periods of probation and parole.”<sup>168</sup> A number of jurisdictions have taken steps to eliminate or mitigate these inequities.

## Preventing Incarceration for Failure to Pay

As discussed at length in the Dear Colleague Letter and in “[Meaningful Ability-to-Pay Determinations and Sliding-Scale Waivers](#),” *supra*, it is unconstitutional to incarcerate an individual for their inability to pay a justice-system fine or fee. And while most jurisdictions statutorily require ability-to-pay hearings before incarcerating someone for failure to pay, research has found that implementation of these policies at the local level is varied at best, despite the fact that such hearings are constitutionally required.<sup>169</sup> Research has also found that some litigants may fail to appear *because* they are unable to pay and don’t understand the nature of the hearing, and that others simply don’t receive adequate notice—a particular challenge for transient and unhoused individuals, leading to the erroneous conclusion that an individual has willfully failed to pay.<sup>170</sup>

Further, research has shown that incarcerating individuals for failing to pay legal system fines and fees often has the counterproductive effect of costing the legal system more than simply discharging the debt.<sup>171</sup> It can also lead individuals to lose their work, housing, or custody of their children, despite the individuals posing no public safety risk to their communities.<sup>172</sup>

Several states currently do not incarcerate for failure to pay, regardless of willfulness, while others forbid incarceration for failure to pay for certain categories of offenses, such as traffic violations.

**Delaware.**

Delaware law provides, in relevant part, “[n]o person sentenced to pay a fine, costs or restitution upon conviction of a crime shall be ordered to be imprisoned in default of the payment of such fine, costs or restitution.” 11 Del. C. § 4105(a).

**Florida.**

Under Florida law, a court cannot order someone incarcerated for failure to appear, including failure to make a payment, unless the principal charge authorizes incarceration, in which case the court cannot order the individual incarcerated for longer than the maximum sentence under the original charge. 47 F.S.A. § 901.31.

**Missouri.**

In 2018, Missouri passed SB 5, which, among other provisions, prohibited confinement for failure to pay a fine for a minor traffic violation or municipal code violation, with limited exceptions.<sup>173</sup>

**Massachusetts.**

Under state law in Massachusetts, courts cannot confine a juvenile for failure to pay.<sup>174</sup>

## Lifting Debt-Based Driving Restrictions

Research has shown that policies that suspend, revoke, or decline to renew driver's licenses as a penalty for failing to pay fines and fees can disproportionately penalize low-income families and rural communities, where only 11% of residents have access to public transportation.<sup>175</sup> Policymakers across the country have emphasized that driving restrictions can also be counter-productive—restricting access to employment, education, health care, childcare, and more for individuals who lack the resources to pay the underlying fee.<sup>176</sup> Policymakers have also stressed that such policies can force individuals who are unable to pay the underlying court debt to choose between, for example, losing their jobs and driving to work illegally to support their families.

Over the last five years, 28 states and the District of Columbia have adopted legislation to eliminate or circumscribe the practice of debt-based license restrictions.<sup>177</sup> At least 17 states never place any restrictions on driver's licenses for failure to pay legal system fines and fees.<sup>178</sup> Several of these states have also automatically reinstated driver's licenses that previously had been suspended for failure to pay fines and fees.<sup>179</sup> Automatic reinstatement can help narrow the gap between eligibility for reinstatement and actual reinstatement—ensuring those who are eligible are not confronting obstacles due to lack of notice, inability to afford reinstatement fees, or inability to navigate the reinstatement process.<sup>180</sup> See [Appendix A](#) for a state-by-state summary.

Several additional states also prohibit driver's license restrictions for failure to appear for cases involving petty misdemeanors or fines and fees. Research has shown that failures to appear in such cases often are the result of inability to pay.<sup>181</sup>

### SPOTLIGHT ▪ STATES

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#### **New Mexico.**

In 2023, the New Mexico legislature passed SB 47, ending the practice of suspending driver's licenses for failure to pay *and* for missed court hearings (failure to appear) in traffic and criminal cases.<sup>182</sup> The statute also provided for free and automatic reinstatement of all licenses previously suspended on these grounds.<sup>183</sup>



**Chicago, IL.**

In 2019, before the state of Illinois ended the statewide practice of suspending driver’s licenses for unpaid fines and fees, the City of Chicago passed an ordinance ending the practice of suspending driver’s licenses for unpaid parking and vehicle compliance citations.<sup>184</sup>

**Durham, NC.**

The City of Durham has collaborated with courts, local law schools, local non-profits and advocacy groups, and the NC Equal Access to Justice Commission to run the Durham Expunction and Restoration (“DEAR”) program since 2018. The DEAR program works with residents to, among other services, support driver’s license restoration by waiving tickets and old criminal charges and assisting residents applying to restore their driving privileges.<sup>185</sup> The DEAR program also works with courts to establish regular ability-to-pay processes and provide training and technical support on use of local ability-to-pay forms to ensure additional fines and fees are not improperly assessed against indigent defendants in traffic court, thereby curbing future license suspensions.<sup>186</sup>

## Not Extending Justice System Involvement

The Dear Colleague Letter recommended that courts “conduct a willfulness analysis before imposing...adverse consequences that implicate liberty or property interests on an indigent criminal defendant for nonpayment.”<sup>187</sup> Doing so “will avoid depriving people of their liberty and property interests based on no fault of their own.”<sup>188</sup>

The Dear Colleague Letter also noted:

[S]ome courts have held that individuals should not be required to complete extended terms or more burdensome conditions of supervision solely because of their inability to pay fees. Other courts have similarly held that individuals should not be barred from participating in or completing a diversion program, be subjected to more onerous conditions for participating in a diversion program, or have a diversion program extended because they cannot pay fees.<sup>189</sup>

Some jurisdictions have taken additional steps to ensure individuals who have committed the same offense are not subject to disparate penalties due solely to their financial circumstances. For example, several jurisdictions have, in recent years, passed legislation allowing individuals with criminal records to file for expungement or to have those records sealed before discharging all criminal debt.

### SPOTLIGHT ▪ STATES

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#### **Indiana.**

State law in Indiana prohibits probation agencies from considering nonpayment of court-appointed counsel fees or juvenile fines and fees as grounds for revocation of probation, and states that failure to pay fines and fees imposed as a condition of probation may not be “the sole basis for commitment to the department of correction.”<sup>190</sup>

#### **Louisiana.**

Under Louisiana state law, the existence of fines-and-fees related debt is irrelevant to an individual’s eligibility for expunging a criminal record.<sup>191</sup>

#### **Minnesota.**

State law in Minnesota prohibits probation agencies from characterizing nonpayment of counsel fees as a violation of probation.<sup>192</sup>

**Wasco County, OR.**

In 2023, the Wasco County District Attorney issued a memorandum announcing the office would “seek to minimize the burden of fees and fines by supporting petitions for expungement even where the petitioner owes the court and objecting to incarceration where the only charge is failure to pay court debt.”<sup>193</sup> The memorandum provided justifications for the policy and stated, “Deputy District Attorneys may refer to this memo and any of the research contained herein when objecting to the imposition of discretionary fees and fines or supporting expungement petitions.”<sup>194</sup>

# Regulating Debt Collection

Research has shown that low-income families often are subjected to unscrupulous debt collection practices related to fines and fees.<sup>195</sup> “[T]he consequences for failing to pay justice-related debt may be more severe than the consequences for failing to pay consumer debts, in part because the Fair Debt Collection Practices Act (FDCPA) often does not apply to the collection of justice-related debt.”<sup>196</sup> Further, jurisdictions often outsource debt collection to private debt collectors. Research has shown that these for-profit companies are often only paid if they successfully collect, incentivizing them to employ more aggressive debt collection tactics and charge higher collection fees than government entities.<sup>197</sup> Further, as the Dear Colleague Letter notes, “[d]ebts that are sold to third-party debt collectors can have a significant impact on credit scores, in turn affecting employment and housing opportunities.”<sup>198</sup>

A number of jurisdictions have taken steps to mitigate these harms. For example, at least four states have passed legislation ensuring justice-system debt is subject to fair debt collection law. Those states are Colorado, Nebraska, New Jersey, and West Virginia.<sup>199</sup>

## SPOTLIGHT ▪ STATES

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### **Colorado.**

Colorado law requires that all private attorneys or collection agencies collecting debt on behalf of the state comply with the “Colorado Fair Debt Collections Practices Act.”<sup>200</sup>

### **Iowa.**

In 2021, the Iowa legislature passed Senate File 457, a bill that transferred all court-imposed debt collection responsibilities from private debt collection agencies to the state’s Department of Revenue.<sup>201</sup>

### **Nevada.**

Nevada law deems all court debt related to minor traffic offenses uncollectible after 10 years.<sup>202</sup>

### **Texas.**

The Texas Constitution prohibits the state from garnishing wages for any purpose other than enforcing court-ordered child or spousal support obligations.<sup>203</sup>

**West Virginia.**

West Virginia only allows state agencies to refer debt to a list of licensed debt collection agencies and mandates that those agencies, when collecting debt on behalf of the state, comply with the federal Fair Debt Collections Practices Act, among other provisions.<sup>204</sup>

**SPOTLIGHT ▪ DISTRICT ATTORNEY OFFICES**

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**Loudon and Norfolk Counties, VA.**

The Commonwealth Attorneys for both Loudon and Norfolk counties announced in 2023 that they would no longer use private debt collectors for outstanding court debt and would instead use the Virginia Department of Taxation.<sup>205</sup>

## Discharging Existing Fines and Fees Debt

As stated in the Dear Colleague Letter, “jurisdictions should consider...for instance, offering amnesty periods during which individuals can have warrants cancelled and fees waived,” and “may also consider waiving...the debt of a person unable to pay.”<sup>206</sup> Research has shown that a great deal of criminal justice debt is effectively uncollectible, and some jurisdictions have determined that they cannot justify the expenditure on collections for the amount they will recoup in revenue.<sup>207</sup> At the same time, families suffer the collateral consequences of living with outstanding court debt—including impacts on credit scores, the psychological stress of unscrupulous debt collection practices, and limited eligibility for housing, employment, and public benefits—that they will never be able to pay off.

There are several categories of reform that jurisdictions have pursued to mitigate these unintended consequences. First, when jurisdictions eliminate a specific category of fine or fee, many also stop all collections of debt accrued before the assessment was eliminated and discharge that debt from the books.<sup>208</sup> Some jurisdictions, possessing the technological capacity, have implemented the practice of vacating these debts automatically, without requiring a petition from the litigant. Second, some jurisdictions have placed statutes of limitation on court-imposed debt. Finally, many jurisdictions, including local courts and criminal justice agencies, have launched programs to eliminate uncollectible debt and help clear associated warrants.<sup>209</sup>

### SPOTLIGHT ▪ STATES

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#### **Colorado.**

In 2021, Colorado passed House Bill 21-1315, eliminating all juvenile system fees assessed against youth and their families.<sup>210</sup> The statute ordered all outstanding balances unenforceable and not collectible and instructed courts to, within six months, *automatically* vacate the portion of any court order that imposed such fees and notify any private collection agencies to which debt had been referred that the balance was vacated and uncollectible.<sup>211</sup> The Act then ordered the State Court Administrator to report within one year, the number of orders and total amount vacated in each judicial district.<sup>212</sup> Finally, the Act appropriated approximately \$600,000 annually in backfill funding to the state’s restorative justice fund, crime victim compensation fund, and victims and witnesses

assistance and law enforcement fund.<sup>213</sup> The Bill justified these reforms on several grounds, including that juvenile fees and costs “disproportionately harm” youth of color and rural youth and their families, that they “serve no public safety functions,” and that the “harsh consequences for unpaid fees[] undermin[e] rehabilitation and follow[] youth well into adulthood.”<sup>214</sup>

### **Illinois.**

When Illinois passed SB 1463, eliminating all juvenile fines and fees, the Act also instructed courts to “*automatically vacate* all orders or other legally enforceable encumbrances directing a minor or his or her parent, guardian, or legal custodian to pay any fees, fines, or administrative costs of any balances due, including interest, penalties, or collection fees” within 90 days of the effective date of the Act.<sup>215</sup> The Act also instructed the clerks of the court to provide written notice to all collection agencies and circuit court staff to inform them outstanding fees have been vacated. Finally, the Act instructed the Administrative Office of the Illinois Courts to report to the General Assembly, within one year of the Act’s effective date, the number of encumbrances and amount of court debt that has been vacated.<sup>216</sup>

## **SPOTLIGHT ▪ COUNTIES AND MUNICIPALITIES**

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### **Birmingham, AL.**

In 2022, the mayor of Birmingham launched the “Stop and Go” initiative, which pardoned all unpaid traffic fines and parking violations in the Birmingham Municipal Court that had been imposed prior to 2011.<sup>217</sup>

### **Sacramento County, CA.**

In 2017, the Sacramento County Board of Supervisors passed a resolution authorizing and directing the relevant criminal justice agencies to cease imposing and collecting all fees “associated with the care of detained youth, juvenile services and delinquency proceeding,” including fees associated with detention, supervision, drug testing, electronic monitoring, and public defense.<sup>218</sup> The resolution also waived all outstanding juvenile fee debt.<sup>219</sup>

### **Topeka, KS.**

Every year, the City of Topeka hosts Clean Slate Day at the Topeka Municipal Court, an annual event at which indigent individuals with outstanding fines and fees can apply to have those costs paid by the Topeka Community Foundation, amongst other services.<sup>220</sup>

## SPOTLIGHT ▪ CRIMINAL JUSTICE AGENCIES AND OTHER GOVERNMENT ACTORS

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### **Cumberland County District Attorney, NC.**

In 2021, the Cumberland County DA petitioned the Chief District Court Judge to forgive all outstanding court costs and fees for minor traffic violations more than five years old in order to remove obstacles to reinstating suspended drivers' licenses for over 7,000 individuals.<sup>221</sup>

### **Governor of Oregon.**

In 2022, the Governor of Oregon "used her clemency powers to 'remit,' or forgive, *all* the fines associated with minor traffic violations for about 7,000 Oregonians."<sup>222</sup>

### **Washtenaw County Sheriff's Office, MI.**

In 2021, the Washtenaw County Sheriff waived all outstanding debt accrued by individuals incarcerated in the county jail from 2013 to 2020.<sup>223</sup>



## Reducing Existing Debt

The Dear Colleague Letter also encourages jurisdictions to consider “reducing the debt of a person who is unable to pay.”<sup>224</sup> Many jurisdictions have taken this important intermediate step, including by launching programs that allow individuals with court-related debt to seek reductions in the amount owed. Research has shown that these programs can both ease the disproportionate burden of fines and fees on low-income families *and* lead to higher recoupment rates for the jurisdictions that hold the debt.<sup>225</sup>

### SPOTLIGHT ▪ COUNTIES AND MUNICIPALITIES

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#### **Pierce County, WA.**

In 2019, Pierce County hosted a “Legal Financial Obligation Reconsideration Day,” during which participants could apply to have their outstanding debt with the Pierce County Superior Court, Tacoma Municipal Court, or Pierce County District Court waived or reduced.<sup>226</sup> The Minority and Justice Commission, Washington State Administrative Office of the Courts, commissioned an independent analysis of the event, which summarized the amount and type of debt waived, participant satisfaction and perception of the courts, and long-term outcomes.<sup>227</sup>

#### **Phoenix, OR.**

In 2021, the city of Phoenix offered a 50% reduction in all traffic debt, or the option to discharge the debt through community service, for all outstanding traffic fines and fees incurred in the previous ten years.<sup>228</sup> The city wrote off all traffic debts older than ten years entirely.<sup>229</sup>

### SPOTLIGHT ▪ COURTS

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#### **City of Atlanta Municipal Court.**

Atlanta’s Municipal Court regularly holds “Amnesty Days” or “Amnesty Weeks,” during which individuals with failures to appear for unpaid fines or fees can clear their warrants and pay their citations without having to pay additional fees for the previous failure(s) to appear.<sup>230</sup>

### **Rhode Island Superior Court.**

In 2021, the Rhode Island Superior Court launched the “Superior Court Debt Review” program, which allowed individuals with outstanding traffic and criminal justice debt to meet virtually with a judge to request reduction or elimination of their outstanding debt and to clear all cost-related warrants based on ability to pay.<sup>231</sup> The program stemmed from the work of the Rhode Island Supreme Court Committee on Racial and Ethnic Fairness in the Courts.<sup>232</sup>

# Reimbursing Fines and Fees Collected Unlawfully

As jurisdictions take steps to eliminate fines and fees, implementation of their new policies may be delayed, leading to the continued assessment and collection of fines and fees that are no longer authorized under the applicable jurisdiction's authority. Other jurisdictions have collected debt pursuant to a conviction that was subsequently vacated when the statute of conviction was later declared unconstitutional. Several jurisdictions have taken steps to ensure that unlawfully collected fines and fees are reimbursed, protecting constituents and avoiding the risk of litigation.<sup>233</sup>

## SPOTLIGHT ▪ STATES

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### **Illinois.**

Senate Bill 1463, which eliminated all juvenile fines and fees in the state of Illinois, also “automatically reimburse[d] minors and families for any payments made after July 28 on fees and fines that [were] repealed by the bill.”<sup>234</sup>

### **New Jersey.**

New Jersey law provides that, “upon a court ruling that a municipal ordinance is unconstitutional...the municipality shall refund any fines, penalties or court costs paid by any person arrested, charged or convicted of violating the ordinance.”<sup>235</sup>

### **Washington.**

After the Washington Supreme Court held in 2021 that the state's primary drug possession statute was unconstitutional,<sup>236</sup> the Administrative Office of the Courts launched a “Refund Bureau Portal” through their website that allows individuals who have had their convictions under the statute vacated request a refund for all fines and fees related to their conviction.<sup>237</sup> The state estimated that over 350,000 convictions dating back to the 1970s were eligible to be vacated, and the legislature appropriated \$50 million to cover the costs of reimbursing individuals who paid fines, fees, and other court costs as part of those convictions.<sup>238</sup>

## SPOTLIGHT ▪ COUNTIES AND MUNICIPALITIES

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### **Contra Costa, CA.**

In 2017, the Contra Costa County Board of Supervisors voted to reimburse families who had been improperly charged juvenile detention fees from 2010-2016 despite the fact that their children were ultimately found not guilty of the delinquency charges brought against them.<sup>239</sup>

## SPOTLIGHT ▪ COURTS

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### **Massachusetts Trial Court.**

After the Massachusetts legislature eliminated monthly probation fees through the FY 2022-23 budget, the Chief Justice of the Trial Court issued Trial Court Administrative Order 22-3, which ordered that any probation fees assessed and paid after the [the budget] went into effect “be automatically refunded in accordance with a process established by the Trial Court.”<sup>240</sup>

## SPOTLIGHT

# IMPACT OF FINES & FEES ON YOUTH

The Department's Dear Colleague Letter emphasized the particularly devastating impact fines and fees can have on youth and their families, noting:

Fines and fees can be particularly burdensome for youth, who may be unable to pay court-issued fines and fees themselves, burdening parents and guardians who may face untenable choices between paying court debts or paying for the entire family unit's basic necessities, like food, clothing, and shelter. Children subjected to unaffordable fines and fees often suffer escalating negative consequences from the justice system that may follow them into adulthood.<sup>241</sup>

The Letter also stressed the potentially counter-productive impact of assessing fines and fees against youth, citing a study that found "a strong positive correlation between monetary sanctions and youth recidivism,"<sup>242</sup> and emphasized the

practical realities that weigh substantially against imposing fines and fees against youth. For example, minors are generally unable to earn the money needed to pay fines and fees because many are too young to legally work, are of compulsory school age or full-time students, have great difficulty obtaining employment due to having a juvenile or criminal record, or simply do not yet have employable skills typically expected of adults.<sup>243</sup>

As detailed throughout this report, many jurisdictions have implemented promising practices that advance these policy considerations. [“Eliminating Fines and Fees”](#) includes a subsection discussing the large number of jurisdictions, at all levels of government, that have eliminated fines and fees for minors. The report intentionally does not include examples related to children and youth in [“Meaningful Ability-to-Pay Determinations and Sliding-Scale Waivers,”](#) because, as the Dear Colleague letter emphasizes, “jurisdictions should presume that children and youth are indigent and unable to pay fines and fees,”<sup>244</sup> “the imposition of any fine or fee on youth has the potential to be an excessive and unreasonable burden,”<sup>245</sup> and “[s]tates are increasingly passing legislation or changing court rules to codify a presumption of indigence for minors.”<sup>246</sup>

Several jurisdictions have taken specific steps to protect minors and their families from enforcement consequences as well. For example, as detailed in [“Preventing Incarceration for Failure to Pay,”](#) Massachusetts prohibits courts from ever incarcerating minors for failure to pay a fine or fee, regardless of indigency.<sup>247</sup> Similarly, as detailed in [“Not Extending Justice System Involvement,”](#) Indiana does not allow courts or probation agencies to consider nonpayment of juvenile fines and fees as grounds for revocation of probation.<sup>248</sup>

Many of the examples of jurisdictions discharging existing court debt, as enumerated in both [“Eliminating Fines and Fees”](#) and [“Discharging Existing Fines and Fees Debt,”](#) involve jurisdictions at every level of government vacating court debt stemming from outstanding juvenile fines and fees, including several examples of jurisdictions that have vacated this debt automatically, without requiring a petition.<sup>249</sup> Likewise, two of the three examples in [“Reimbursing Fines and Fees Collected Unlawfully,”](#) are jurisdictions that have refunded families for juvenile fines and fees collected illegally.

# PREVENTING CONFLICTS OF INTEREST

As the Dear Colleague Letter emphasizes, when fines and fees “are geared toward raising general revenue and not toward addressing public safety, they can erode trust in the justice system”<sup>250</sup> and put undue pressure on court and law enforcement officials to pursue aggressive assessment and collection tactics.<sup>251</sup>

A number of jurisdictions have taken steps to protect courts and criminal justice agencies from real and perceived conflicts of interest by uncoupling law enforcement and court budgets from revenue collected from fines and fees. Other jurisdictions have adopted policies to ensure transparency in the allocations of revenue from fines and fees. Such policies can help build public trust, address perceived conflicts of interest, and equip policymakers with information necessary to implement effective reforms.<sup>252</sup>

## SPOTLIGHT ▪ STATES

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### **Alaska.**

All court assessments levied in the state court system are deposited in the state’s general fund.<sup>253</sup>

### **New Jersey.**

New Jersey law exclusively enumerates all fees that “shall be allowed for court costs in any proceedings of a criminal nature in the municipal courts” and clarifies that “no charge shall be made for the services of any salaried police officer of the State, county or municipal police.”<sup>254</sup>

### **South Dakota.**

The South Dakota Unified Judicial System provides a detailed breakdown of how the base fine and every fee and associated surcharge is distributed for a speeding ticket on the interstate highway.<sup>255</sup>

### **Oregon.**

Oregon law prohibits “the amount of compensation for city police officers, municipal judges or other city officers” from being “based upon the amount of revenues collected from fines or any set percentage thereof.”<sup>256</sup>

## APPENDIX A | Driver's Licenses Summary

State	Does not place restrictions on driver's license for failure to pay fines and fees	Does not restrict solely for failure to appear for traffic citation/hearing related to fines and fees <sup>257</sup>	Automatically reinstates driver's licenses previously suspended for failure to pay	Entitles driver to ability to pay determination before suspending license for failure to pay	Has adopted other reforms related to debt-based driver's license suspensions
Arizona <sup>258</sup>	X		X		
Arkansas <sup>259</sup>					X
California <sup>260</sup>	X	X (eff. 2027)	X		
Colorado <sup>261</sup>	X	X			
Delaware <sup>262</sup>	X	X			
Hawaii <sup>263</sup>	X	X			
Idaho <sup>264</sup>	X	X			
Illinois <sup>265</sup>	X		X		
Indiana <sup>266</sup>		X			X
Kentucky <sup>267</sup>	X				
Louisiana <sup>268</sup>				X	
Maine <sup>269</sup>					X
Maryland <sup>270</sup>					X
Michigan <sup>271</sup>					X
Minnesota <sup>272</sup>	X	X			



State	Does not place restrictions on driver's license for failure to pay fines and fees	Does not restrict solely for failure to appear for traffic citation/hearing related to fines and fees <sup>273</sup>	Automatically reinstates driver's licenses previously suspended for failure to pay	Entitles driver to ability to pay determination before suspending license for failure to pay	Has adopted other reforms related to debt-based driver's license suspensions
Mississippi <sup>274</sup>	x	x			
Montana <sup>275</sup>	x				
Nevada <sup>276</sup>	x		x		
New Hampshire <sup>277</sup>				x	
New Mexico <sup>278</sup>	x	x	x		
New York <sup>279</sup>	x		x		
North Carolina <sup>280</sup>					x
Oregon <sup>281</sup>	x				
Rhode Island <sup>282</sup>				x	x
Tennessee <sup>283</sup>				x	x
Texas <sup>284</sup>			x		x
Utah <sup>285</sup>	x	x			
Vermont <sup>286</sup>				x	x
Virginia <sup>287</sup>	x	x	x		
Washington <sup>288</sup>					x
Washington, D.C. <sup>289</sup>	x	x	x		
West Virginia <sup>290</sup>	x				
Wyoming <sup>291</sup>	x				

# ENDNOTES

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<sup>1</sup> U.S. Dep’t of Just., Dear Colleague Letter to Courts Regarding Fines and Fees for Youth and Adults (April 20, 2023) [hereinafter “Dear Colleague Letter”], <https://www.justice.gov/opa/press-release/file/1580546/download>.

<sup>2</sup> *Id.* at 2.

<sup>3</sup> *Id.* at 18-19.

<sup>4</sup> See, e.g., Council of Econ. Advisers, *Issue Brief: Fines, Fees, and Bail*, at 1 (Dec. 2015) [hereinafter “Council of Econ. Advisers”],

[https://obamawhitehouse.archives.gov/sites/default/files/page/files/1215\\_cea\\_fine\\_fee\\_bail\\_issue\\_brief.pdf](https://obamawhitehouse.archives.gov/sites/default/files/page/files/1215_cea_fine_fee_bail_issue_brief.pdf).

The Department notes that any non-Departmental studies or external resources cited or linked to in this letter are provided for informational purposes only and do not necessarily represent the views of the Department.

<sup>5</sup> See *id.*; Brennan Ctr. for Just., *The Steep Costs of Criminal Justice Fees and Fines*, 7 (2000),

<https://www.brennancenter.org/our-work/research-reports/steep-costs-criminal-justice-fees-and-fines>.

<sup>6</sup> See, e.g., OJP Diagnostic Center, *Resource Guide: Reforming the Assessment and Enforcement of Fines and Fees 2*,

<https://www.ojp.gov/sites/g/files/xyckuh241/files/media/document/finesfeesresguide.pdf>; Anne Teigen,

National Conference of State Legislatures, *Assessing Fines and Fees in the Criminal Justice System*,

[https://documents.ncsl.org/wwwncsl/Criminal-Justice/Fines-and-Fees\\_v02.pdf](https://documents.ncsl.org/wwwncsl/Criminal-Justice/Fines-and-Fees_v02.pdf).

<sup>7</sup> See Dear Colleague Letter at 18 (“Eliminating the unjust imposition of fines and fees is one of the most expeditious ways for jurisdictions to support the success of youth and low-income individuals, honor constitutional and statutory obligations, reduce racial disparities in the administration of justice, and ensure greater justice for all.”).

<sup>8</sup> Dear Colleague Letter at 3.

<sup>9</sup> See generally, Fines and Fees Just. Ctr., *Local Policy Guides: Fee Elimination and Debt Relief 4*,

<https://finesandfeesjusticecenter.org/content/uploads/2022/03/Local-Policy-Guides-Fee-Elimination-Final.pdf>

[hereinafter “FFJC, *Fee Elimination and Debt Relief*”] (providing additional compiled examples of relevant reform).

<sup>10</sup> A.B. 1869, 2019-2020 Reg. Sess. (Cal. 2020),

[https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201920200AB1869](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB1869); Press Release, Super. Ct.

of Cal., Cnty. of San Bernadino, A.B. 1869: Criminal Fees (July 22, 2021), [https://tst.sb-](https://tst.sb-court.org/sites/default/files/News%20Notices/AssemblyBill1869CriminalFees.pdf)

[court.org/sites/default/files/News%20Notices/AssemblyBill1869CriminalFees.pdf](https://tst.sb-court.org/sites/default/files/News%20Notices/AssemblyBill1869CriminalFees.pdf).

<sup>11</sup> A.B. 1869, *supra* note 10.

<sup>12</sup> H.B. 139, 2023 Reg. Sess., at § 17(H) (N.M. 2023),

<https://www.nmlegis.gov/Sessions/23%20Regular/final/HB0139.pdf>.

<sup>13</sup> Nina Agrawal, *L.A. County to stop collecting old juvenile detention fees, erasing nearly \$90 million of families’ debt*,

L.A. Times (Oct. 9, 2018), <https://www.latimes.com/local/lanow/la-me-ln-juvenile-fees-20181010-story.html>.

<sup>14</sup> Los Angeles County, Cal., Motion: Eliminate Registration Fees (June 6, 2017),

<https://file.lacounty.gov/sdsinter/bos/supdocs/114314.pdf>.

<sup>15</sup> Los Angeles County, Cal., Motion: Eliminating Los Angeles County Criminal System Administrative Fees, at 4

(Feb. 18, 2020), <https://file.lacounty.gov/SDSInter/bos/supdocs/144092.pdf>.

<sup>16</sup> *Id.*

<sup>17</sup> FFJC, *Fee Elimination and Debt Relief*, *supra* note 9, at 4.

<sup>18</sup> San Francisco, Cal., Ordinance 131-18 (June 5, 2018), <https://sfbos.org/sites/default/files/o0131-18.pdf>.

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<sup>19</sup> *Id.* at 3.

<sup>20</sup> *Seattle Municipal Court eliminates all discretionary fees for criminal cases* (Sept. 23, 2020), <https://news.seattle.gov/2020/09/23/seattle-municipal-court-eliminates-all-discretionary-fees-for-criminal-cases/>; Daniel Beekman, *Seattle Municipal Court has stopped charging fees for probation in criminal cases*, Local Politics (Sept. 24, 2020, 3:24 PM), <https://www.seattletimes.com/seattle-news/politics/seattle-municipal-court-has-stopped-charging-fees-for-probation-in-criminal-cases>; Press Release, Seattle Municipal Court, Seattle Municipal Court eliminates all discretionary fees for criminal cases (Sept. 23, 2020), <https://courts.seattle.gov/2020/09/23/seattle-municipal-court-eliminates-all-discretionary-fees-for-criminal-cases/>.

<sup>21</sup> See Wasco County District Attorney, State of Oregon, *Wasco County District Attorney Monetary Sanction Policy* (2023), <https://cms5.revize.com/revize/wascocounty/docs/WCDA%20Monetary%20Sanction%20Policy.pdf>; Cole Goodwin, *Wasco County DA Announces Policy To Not Pursue Monetary Sanctions; Minimize Consequences of Court Debt*, Columbia Community Connection News, (Jan. 16, 2023), <https://columbiacommunityconnection.com/the-dalles/wasco-county-da-rolls-out-new-policy-to-reduce-monetary-sanctions>.

<sup>22</sup> Dear Colleague Letter at 2 (citing Leslie Paik & Chiara Packard, Juv. Law Ctr., *Impact of Juvenile Justice Fines and Fees on Family Life: Case Study in Dane County, WI 12-14* (2019), <https://perma.cc/T837-T6TY>).

<sup>23</sup> *Id.*

<sup>24</sup> Delaware, Illinois, Maryland, Montana, New Jersey, New Mexico, Oregon, and Washington have eliminated all juvenile fines and fees. See Debt Free Justice Coalition, “Our Impact,” <https://debtfreejustice.org/our-impact> (last visited Sept. 8, 2023) (providing expandable state table summarizing state status on juvenile fines and fees, as well as associated links for each state with additional explanation). Arizona, California, Colorado, Louisiana, Nevada, and Texas have eliminated all juvenile fees. *Id.* New York never authorized the assessment of fines and fees in juvenile court and Indiana never authorized the assessment of juvenile fines. *Id.* (and associated links). Examples of localities taking similar actions are included in the “Spotlight” examples, *infra*.

<sup>25</sup> See “Spotlight” examples, *infra*.

<sup>26</sup> S. B. 1463, 103<sup>rd</sup> Gen. Assemb., Reg. Sess. (Ill. 2023), <https://www.ilga.gov/legislation/publicacts/103/PDF/103-0379.pdf>. The bill does not apply to “assessments made in traffic, boating, or fish and game law, or municipal ordinance violations.” *Id.*

<sup>27</sup> S.B. 48, 218<sup>th</sup> Leg., Gen. Sess. (N.J. 2020), <https://www.njleg.state.nj.us/bill-search/2018/S48>.

<sup>28</sup> S.B. 3319, 219<sup>th</sup> Leg., Gen. Sess. (N.J. 2021), <https://www.njleg.state.nj.us/bill-search/2020/S3319>.

<sup>29</sup> H.B. 183, 55<sup>th</sup> Leg., Reg. Sess. (N.M. 2021), <https://nmlegis.gov/Legislation/Legislation?Chamber=H&LegType=B&LegNo=183&year=21>.

<sup>30</sup> S.B. 817, 81<sup>st</sup> Leg., Reg. Sess. (Ore. 2021).

<sup>31</sup> *Id.*

<sup>32</sup> In 2018, the Dane County Board of Supervisors eliminated all fees associated with the Juvenile Detention Center. In 2020, the Board eliminated all fees associated with home detention and other juvenile justice programs. The county also discontinued collections and forgave all existing juvenile court debt. WORT News Department and Ryan Wollersheim, “Dane County Eliminates Various Judiciary Fees and Outstanding Debts,” WORT-FM 89.9 (Jan. 5, 2021), <https://www.wortfm.org/dane-county-eliminates-various-judiciary-fees-and-outstanding-debts/>.

<sup>33</sup> See *Court ends fees, fines for youth in criminal justice system*, Associated Press (June 6, 2021) [hereinafter “Associated Press”], <https://apnews.com/article/courts-business-f77786942bfb56c91bbe381c7f0ff403>; National Center for Youth Law, *NYCL Teams with MCYJ to Help End Juvenile Fees and Fines in Michigan*, (Apr. 1, 2022), <https://youthlaw.org/news/ncyl-teams-mcyj-help-end-juvenile-fees-and-fines-michigan>.

<sup>34</sup> Associated Press, *supra* note 33.

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<sup>35</sup> Orleans Parish Juvenile Court, *Standing Policy on Juvenile Administrative Fees*, (June 19, 2018), <https://finesandfeesjusticecenter.org/content/uploads/2018/12/Orleans-Parish-Juvenile-Fees-2018.07.19.pdf>. (“Where state law authorizes but does not require the imposition of juvenile administrative fees, the Orleans Parish Juvenile Court will no longer assess or collect such fees from youth or their families in Families in Need of Services (FINS) or delinquency adjudications.”).

<sup>36</sup> Office of the Prosecuting Attorney, County of Kaua’i, State of Hawaii, *Juvenile Monetary Sanctions*, at 3, (June 29, 2021), <https://www.law.berkeley.edu/wp-content/uploads/2021/07/FINAL-Fines-Fees-Kauai-DA-Policy.pdf#:~:text=The%20Office%20of%20the%20Prosecuting%20Attorney%20shall%20not,prosecuting%20attorneys%20need%20not%20seek%20to%20impose%20them>.

<sup>37</sup> *Id.* at 4.

<sup>38</sup> See Dear Colleague Letter at 12, note 30 (“Court might also inappropriately impose fees that burden access to counsel.”); see also, e.g., Sixth Amendment Center, *The Right to Counsel in Oakland County, Michigan: Evaluation of Trial-Level Indigent Defense Services in Adult Criminal Cases*, at 103, note f, and 140-42 (2022), [https://sixthamendment.org/6AC/6AC\\_MI\\_OaklandCountyReport\\_10272022.pdf](https://sixthamendment.org/6AC/6AC_MI_OaklandCountyReport_10272022.pdf);

Sixth Amendment Center, *The Right to Counsel in Santa Cruz County, California: Evaluation of Trial Level Indigent Representation Services*, at 126-28 (2020), [https://sixthamendment.org/6AC/6AC\\_ca\\_santacruzcountyreport\\_2020.pdf](https://sixthamendment.org/6AC/6AC_ca_santacruzcountyreport_2020.pdf); Sixth Amendment Center, *The Right to Counsel in Armstrong County and Potter County, Texas: Evaluation of Adult Trial Indigent Defense Representation*, at 140-143, 191-92 (2019), [https://sixthamendment.org/6AC/6AC\\_tx\\_armstrongpotterreport\\_2019.pdf](https://sixthamendment.org/6AC/6AC_tx_armstrongpotterreport_2019.pdf).

<sup>39</sup> National Legal Aid & Defender Association, *At What Cost? Findings from an Examination into the Imposition of Public Defense System Fees*, at 5 (July 2022) [hereinafter “*At What Cost?*”] [https://www.nlada.org/sites/default/files/NLADA\\_At\\_What\\_Cost.pdf](https://www.nlada.org/sites/default/files/NLADA_At_What_Cost.pdf); see also National Center for State Courts, “*Principles on Fines, Fees, and Bail Practices*,” Principle 4.4 at 5 (Rev. 2021) [hereinafter “*NCSC Principles*”], [https://www.ncsc.org/\\_data/assets/pdf\\_file/0021/61590/Principles-on-Fines-Fees-and-Bail-Practices-Rev.-Feb-2021.pdf](https://www.ncsc.org/_data/assets/pdf_file/0021/61590/Principles-on-Fines-Fees-and-Bail-Practices-Rev.-Feb-2021.pdf).

<sup>40</sup> **California**, A. B. 1869, *supra* note 10; **Delaware**, H. B. 244, 151<sup>st</sup> Gen. Assemb., (Del. 2022), [https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201920200AB1869](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB1869); **Hawaii**, Haw. Rev. Stat. Ch. 706, Part III (section of criminal code establishing fines and fees does not authorize appointment or reimbursement fees for court-appointed counsel); **Nebraska**, Neb. Rev. Stat. Ann. § 29-3905 (West 2023); **New York**, no statute in New York state authorizes assessment of fees for appointed counsel for indigent defendants, see, e.g., N.Y. Penal Law § 60.35 (McKinney 2023); **Pennsylvania**, no statute in Pennsylvania authorizes assessment of fees for appointed counsel for indigent defendants, see Pa. R. Crim. P. §§ 122, 123 (West 2023); and **Rhode Island**, R.I. Gen. Laws tit. 12, Ch. 20 (section of code establishing court fees does not authorize appointment or reimbursement fees for court-appointed counsel). See also National Legal Aid & Defender Association, *State Laws Authorizing the Assessment of Public Defense System Fees*, <https://www.nlada.org/public-defense-system-fees?dataset=2> (last visited Sept. 7, 2023) (noting that Mississippi also does not authorize fees for court-appointed counsel but that such fees are nonetheless assessed in some counties).

<sup>41</sup> Lacey Coppage, Sixth Amendment Center, *New Jersey abolishes public defender reimbursement fees in felony cases*, (July 12, 2023), <https://sixthamendment.org/new-jersey-abolishes-public-defender-reimbursement-fees-in-felony-cases/>.

<sup>42</sup> Specifically, the statute prohibits courts from requiring litigants to “advance money or fees to secure rights guaranteed by the Constitution” before final judgment. Utah Code Ann. § 77-1-6 (West 2023); see also *At What Cost*, *supra* note 39.

<sup>43</sup> Dear Colleague Letter at 8.

<sup>44</sup> Ivy Scott, *Rhode Island’s New Diversion Program*, Rhode Island Opioid Data Journalism Project, [https://htried.github.io/opioid-journalism/html/ri\\_diversion.html#](https://htried.github.io/opioid-journalism/html/ri_diversion.html#). See also, “Diversion,” Rhode Island Attorney General’s Office, <https://riag.ri.gov/what-we-do/criminal-division/offices/diversion>; “Diversion Program,” Rhode Island Superior Court <https://www.courts.ri.gov/Courts/SuperiorCourt/Pages/diversion.aspx> (with links to Diversion Program “Information,” “Protocol,” “Participant Agreement,” and more, with no mention of fee).

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<sup>45</sup> 42 R.I. Gen. Laws Ann. § 42-56-20.2 (West 2023); 8 R.I. Gen. Laws Ann. § 8-2-39.3 (West 2023).

<sup>46</sup> WORT News Department & Ryan Wollersheim, *Dane County Eliminates Various Judiciary Fees And Outstanding Debts*, WORT-FM (Jan. 5, 2021), <https://www.wortfm.org/dane-county-eliminates-various-judiciary-fees-and-outstanding-debts>. These programs include the Deferred Prosecution Program, which previously required a \$60 monthly fee, and the First Offender Program, which previously assessed a \$50 flat fee. Dane County has also eliminated “all fees and debts associated with the Dane County Juvenile Court Program.” *Id.*

<sup>47</sup> *See, e.g.*, Christian M. Wade, *Mass. eliminates probation, parole fees*, The Eagle-Tribune (Sept. 16, 2022), [https://www.eagletribune.com/news/boston/mass-eliminates-probation-parole-fees/article\\_0ac0eb66-3500-11ed-a0a4-1fb6578d90cc.html](https://www.eagletribune.com/news/boston/mass-eliminates-probation-parole-fees/article_0ac0eb66-3500-11ed-a0a4-1fb6578d90cc.html); Baltimore County Government, *Baltimore County Eliminates Home Monitoring Fees*, (Jan. 4, 2021), <https://www.baltimorecountymd.gov/county-news/2021/01/04/baltimore-county-eliminates-home-monitoring-fees>; Shannon Prather, *Ramsey County eliminates nearly \$700,000 in criminal fines and fees*, StarTribune (Apr. 14, 2020), <https://www.startribune.com/ramsey-county-eliminates-nearly-700-000-in-criminal-fines-and-fees/569640712>; *see also* Dear Colleague Letter at 3 (“In many cases, unaffordable fines and fees undermine rehabilitation and successful reentry and increase recidivism for adults and minors.”).

<sup>48</sup> An Act Making Appropriations for the Fiscal Year 2023 for the Maintenance of the Departments, Boards, Commissions, Institutions, and Certain Activities of the Commonwealth, for Interest, Sinking Fund and Serial Bond Requirements, and for Certain Permanent Improvements, 2022 Mass. Acts. c. 126 §§ 104, 110.

<sup>49</sup> S. B. 620, 81<sup>st</sup> Leg. Assemb., Reg. Sess. (Or. 2021), <https://olis.oregonlegislature.gov/liz/2021R1/Measures/Overview/SB620>. *See also* Or. Stat. Ann. § 137.630 (Westlaw 2023).

<sup>50</sup> Maryland Association of Counties, *Baltimore County Eliminates Pretrial Supervision Fees*, (July 30, 2021), <https://conduitstreet.mdcounties.org/2021/07/30/baltimore-county-eliminates-pretrial-supervision-fees/>; Baltimore County Government, *Baltimore County Eliminates Home Monitoring Fees*, *supra* note 47.

<sup>51</sup> Multnomah County Board of Commissioners, *FY 2021 Adopted Budget*, at 25 (2021), [https://multco-web7-psh-files-usw2.s3-us-west-2.amazonaws.com/s3fs-public/FY%202021%20Adopted%20Budget%20Vol%201%20combined\\_2.pdf](https://multco-web7-psh-files-usw2.s3-us-west-2.amazonaws.com/s3fs-public/FY%202021%20Adopted%20Budget%20Vol%201%20combined_2.pdf); Maxine Bernstein, *Multnomah County budget calls for jail dorm closure, cuts to sheriff's and DA's offices, suspension of parole-probation fees*, The Oregonian/OregonLive (June 25, 2020), <https://www.oregonlive.com/portland/2020/06/multnomah-county-budget-calls-for-jail-dorm-closure-cuts-to-sheriffs-and-das-offices-suspension-of-parole-probation-fees.html>; FFJC, *Fee Elimination and Debt Relief*, *supra* note 9, at 5.

<sup>52</sup> Prather, *supra* note 47.

<sup>53</sup> Researchers have found that debt accrued from carceral fees can be particularly difficult to pay as an individual in prison earns on average \$0.52 per hour, if they are compensated for their labor at all. *See, e.g.*, Beth Schwartzapfel, *Prison Money Diaries: What People Really Make (and Spend) Behind Bars*, The Marshall Project (Aug. 4, 2022), <https://www.themarshallproject.org/2022/08/04/prison-money-diaries-what-people-really-make-and-spend-behind-bars>. As a result, carceral debt often gets passed onto already financially distressed families and can create significant barriers to reentry. *See, e.g.*, Pat Nolan, *Inmate User Fees: Fiscal Fix or Mirage?*, Corrections Today (Aug. 1, 2003), <https://www.thefreelibrary.com/Inmate+user+fees%3A+fiscal+fix+or+mirage%3F-a0121939154>; Lisa Riordan Seville & Hannah Rappleye, *Sentenced to Debt: Some Tossed in Prison Over Unpaid Fines*, NBC News (May 27, 2013), <https://www.nbcnews.com/news/world/sentenced-debt-some-tossed-prison-over-unpaid-fines-flna6C10085733>. Carceral fees can also create counter-productive collateral consequences. For example, some have emphasized that medical co-payments may incentivize individuals in detention to avoid seeking medical care, leading to the spread of contagious illnesses, worse health outcomes for individuals in detention, and the need to provide more expensive medical care when untreated conditions worsen. *See* Nolan, *Inmate User Fees: Fiscal Fix or Mirage?*, *supra*; National Commission on Correctional Health Care, *Charging Inmates a Fee for Health Care Services* (2017), <https://www.nchc.org/charging-inmates-a-fee-for-health-care-services-2017-2/>. Likewise, some have cited research that shows that individuals who have frequent communication with friends and family during periods of incarceration are less likely to recidivate upon release, but high costs for phone calls may disincentivize regular communication between individuals in detention and their loved ones. *See, e.g.*, James

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Causey, *Making family phone calls free for prisoners cheap tool for reducing recidivism*, Milwaukee Journal Sentinel (Aug. 25, 2023), <https://www.jsonline.com/story/opinion/columnists/james-causey/2023/08/24/states-moving-to-free-phone-calls-for-inmates-to-boost-health-safety/70616178007/>; Nick Gerda, *Why LA County Supervisors Want To Make Jail Phone Calls Free*, Laist (Jul. 26, 2023), <https://laist.com/news/criminal-justice/la-county-jail-phone-calls-fees-board-of-supervisors-inmate-welfare-fund-recidivism-public-safety>; Editorial, *Free prison calls provide a lifeline for inmates, families*, Boston Globe (July 25, 2023, 4:00 AM), <https://www.bostonglobe.com/2023/07/25/opinion/prison-inmate-phone-call-rates-charges>.

<sup>54</sup> See *infra*, “Eliminating Carceral Fees,” Spotlights. The state of Hawaii does not charge “pay to stay” fees to individuals who are incarcerated. See Consumer Financial Protection Bur., *Justice-Involved Individuals and the Consumer Financial Marketplace* 14, n. 51 (Jan. 2022) [hereinafter “CFPB Report”] [https://files.consumerfinance.gov/f/documents/cfpb\\_jic\\_report\\_2022-01.pdf](https://files.consumerfinance.gov/f/documents/cfpb_jic_report_2022-01.pdf).

<sup>55</sup> Ethan Budowsky, *Alachua County commissioners ending inmate fees as part of larger plan to reduce incarceration*, ABC 20 WCJB (May 30, 2023), <https://www.wcjb.com/2023/05/30/alachua-county-commissioners-ending-inmate-fees-part-larger-plan-reduce-incarceration/>.

<sup>56</sup> New York City, Local Law No. 144 Int. No. 741-A (2018), <https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=3466474&GUID=5FF0CADF-72F8-464F-A240-08A015650E7A&Options=ID%7cText%7c&Search=741-A>.

<sup>57</sup> *Id.*

<sup>58</sup> Office of the Mayor, *Mayor de Blasio Announces Full Implementation of Free Phone Calls for People in Custody*, City of New York (May 1, 2019), <https://www.nyc.gov/office-of-the-mayor/news/229-19/mayor-de-blasio-full-implementation-free-phone-calls-people-custody>.

<sup>59</sup> See Prather, *supra* note 47.

<sup>60</sup> Shannon Prather, *Ramsey County joins national effort to reduce reliance on criminal fines*, StarTribune.com (June 5, 2019), <https://www.startribune.com/ramsey-county-joins-national-effort-to-reduce-reliance-on-criminal-fines/510892022>.

<sup>61</sup> Press Release, City and County of San Francisco, *Office of the Mayor, San Francisco Announces All Phone Calls From County Jails Are Now Free*, (Aug. 10, 2020), <https://sfmayor.org/article/san-francisco-announces-all-phone-calls-county-jails-are-now-free>.

<sup>62</sup> The fixed-rate structure also ensures correctional facilities are not incentivized to limit phone use as a cost-saving mechanism.

<sup>63</sup> Press Release, City and County of San Francisco, Office of the Mayor, *supra* note 61.

<sup>64</sup> *Id.*

<sup>65</sup> H.P. 1396, 130th Leg., 2d Reg. Sess. (Me. 2022).

<sup>66</sup> As is discussed in this report, *infra*, “Discharging Existing Fines & Fees Debt,” when a jurisdiction eliminates a fine or fee, it is a best practice for jurisdictions to also consider discharging all outstanding debt derived from previous assessments of that fine or fee.

<sup>67</sup> **Colorado**, see Colo. Rev. Stat. Ann. §13-10-113(3) (Westlaw 2023) (only authorizing municipal judges to assess costs against a “. . . defendant who pleads guilty or nolo contendere or who enters into a plea agreement or who, after trial, is found guilty of an ordinance violation.”), Colo. Rev. Stat. Ann. § 16-10-109(2) (Westlaw 2023)(jury fee in “petty offense” cases to be reimbursed if defendant acquitted or case dismissed); **Georgia**, see Ga. Code Ann. § 15-10-81 (Westlaw 2023)(only authorizing assessment of costs of not more than \$70.00 for violation of county ordinances in “cases of conviction”); **Indiana**, Ind. Code § 34-28-5-5(b)(2) (Westlaw 2023)(defendant accused of infraction or ordinance violation not liable for costs if judgment entered in defendant’s favor), see also Ind. Code §§ 33-37-2-2(b), 33-37-4-2(d); **Kansas**, see Kan. Stat. Ann. § 12-4112 (Westlaw 2023) (cross referencing all authorized fees), but see *id.* (fees still authorized if defendant sent to diversion program); **Missouri**, Mo. Rev. Stat. § 479.260 (Westlaw 2023)(“. . . in the event a defendant pleads guilty or is found guilty, the judge may assess costs against the defendant except in those cases where defendant is found by the judge to be indigent and unable to pay the costs.”), Mo. Rev. Stat. § 66.010(7) (Westlaw 2023) (same); **Montana**, M.C.A. § 7-1-4151(3) (Westlaw

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2023) (if municipal infraction proceeding dismissed by court, “. . . the municipality is liable for the court costs and fees.”) Mt. Code Ann. § 7-1-4150(3)(b) (Westlaw 2023) (municipal infractions that are also criminal offenses under state law subject to surcharges imposed by statute, but each statute cross referenced only imposes charges “on conviction” or forfeiture bond); **New Jersey**, N.J. Stat. Ann. § 22A:3-4 (Westlaw 2023) (municipal court costs only assessed if defendant found guilty, costs shall be repaid if judgment reversed on appeal); **New Mexico**, N.M. Stat. Ann. § 31-12-6 (Westlaw 2023) (authorizing costs “in cases wherein there is a conviction”), *see also* N. M. Stat. Ann. §§ 31-12-7, 31-12-9, 31-12-11, 31-12-13, 35-14-11(C) (Westlaw 2023) (reasserting individual fees only assessed upon conviction); **New York**, N.Y. Veh. & Traf. Law § 1804 (Westlaw 2023) (municipality “may only impose a fine, penalty, forfeiture, or any other surcharge” if person is convicted or found liable), N.Y. Pen. Law § 60.35 (conviction required to impose fee or surcharge) (Westlaw 2023); **Washington**, Rev. Code Wa. § 10.46.210 (Westlaw 2023) (“no costs shall be payable by [an] acquitted party” in any local court).

<sup>68</sup> N.C. Gen. Stat. Ann. § 7A-304(a) (West 2023).

<sup>69</sup> N.C. Gen. Stat. Ann. § 7A-313 (West 2023).

<sup>70</sup> *See generally*, Dick M. Carpenter II et al., *Municipal Fines and Fees: A 50-State Survey of State Laws*, Institute for Justice (Apr. 30, 2020), <https://ij.org/report/municipal-fines-and-fees/> (last visited Sept. 7, 2023); Siân Mughan, *Municipal Reliance on Fine and Fee Revenues: How Local Courts Contribute to Extractive Revenue Practices in U.S. Cities*, 41 *Police Budgeting and Finance* 2 (2020); Torie Atkinson, *A Fine Scheme: How Municipal Fines Become Crushing Debt in the Shadow of the New Debtors' Prisons*, 51 *Harv. C.R.-C.L. L. Rev.* 189, 196-98 (2016).

<sup>71</sup> *See supra* note 70. *See also*, Brennan Ctr. for Just., *Criminal Justice Debt: A Barrier to Reentry* (2010), available at <https://www.brennancenter.org/our-work/research-reports/criminal-justice-debt-barrier-reentry> (reporting on fine and fee practices at state and local level in fifteen states); Dick M. Carpenter II et al., Institute for Justice, *The Price of Taxation by Citation: Case Studies of Three Georgia Cities That Rely Heavily on Fines and Fees* (2019), <https://ij.org/report/the-price-of-taxation-by-citation/>.

<sup>72</sup> Dear Colleague Letter at 3, 11.

<sup>73</sup> **Alabama**, Ala. Code Ann. § 11-47-7.1 (West 2023) (municipal court may assess fees for correction fund but amount may not “exceed the court costs and fees in the district court for a similar case”), *id.* § 12-14-14 (West 2023) (authorizing municipalities to assess no more than \$10 in court costs beyond costs otherwise expressly authorized by law); **Arkansas**, Ark. Code Ann. § 16-10-305(d) (West 2023) (prohibiting local governments and courts from assessing or collecting court costs that are not expressly authorized by state law); **Kansas**, Kan. Stat. Ann. § 12-4112 (West 2023) (prohibiting municipal courts from assessing “costs for the administration of justice” beyond those enumerated in the statute); **Missouri**, Mo. Ann. Stat. § 479.353(1) (West 2023) (caps the aggregate costs for fines and fees that may be assessed for minor traffic violations and municipal ordinance violations); **New Jersey**, N.J. Stat. Ann. § 22A:3-4 (West 2023) (authorizes municipal courts to assess enumerated fees for court costs in “proceedings of a criminal nature in the municipal courts” and “no other charges whatsoever”), *id.* § 2B:24-17 (caps public defender fees in municipal courts); **Wisconsin**, Wis. Stat. Ann. § 800.10 (West 2023) (municipal court fees and costs set by state statute).

<sup>74</sup> Carpenter, *supra* note 70, § F: Punishment Limitations (concluding based on 50-state survey that 46 states cap the amount of fines a court may assess for a specific offense).

<sup>75</sup> N.M. Stat. Ann. § 3-17-1(C) (West 2023) (capping fines for violating municipal ordinance at \$500, with few exceptions).

<sup>76</sup> Ark. Code Ann. § 16-17-212(a) (West 2023).

<sup>77</sup> Mo. Ann. Stat. § 479.353(1) (West 2023).

<sup>78</sup> H.B. 33, 135th Gen. Assemb. (Oh. 2023).

<sup>79</sup> ATJ conducted an extensive review to develop this report, including by engaging in meetings and holding numerous listening sessions with judges, practitioners, local leaders, community groups, victim advocate organizations, and others. This information was confirmed through these listening sessions and through follow up communications.

<sup>80</sup> *See* Dear Colleague Letter at 9-10.

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<sup>81</sup> *Id.* at 10.

<sup>82</sup> See Dear Colleague Letter at 10; NCSC *Principles*, *supra* note 39, Principle 6.5 at 7.

<sup>83</sup> See, e.g., Sarah Picard et al., *Court Ordered Community Service: a National Perspective* 4, 19, Center for Court Innovation (July 2019), <https://www.innovatingjustice.org/publications/community-service>; Melanie Sonsteng-Person et al., “*Any Alternative Is Great If I’m Incarcerated*”: A Case Study of Court-Ordered Community Service in Los Angeles County 48(1) *Criminal Justice and Behavior* 32–53 (2021), <https://doi.org/10.1177/0093854820923373>.

<sup>84</sup> Dear Colleague Letter at 10.

<sup>85</sup> 29 U.S.C. § 794.

<sup>86</sup> See, e.g., *Lau v. Nichols*, 414 U.S. 563, 568–69 (1974); see also U.S. Dep’t of Justice, *Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons*, 67 Fed. Reg. 41455 (June 18, 2002).

<sup>87</sup> Cal. Penal Code § 1209.5(a) (West 2023).

<sup>88</sup> *Id.* § 1209.5 (c).

<sup>89</sup> *Id.* § 1209.5 (e).

<sup>90</sup> Eliminating Court Fees, 2023 N.M. Laws Ch. 184.

<sup>91</sup> *Id.* § 1.

<sup>92</sup> *Id.*

<sup>93</sup> Tex. Code Crim. Proc. Ann. art. 45.049 (West 2023).

<sup>94</sup> *Id.* at art 45.049(c).

<sup>95</sup> *Id.* at art. 43.091(a), (b).

<sup>96</sup> Multnomah County District Attorney, State of Oregon, *Legal Services Day marks successful one year anniversary* [hereinafter “*Legal Services Day*”], <https://www.mcda.us/index.php/news/legal-services-day-marks-successful-one-year-anniversary>; Abe Proctor, *Legal Services Day give people stuck with fines and fees a second chance*, Portland Community College News (April 2019), <https://www.pcc.edu/news/2019/04/legal-services-day/#:~:text=Legal%20Services%20Day%20marked%20the%20first%20time%20that,thousands%20of%20dollars%20in%20court%20fines%20and%20fees>.

<sup>97</sup> See Proctor, *supra* note 96.

<sup>98</sup> See *Legal Services Day*, *supra* note 96.

<sup>99</sup> See *id.*

<sup>100</sup> See U.S. Department of Justice, Office for Victims of Crime, Victim Compensation, <https://ovc.ojp.gov/topics/victim-compensation>.

<sup>101</sup> See, e.g., Ashley Bowerman, *Crime victims demand action on alleged missing funds from state agency*, WSFA 12 News (Feb. 24, 2023), <https://www.wsfa.com/2023/02/25/crime-victims-demand-action-alleged-missing-funds-state-agency/> (interim Director of Alabama Crime Victims Compensation Commission describes the process of funding the Commission through “fines, fees and restitution from criminal cases” as “outdated,” notes that funding has decreased, and says “solution moving forward would be for lawmakers to rethink the way the commission is funded”); Ralph Chapoco, *Alabama lawmakers give Crime Victims Compensation Commission 10% of ask*, Montgomery Advertiser (May 5, 2023), <https://www.montgomeryadvertiser.com/story/news/local/alabama/2023/05/05/alabama-lawmakers-give-crime-victims-compensation-group-10-of-ask/70176948007/> (noting Alabama Crime Victim Compensation Commission “receives almost all its funding from traffic fines, court fees, and victim assessment fees,” stating that those revenues are in decline, and quoting the Commission’s Executive Director and the Chair of Alabama House Ways and Means Committee discussing need for supplemental revenue from general fund). See also, Mike Catalini and Claudia Lauer, *Safety net with holes? Programs to help crime victims can leave them fronting bills*, Associated Press (July 25, 2023), <https://apnews.com/article/victims-compensation-programs-finance-745985a4798e93f62951b51185b4d5cb>; Mike Catalini and Claudia Lauer, *Takeaways from AP’s report on financial*



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*hurdles in state crime victim compensation programs*, Associated Press (July 25, 2023), <https://apnews.com/article/crime-victims-compensation-finances-funding-bd325bae4236fcc4da13a3eff791842b>; *Brennan Ctr. For Just., supra* note 5, at 5, 10, 33 (discussing general unreliability of fines and fees as source of revenue).

<sup>102</sup> *See supra*, note 79 and accompanying text.

<sup>103</sup> Dear Colleague Letter at 5.

<sup>104</sup> *United States v. Bajakajian*, 524 U.S. 321, 336-37 (1998). *See also* Dear Colleague Letter at 4.

<sup>105</sup> Dear Colleague Letter at 5. *See also id.* at 5, n.15.

<sup>106</sup> *Id.* at 6.

<sup>107</sup> *Id.* at 9.

<sup>108</sup> *Id.* at 8.

<sup>109</sup> *Id.* at 7. This approach is also beneficial because, “[i]n many cases, unaffordable fines and fees undermine rehabilitation and successful reentry and increase recidivism for adults and minors.” *Id.* at 3.

<sup>110</sup> *Id.* at 7.

<sup>111</sup> *See* 42 U.S.C. § 1382.

<sup>112</sup> *Id.*

<sup>113</sup> Dear Colleague Letter at 7.

<sup>114</sup> *Id.*

<sup>115</sup> *Id.*

<sup>116</sup> *Id.* at 2-3.

<sup>117</sup> *See, e.g.*, American Bar Association, *Ten Guidelines on Fine and Fees*, Guideline 7, 11 (2018), [hereinafter “ABA: *Ten Guidelines on Fines and Fees*”], [https://www.americanbar.org/content/dam/aba/administrative/legal\\_aid\\_indigent\\_defendants/ls\\_sclaid\\_ind\\_10\\_guidelines\\_court\\_fines.pdf](https://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ls_sclaid_ind_10_guidelines_court_fines.pdf); NCSC *Principles, supra* note 39, Principle 6.4 at 6.

<sup>118</sup> *See* Dear Colleague Letter at 3.

<sup>119</sup> *See* ABA: *Ten Guidelines on Fines and Fees*, at 2; NCSC *Principles, supra* note 39, Principle 6.2 at 6.

<sup>120</sup> *See, e.g.*, Brett Simpson, *The Other Speed Trap*, *The Atlantic* (Feb. 2, 2022), <https://www.theatlantic.com/ideas/archive/2022/02/traffic-tickets-income-adjustment-rich/621452>. *See also* Bur. of Just. Assistance, U.S. Dep’t of Just., *How to Use Structured Fines (Day Fines) as an Intermediate Sanction* (Nov. 1996), <https://www.ojp.gov/pdffiles/156242.pdf#:~:text=Structured%20fines%2C%20or%20day%20fines%2C%20are%20a%20monetary,guarantee%20that%20every%20sentence%20imposes%20a%20negative%20impact;> Council of Econ. Advisers, *supra* note 4, at 5.

<sup>121</sup> *See id.*

<sup>122</sup> A.B. 143, 2021-2022 Reg. Sess., (Cal. 2021), [https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=202120220AB143](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB143).

<sup>123</sup> *Id.*

<sup>124</sup> *Id.*

<sup>125</sup> *See* “MyCitations,” [mycitations.courts.ca.gov/home](http://mycitations.courts.ca.gov/home) (last visited Sept. 8, 2023).

<sup>126</sup> *Id.*

<sup>127</sup> Cal. Cts., “MyCitations – Can’t afford to pay your ticket?” <https://www.courts.ca.gov/abilitytopay.htm>? (provides video demonstration of steps for filling out application).

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<sup>128</sup> The software is also designed to be user-friendly for courts. The court receives a list of all ability-to-pay applications, allows the applications to be sorted by nature of the request (e.g., reduction, community service, payment plan), and indicates whether the applicant receives qualifying benefits. Finally, it shows the court how the applicant's net income compares to the federal and state poverty rates and recommends that the court implement the 50% reduction and/or 25% payment plan, where appropriate. Teams Interview with Martha Wright, Manager, Criminal Justice Services, Judicial Council of California (July 27, 2023).

<sup>129</sup> A.B. 143 also requires that the Judicial Council prepare annual reports on the portal, including the pilot program and statewide implementation, through 2025. The 2023 report found that MyCitations both allowed more litigants to receive reductions in assessments and increased compliance. *See* Judicial Council of Cal., *Online Infraction Adjudication and Ability-to-Pay Determinations*, at 1, 16, (Feb. 9, 2023), <https://www.courts.ca.gov/documents/lr-2023-online-infraction-adjudication-ability-to-payd-eterminations-Stats.2021-ch-79.pdf>.

<sup>130</sup> H.B. 4594, 100<sup>th</sup> Gen. Assemb., Reg. Sess. (Ill. 2018), <https://www.ilga.gov/legislation/publicacts/100/PDF/100-0987.pdf>.

<sup>131</sup> *Id.*

<sup>132</sup> Mass. Gen. Laws Ann. ch. 127, § 145(b) (West 2023).

<sup>133</sup> H.B. 2259, 59<sup>th</sup> Leg., 1<sup>st</sup> Sess. (Okla. 2023), [http://webserver1.lsb.state.ok.us/cf\\_pdf/2023-24%20ENR/hB/HB2259%20ENR.PDF](http://webserver1.lsb.state.ok.us/cf_pdf/2023-24%20ENR/hB/HB2259%20ENR.PDF).

<sup>134</sup> *Id.* § 3(B)(1).

<sup>135</sup> *Id.* § 3(B)(3).

<sup>136</sup> *Id.* § 3(B)(4).

<sup>137</sup> *Id.* § 3 (B)(5).

<sup>138</sup> Wash. Rev. Code Ann. § 10.01.180(3) (West 2023).

<sup>139</sup> *Id.*

<sup>140</sup> *Id.* (cross-referencing Wash. Rev. Code § 71.24.025 (2023)).

<sup>141</sup> *Id.*

<sup>142</sup> Dear Colleague Letter at 9, 10.

<sup>143</sup> *Id.*; *see also* NCSC *Principles*, *supra* note 39, Principle 6.8 at 7.

<sup>144</sup> Dear Colleague Letter at 10 (citing Fines and Fees Just. Ctr., *First Steps Toward More Equitable Fines and Fees Practices: Policy Guidance on Ability to Pay Assessments, Payment Plans and Community Service* (2020), <https://perma.cc/W4BH-RJUX>) (“Providing a mechanism for individuals to seek reductions in their monthly obligations in light of changed circumstances helps to protect against violations of individuals’ Fourteenth Amendment rights.”).

<sup>145</sup> *See, e.g.*, April D. Fernandes et. Al., *Monetary Sanctions: A Review of Revenue Generation, Legal Challenges, and Reform*, 15 Ann. Rev. L. & Soc. Sci. 397, 405 (2019); FFJC, *First Steps Toward More Equitable Fines and Fees Practices*, at 6-7.

<sup>146</sup> *See, e.g.*, Consumer Financial Protection Bureau, *Advisory Opinion on Debt Collectors’ Collection of Pay-to-Pay Fees*, (June 29, 2022), [https://files.consumerfinance.gov/f/documents/cfpb\\_convenience-fees\\_advisory-opinion\\_2022-06.pdf](https://files.consumerfinance.gov/f/documents/cfpb_convenience-fees_advisory-opinion_2022-06.pdf); Press Release, *Federal Trade Commission, Federal Trade Commission Explores Rule Cracking Down on Junk Fees* (Oct. 10, 2022), <https://www.ftc.gov/news-events/news/press-releases/2022/10/federal-trade-commission-explores-rule-cracking-down-junk-fees>; Consumer Financial Protection Bureau, *The hidden cost of junk fees*, (Feb. 2, 2022), <https://www.consumerfinance.gov/about-us/blog/hidden-cost-junk-fees/>.

<sup>147</sup> Cal. Gov’t Code § 68645.2(9) (West 2023).

<sup>148</sup> H.B. 244, § 5, *supra* n. 40.

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<sup>149</sup> H.B. 397, 2022 Leg., Reg. Sess. (Fl. 2022), [https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?FileName=\\_h0397er.docx&DocumentType=Bill&BillNumber=0397&Session=2022](https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?FileName=_h0397er.docx&DocumentType=Bill&BillNumber=0397&Session=2022).

<sup>150</sup> *Id.*

<sup>151</sup> H.B. 139, 56th Leg., 1st Sess. (N.M. 2023) § 1(A), <https://www.nmlegis.gov/Sessions/23%20Regular/final/HB0139.pdf>.

<sup>152</sup> *Id.* §§ 1(C), (E).

<sup>153</sup> H.B. 2259, *supra* note 133, §§ 3(C)(1), (3).

<sup>154</sup> *Id.* § 3(C)(3).

<sup>155</sup> Tenn. Code Ann. § 40-24-105(b)(2) (West 2023).

<sup>156</sup> *Id.*

<sup>157</sup> Va. Code Ann. § 19.2-354.1(B), (C) (West 2023).

<sup>158</sup> Wash. Rev. Code § 3.62.040(5)(b).

<sup>159</sup> Ill. R. Cook Cty. Cir. Gen. Order No. 25, (Westlaw 2023).

<sup>160</sup> City of Houston, Texas, Municipal Courts Department, Paying Your Fine / Payment Options (houstontx.gov).

<sup>161</sup> Email exchange between Jesse Bernstein, Senior Advisor, Office for Access to Just., U.S. Dep't of Just., and Catherine McKinnon, Dep't of Just. Canada (Aug. 4, 2023) (on file with author).

<sup>162</sup> "Best Practices\_ Federal Ministry of Justice," Document prepared by German Ministry of Justice, emailed to Jesse Bernstein, Senior Advisor, Office for Access to Just., U.S. Dep't of Just., Aug 14, 2023.

<sup>163</sup> Kosovo Judicial Council, "Criminal fine calculator," <https://pristine.gjyqesori-rks.org/fines-calculator/?lang=en>; Press Release, U.S. Agency for Int'l Dev., "Kosovo Courts Increase Access and Transparency Through the Launch of Online Calculators" (Aug. 19, 2020), <https://2017-2020.usaid.gov/kosovo/news-information/news/kosovo-courts-increase-access-and-transparency-through-launch-online>.

<sup>164</sup> *Gjyqesori - Kalkulatori (EN)*, YouTube (July 2, 2020), <https://www.youtube.com/watch?v=16TXNDBYem8>.

<sup>165</sup> See U.N. Off. of the High Comm'r for H.R., *Guiding Principles on Extreme Poverty and Human Rights*, Para. 66(d) (adopted by the UN Human Rights Council Sep. 27, 2012), [https://www.ohchr.org/sites/default/files/Documents/Publications/OHCHR\\_ExtremePovertyandHumanRights\\_EN.pdf](https://www.ohchr.org/sites/default/files/Documents/Publications/OHCHR_ExtremePovertyandHumanRights_EN.pdf) (last visited September 11, 2023).

<sup>166</sup> See African Comm'n on Hum. and People's Rts, *Principles on the Decriminalisation of Petty Offences in Africa*, at 9, Part 1, Para. 14 (2017), available at <https://achpr.au.int/index.php/en/node/846> (last visited September 15, 2023).

<sup>167</sup> See, e.g., Dear Colleague Letter at 2 ("The detrimental effects of unjust fines and fees fall disproportionately on low-income communities and people of color, who are overrepresented in the criminal justice system and already may face economic obstacles arising from discrimination, bias, or systemic inequities.").

<sup>168</sup> See *id.*

<sup>169</sup> See Jessica M. Eaglin, *Improving Economic Sanctions in the States*, 99 Minn. L. Rev. 1837, 1854-55 (2015); Joseph Shapiro, *Lawsuits Target 'Debtors' Prisons' Across the Country*, NPR (Oct. 21, 2015, 4:36 PM), <http://www.npr.org/2015/10/21/450546542/lawsuits-target-debtors-prisons-across-the-country> [<https://perma.cc/SNF2-EFLD>] (discussing growing number of lawsuits alleging systemic incarceration for inability to pay); Neil L. Sobol, *Charging the Poor: Criminal Justice Debt & Modern-Day Debtors' Prisons*, 75 Md. L. Rev. 486, 513 (2016).

<sup>170</sup> See, e.g., Alissa Fishbane, Aurelie Ouss & Anuj K. Shah, *Behavioral nudges reduce failure to appear for court*, 370 Science 6517 (2020), [https://www.ideas42.org/wp-content/uploads/2020/10/Behavioral-nudges-reduce-failure-to-appear-for-court\\_Science.full\\_.pdf](https://www.ideas42.org/wp-content/uploads/2020/10/Behavioral-nudges-reduce-failure-to-appear-for-court_Science.full_.pdf); Shannon McAuliffe, Samantha Hammer, Alissa Fishbane & Andrea Wilk, ideas42, *National Guide to Improving Court Appearances* 5-7, <https://www.ideas42.org/wp->

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content/uploads/2023/05/national-guide-improving-court-appearance.pdf; Puck Lo & Ethan Corey, *The ‘Failure to Appear’ Fallacy*, *The Appeal* (Jan. 9, 2019), <https://theappeal.org/the-failure-to-appear-fallacy/>.

<sup>171</sup> See, e.g., Council of Econ. Advisers, *supra* note 4, at 5; Alain Sherter, *As economy flails, debtors’ prisons thrive*, CBS News (Apr. 5, 2013), <https://www.cbsnews.com/news/as-economy-flails-debtors-prisons-thrive/>; Rhode Island Family Life Ctr., *Court Debt & Related Incarceration In Rhode Island* 4 (2007), [http://www.realcostofprisons.org/materials/Court\\_Debt\\_and\\_Related\\_Incarceration\\_RI.pdf](http://www.realcostofprisons.org/materials/Court_Debt_and_Related_Incarceration_RI.pdf) (study found that “15% of incarcerations [for court debt] cost the state more than the amount owed by the individuals”); Am. Civil Liberties Union Of N.H., *Debtors’ Prisons In New Hampshire* 7 (2015), (calculating that in 2013, New Hampshire spent approximately \$166,870 to incarcerate individuals who failed to pay \$75,850 in unpaid fines).

<sup>172</sup> See Council of Econ. Advisers, *supra* note 4, at 5; Cherise Fanno Burdeen, *The Dangerous Domino Effect of Not Making Bail*, *The Atlantic* (Apr. 12, 2016), <https://www.theatlantic.com/politics/archive/2016/04/the-dangerous-domino-effect-of-not-making-bail/477906>.

<sup>173</sup> Mo. Ann. Stat. § 479.353 (West 2023).

<sup>174</sup> Mass. Gen. Laws Ann. ch. 127, § 145(e) (West 2023).

<sup>175</sup> Joni Hirsch & Priya S. Jones, *Driver’s License Suspension for Unpaid Fines and Fees: The Movement for Reform*, 54 U. Mich. J. L. Reform 875, 876 (2021).

<sup>176</sup> See, e.g., Michael Gerstein, *Mich. House speaker pushes driver debt forgiveness plan*, *The Detroit News* (Sept. 28, 2017) <https://www.detroitnews.com/story/news/politics/2017/09/28/house-driver-debt-forgiveness/106075174/>; 2017-2018 California State Budget, Enacted Budget Summary 35, <https://ebudget.ca.gov/2017-18/pdf/Enacted/BudgetSummary/FullBudgetSummary.pdf> (providing rationale for “eliminat[ing] statutory provisions related to suspending driver’s licenses for failure to pay fines and penalties”); *Ending Debt-Based License Suspensions: Public Hearing & Work Sess. on H.B. 4210 Before the Jt. Comm. on the First Special Session of 2020*, 80th Leg., 1st Spec. Sess. (Ore. 2020) (statement of Rep. Chris Gorsek, Ore. House Dist. 49), <https://olis.oregonlegislature.gov/liz/2020S1/Downloads/CommitteeMeetingDocument/223316>. At the same time, research has also shown that these policies are ineffective mechanisms for increasing collections. See, e.g., ThinkTennessee, *Reducing the Harms of Court Debt: Driver’s License Revocations are an Ineffective Policy for Increasing Court Collections* (Nov. 2022), <https://www.thinktennessee.org/wp-content/uploads/2022/11/drivers-license-revocation-report.pdf>; Carson Whitelemons et al., *Driving on Empty: Florida’s Counterproductive and Costly Driver’s License Suspension Practices*, Fines and Fees Justice Center, 17-18 (Oct. 2019), <https://finesandfeesjusticecenter.org/content/uploads/2019/11/florida-fines-fees-drivers-license-suspension-driving-on-empty.pdf> <https://finesandfeesjusticecenter.org/content/uploads/2019/11/florida-fines-fees-drivers-license-suspension-driving-on-empty.pdf>.

<sup>177</sup> See [Appendix A](#). Several additional states included in this appendix have had statutes related to protecting driver’s licenses from suspensions due to fine and fees for longer than five years.

<sup>178</sup> *Id.*

<sup>179</sup> *Id.*

<sup>180</sup> See, e.g., Colleen Chien et al., *Estimating the Earnings Loss Associated with A Criminal Record and Suspended Driver’s License*, 64 Ariz. L. Rev. 675 (2022).

<sup>181</sup> See Joni Hirsch & Priya S. Jones, *Driver’s License Suspension for Unpaid Fines and Fees: The Movement for Reform*, 54 U. MICH. J. L. REFORM 875, 878, 888 (2021).

<sup>182</sup> Sen. Bill 47, 56th Leg., Reg. Sess. (N.M. 2023), <https://www.nmlegis.gov/Sessions/23%20Regular/final/SB0047.pdf>.

<sup>183</sup> *Id.*; see also nmSAFE, *Bill Analysis 2023 Regular Session: SB 47* (2023), [https://assets.nationbuilder.com/nmpublicsafetyproject/pages/112/attachments/original/1675961845/SB\\_47\\_Fines\\_Fees\\_Reform\\_2023\\_%28KCC%29.pdf?1675961845](https://assets.nationbuilder.com/nmpublicsafetyproject/pages/112/attachments/original/1675961845/SB_47_Fines_Fees_Reform_2023_%28KCC%29.pdf?1675961845).

<sup>184</sup> Chicago, Ill., Ordinance O2019-5547 (Sept. 20, 2019), <https://chicago.councilmatic.org/legislation/o2019-5547>.

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<sup>185</sup> See, e.g., *Durham Expunction and Restoration (DEAR) Program*, Durham County, [https://durham.nc.networkofcare.org/mh/services/agency.aspx?pid=DurhamExpunctionandRestorationDEARPr ogram\\_371\\_2\\_0#](https://durham.nc.networkofcare.org/mh/services/agency.aspx?pid=DurhamExpunctionandRestorationDEARProgram_371_2_0#) (last visited Sept. 8, 2023).

<sup>186</sup> Memorandum from Ryan Smith, Director of Community Safety, Durham, NC, to Wanda S. Page, City Manager (Sept. 19, 2022), <https://cityordinances.durhamnc.gov/OnBaseAgendaOnline/Documents/ViewDocument/Final-Published%20Attachment%20-%2015659%20-%20MEMO%20-%201%20-%20AGENDA%20MEMO%20-%20DEAR%20CONTRAC.pdf?meetingId=547&documentType=Agenda&itemId=29898&publishId=144695&isSection=false#> (regarding motion for contract renewal with Legal Aid of NC to administer the DEAR Program).

<sup>187</sup> Dear Colleague Letter at 8.

<sup>188</sup> *Id.*; see also NCSC *Principles*, *supra* note 39, Principle 6.6 at 7.

<sup>189</sup> Dear Colleague Letter at 8 (internal citations excluded).

<sup>190</sup> Ind. Code Ann. § 35-38-2-3(m), (n) (West 2023).

<sup>191</sup> National Consumer Law Center and Collateral Consequences Resources Center, *The High Cost of a Fresh Start: A State-By-State Analysis of Court Debt As A Bar to Record Clearing*, at 44 (Feb. 2022), <https://www.nclc.org/wp-content/uploads/2022/08/Report-High-Cost-of-Fresh-Start.pdf>.

<sup>192</sup> Minn. Stat. §§ 611.17(c), 611.35 (2022).

<sup>193</sup> Wasco County District Attorney Money Sanction Policy, at 5, *supra* note 21.

<sup>194</sup> *Id.* at 6.

<sup>195</sup> See, e.g., National Center for Access to Justice, *Fines and Fees in American Courts: An Overview of NCAJ's Fines and Fees Indexing Project*, "Abolition of Harmful Practices," [hereinafter "*Fines and Fees Indexing Project*"] <https://ncaj.org/fines-and-fees-american-courts> (summarizing findings from 50-state survey of laws and policies related to fines and fees).

<sup>196</sup> CFPB Report, *supra* note 14, at 42. The federal FDCPA "prohibits covered entities from unfair, deceptive, and abusive practices related to the collection of consumer debts." *Id.* at 42.

<sup>197</sup> See, e.g., ABA: *Ten Guidelines on Fines and Fees*, Guideline 10, at 14-15; Council of Economic Advisers, *supra* note 4, at 5.

<sup>198</sup> Dear Colleague Letter at 10.

<sup>199</sup> **Colorado**, Colo. Rev. Stat. Ann. § 24-30-202.4(6) (West 2023); **Nebraska**, Neb. Rev. Stat. Ann. § 45-623 (West 2023), Collections Agency Act. L.B. 909, 106th Leg., 2d Sess. (NE 2020); **New Jersey**, *Supreme Court Procedures Governing the Private Collection of Municipal Court Debt Under L. 2009, C. 233*, New Jersey Judiciary, Municipal Court Services Division (Mar. 31, 2011), [https://www.njcourts.gov/sites/default/files/courts/municipal/supreme-court-proceduresmunicipal-court-debt\\_0.pdf](https://www.njcourts.gov/sites/default/files/courts/municipal/supreme-court-proceduresmunicipal-court-debt_0.pdf); **West Virginia**, W. Va. Code Ann. § 14-1-18c (West 2023).

<sup>200</sup> Colo. Rev. Stat. Ann. § 24-30-202.4(6) (West 2023).

<sup>201</sup> S.F. 457, 88<sup>th</sup> Gen. Assemb. (Iowa 2020), <https://www.legis.iowa.gov/perma/062620205278>.

<sup>202</sup> Nev. Rev. Stat. Ann. § 176.0647 (West 2023).

<sup>203</sup> Tex. Const. art. XVI, § 28 (West 2023). This prohibition on wage garnishment does not extend to debts governed by federal law, such as federal taxes and student loan debt.

<sup>204</sup> W. Va. Code Ann. § 14-1-18c (West 2023).

<sup>205</sup> Commonwealth Institute, *Two Commonwealth's Attorneys Announce Policy to Reduce Court Debt Collection Fees* (Aug. 8, 2023), <https://thecommonwealthinstitute.org/newsroom/two-commonwealths-attorneys-announce-policy-to-reduce-court-debt-collection-fees/>.

<sup>206</sup> Dear Colleague Letter at 9.

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<sup>207</sup> See, e.g., Los Angeles County, Cal., Motion: Discontinuing Collection of Outstanding Juvenile Detention Fees 2 (Oct. 9, 2019), <https://file.lacounty.gov/SDSInter/bos/supdocs/128147.pdf>. See also Dear Colleague Letter at 3, n.11; *supra*, note 171 and accompanying text.

<sup>208</sup> See, “[Eliminating Fines and Fees](#),” *supra*, for examples of jurisdictions that discharged existing debt at the same time they eliminated certain categories of fees.

<sup>209</sup> In addition to the examples included in the “Spotlight,” *infra*, see Dear Colleague Letter at 9, n. 23.

<sup>210</sup> H.B. 21-1315, 73rd Gen. Assemb., Reg. Sess. (Col. 2021), [http://leg.colorado.gov/sites/default/files/2021a\\_1315\\_signed.pdf](http://leg.colorado.gov/sites/default/files/2021a_1315_signed.pdf).

<sup>211</sup> *Id.* at Secs. 22, 23, 31.

<sup>212</sup> *Id.*

<sup>213</sup> *Id.* at § 35.

<sup>214</sup> *Id.* at § 1.

<sup>215</sup> S.B. 1463 (Ill. 2023), *supra* note 26 (adding new section at 705 I.L.C.S. 405/1-19(d)) (emphasis added). The Act also declared that “any judgment, order, agreement, or other legally enforceable encumbrance directing a minor or his or her parent, guardian, or legal custodian to pay assessments prior to the effective date of this amendatory Act ... is null, void, and not collectible if there remains a balance due, including interest, penalties, or collection fees.” *Id.* (adding new section at 705 Ill. Comp. Stat. 405/1-19(c)).

<sup>216</sup> *Id.* (adding new section at 705 Ill. Comp. Stat. 405/1-19(h)).

<sup>217</sup> Cecilia Wood, *Mayor Randall Woodfin to pardon \$35M in parking tickets issued prior to January 1, 2011*, Bham Now (March 22, 2022), <https://bhamnow.com/2022/03/22/birmingham-new-stop-and-go-initiative>.

<sup>218</sup> Sacramento County, Cal., Res. No. 2017-0171 (April 11, 2017), <https://sccob.saccounty.gov/Ordinances/2017-0171.pdf>.

<sup>219</sup> FFJC, *Fee Elimination and Debt Relief*, *supra* note 9, at 5.

<sup>220</sup> See, e.g., Tiffany Littler, *Topeka Clean Slate Day to offer fresh start*, KSNT (Sept. 3, 2019, 1:37 PM), <https://www.ksnt.com/news/local-news/topeka-clean-slate-day-to-offer-fresh-start>. It is unclear if Clean Slate Day events have resumed post-pandemic.

<sup>221</sup> Jack Boden, *More than 7,000 revoked Cumberland County driver’s licenses now eligible to be restored*, The Fayetteville Observer (Oct. 13, 2021), <https://www.fayobserver.com/story/news/2021/10/13/cumberland-county-da-forgives-more-than-7-000-traffic-fines/8424111002>.

<sup>222</sup> Oregon Law Center, *Traffic Debt Relief and Driver’s License Reinstatement Opportunity* (Feb. 2023), <https://oregonlawhelp.org/files/CCDACC15-944D-570E-7F1F-7BBF3DEC0018/attachments/EAB63720-626B-48C1-BD1F-809A9A0BA246/traffic-debt-relief-and-driver-license-handout-english.pdf>.

<sup>223</sup> Caroline Llanes, *Washtenaw County Sheriff’s Office erasing prisoner jail debt from past 7 years*, Michigan Radio (Feb. 8, 2021), <https://www.michiganradio.org/law/2021-02-08/washtenaw-county-sheriffs-office-erasing-prisoner-jail-debt-from-past-7-years>.

<sup>224</sup> Dear Colleague Letter at 9.

<sup>225</sup> See, e.g., Judicial Council of California, *Online Infraction Adjudication and Ability-to-Pay Determinations*, at 1, *supra*, note 129 (finding that “repayment success increases when litigants are ordered to pay less”); Government Finance Officers Association, *Rethinking Revenue, Segmented Pricing for Fines and Fees*, at 1, 6 (2022), [https://gfoaorg.cdn.prismic.io/gfoaorg/bb610492-83e6-498a-93d5-eb7bb3184404\\_Rethinking+Revenue\\_Segmented+Pricing\\_R2.pdf](https://gfoaorg.cdn.prismic.io/gfoaorg/bb610492-83e6-498a-93d5-eb7bb3184404_Rethinking+Revenue_Segmented+Pricing_R2.pdf).

<sup>226</sup> Karin D. Martin & Matt Z. Fowle, *An Analysis of Pierce County’s Legal Financial Obligations Reconsideration Day* (2022), <https://civilsurvival.org/wp-content/uploads/2023/05/Pierce-County-LFO-Day-Full-Report-Feb-2022-FINAL.pdf>.

<sup>227</sup> *Id.*

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<sup>228</sup>City of Phoenix, “Special Offer for Old Traffic Violations,” <https://www.phoenixoregon.gov/community/page/city-phoenix-special-offer-old-traffic-violations> (last visited Sep. 8, 2023); Jenna King, *Phoenix drops years of traffic fines*, KOB1-TV NBC5 (Jan. 29, 2021), <https://kobi5.com/news/local-news/phoenix-drops-years-of-traffic-fines-144791>.

<sup>229</sup> King, *supra* note 228.

<sup>230</sup> See, e.g., J.D. Capelouto, *Resolve fees, warrants without fear of arrest this week in Atlanta Municipal Court*, The Atlanta Journal-Constitution (May 24, 2021), <https://www.ajc.com/news/atlanta-news/resolve-fees-warrants-without-fear-of-arrest-this-week-in-atlanta-municipal-court/2K2KFW4GTNGSDEFQYWXW53QVHU>; Dionne Kinch, *Municipal court launches amnesty program*, The Atlanta Journal-Constitution (Feb. 3, 2015), <https://www.ajc.com/news/local/municipal-court-launches-amnesty-program/bKtee1UCpdbaHjIcKxNXBP>.

<sup>231</sup> Katie Mulvaney, *RI opens path for former inmates to break impoverishing cycle of court fees and fines*, The Providence Journal (Nov. 10, 2021, 10:18 AM), <https://www.providencejournal.com/story/news/courts/2021/11/10/ri-program-ex-convicts-break-cycle-poverty-outstanding-debt/6255286001>.

<sup>232</sup> *Id.*

<sup>233</sup> See, e.g., Suppl. & Am. Pet. for Writ of Mand., Compl., & Taxpayer Compl., *Freeman v. Riverside County*, 20-cv-01772 (Cal. Sup. Ct. Sep. 28, 2020) (class action lawsuit seeking reimbursement from Riverside County for juvenile administration fees plaintiffs allege were unlawfully collected); Order of Final Approval and J., *Freeman v. Riverside County*, 20-cv-01772 (Cal. Sup. Ct. June 2, 2023) (approving settlement refunding class members for detention fees plaintiffs allege were unlawfully collected), <https://youthlaw.org/sites/default/files/2023-06/2023.06.02%20Final%20Settlement%20Approval%20and%20Judgement.pdf>.

<sup>234</sup> S.B. 1463 (Ill. 2023), *supra* note 26.

<sup>235</sup> N.J. Stat. Ann. § 2B:12-32 (West 2023).

<sup>236</sup> See *State v. Blake*, 197 Wash. 2d 170 (2021).

<sup>237</sup> Washington Administrative Office of the Courts, *Blake Refund Bureau Will Launch in July* (June 12, 2023), <https://www.courts.wa.gov/newsinfo/?fa=newsinfo.internetdetail&newsid=50125>.

<sup>238</sup> *Id.*

<sup>239</sup> Eli Hager, *The Check is in The Mail (For Real)*, The Marshall Project (Jan. 7, 2018), <https://www.themarshallproject.org/2018/01/07/the-check-is-in-the-mail-for-real>. Even before juvenile detention fees were eliminated in Contra Costa and, subsequently, the state of California, probation departments were not supposed to charged detention fees if the minor defendant was not ultimately adjudicated delinquent. *Id.*

<sup>240</sup> Elimination of Monthly Probation Fees Imposed Pursuant to G.L. c. 276, § 87, Trial Crt. Admin. Order 22-3 (Mass. 2022), <https://www.mass.gov/doc/trial-court-administrative-order-22-3-elimination-of-monthly-probation-fees-imposed-pursuant-to-gl-c-276-ss-87a/download>.

<sup>241</sup> Dear Colleague Letter at 2.

<sup>242</sup> See *id.* at 3, n.11 (citing Alex R. Piquero & Wesley G. Jennings, *Justice System-Imposed Financial Penalties Increase Likelihood of Recidivism in a Sample of Adolescent Offenders*, 15 Youth Violence & Juv. Just. 325 (2017), <https://journals.sagepub.com/doi/10.1177/1541204016669213>).

<sup>243</sup> *Id.* at 5.

<sup>244</sup> *Id.* at 7.

<sup>245</sup> *Id.* at 5.

<sup>246</sup> *Id.* at 7; see also *id.* at n.20. It is a best practice not to consider parental income when assessing a young person’s ability to pay. See, e.g., C.R. Div., U.S. Dep’t of Just., *Investigation of the St. Louis County Family Court St. Louis, Missouri* (July 31, 2015), <https://www.justice.gov/opa/file/641971/download> (discussing consequences of using parental income to determine a youth’s eligibility for indigent defense).

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<sup>247</sup> Mass. Gen. Laws Ann. ch. 127, § 145(e) (West 2023).

<sup>248</sup> Ind. Code Ann. § 35-38-2-3(m), (n) (West 2023).

<sup>249</sup> See, e.g., “[Regulating Debt Collection](#),” *supra*, for examples in Colorado and Illinois.

<sup>250</sup> Dear Colleague Letter at 3. See also *Fines and Fees Indexing Project*, *supra* note 195 and accompanying text.

<sup>251</sup> See, e.g., C.R. Div., U.S. Dep’t of Just., Investigation of the Ferguson Police Department 2-4 (Mar. 4, 2015), [https://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson\\_police\\_department\\_report.pdf](https://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson_police_department_report.pdf) (summarizing how the City of Ferguson’s focus on generating revenue through fines and fees negatively impacted police and municipal court practices).

<sup>252</sup> See, e.g., ABA: *Ten Guidelines on Fines and Fees*, Guideline 9, at 13; NCSC *Principles*, Principles 3.2, 3.3; Aravind Boddupalli & Livia Mucciolo, Urban Institute, *Following the Money on Fines and Fees* (Jan. 2022), [https://www.urban.org/sites/default/files/publication/105331/following-the-money-on-fines-and-fees\\_final-pdf.pdf](https://www.urban.org/sites/default/files/publication/105331/following-the-money-on-fines-and-fees_final-pdf.pdf).

<sup>253</sup> Alaska Stat. Ann. § 22.15.250 (West 2023).

<sup>254</sup> N. J. Stat. Ann. § 22A:3-4 (West 2023).

<sup>255</sup> South Dakota Unified Judicial System, *For a \$117.50 Speeding Ticket On Interstate Highway Including Fines & Costs: This is Where Your \$\$\$ Goes* [https://ujs.sd.gov/uploads/about/Speeding\\_ticket.pdf](https://ujs.sd.gov/uploads/about/Speeding_ticket.pdf) (last visited Sept. 8, 2023).

<sup>256</sup> Or. Rev. Stat. Ann. § 221.145 (West 2023).

<sup>257</sup> This column does not include states that suspend for failure to pay but do not separate authorize for failure to appear.

<sup>258</sup> S.B. 1551, 55th Leg., 1st Reg. Sess. (Ariz. 2021).

<sup>259</sup> S.B. 513, 93<sup>rd</sup> Gen. Assemb., Reg. Sess. (Ark. 2021) (requires the court to schedule a hearing to address nonpayment and for the litigant to fail to appear at that hearing before the court may suspend a driver’s license for failure to appear).

<sup>260</sup> A.B. 103, 2017-2018 Reg. Sess. (Cal. 2017) (eliminating suspensions for failure to pay); Cal. Dep’t Motor Veh., “Payments & Refunds,” <https://www.dmv.ca.gov/portal/customer-service/payments-refunds/> (in section titled “Failure to Pay Violation FAQs,” DMV clarifies that it automatically removed suspensions for failure to pay that occurred before the effective date of A.B. 103); A.B. 2746, 2021-2022 Reg. Sess. (Cal. 2022) (eliminating suspensions for failure to appear, effective 2027).

<sup>261</sup> H.B. 21-1314, 73<sup>rd</sup> Gen. Assemb., Reg. Sess. (Col. 2021).

<sup>262</sup> H.B. 244, 151<sup>st</sup> Gen. Assemb. (Del. 2022).

<sup>263</sup> Although Hawaii never suspended driver’s licenses for failure to pay legal system fines and fees, the state previously prevented residents from renewing their license if the resident had outstanding court debt. In 2020, Hawaii eliminated provisions that restricted driver’s license renewals for court debt accrued after September 1, 2020. See S.B. 2630, 30<sup>th</sup> Leg. (Haw. 2020).

<sup>264</sup> H.B. 599, 64<sup>th</sup> Leg, 2d Reg. Sess. (Ida. 2018).

<sup>265</sup> H.B. 3653, 101<sup>st</sup> Gen. Assemb. (Ill. 2021).

<sup>266</sup> H.B. 1199, (Ind. 2021) (eliminates suspensions for certain violations, adds provision staying suspensions for failure to pay upon showing of “proof of future financial responsibility,” eliminates reinstatement fee if such proof is provided,

<sup>267</sup> Ky. Rev. Stat. Ann. § 186.570 (West 2023) (statute enumerating justifications for driver’s license suspensions does not include failure to pay fines or fees).

<sup>268</sup> H.B. 397, 2019 Reg. Sess. (Ga. 2019) (requires court to make a willfulness determination before suspending a driver’s license for failure to pay a fine).



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- <sup>269</sup> L.D. 1190, 128th Leg. (Me. 2018) (eliminating driver’s license suspensions for failure to pay fines and fees in criminal cases that do not involve traffic offenses).
- <sup>270</sup> S.B. 234, 2020 Gen. Assemb., Reg. Sess. (Md. 2020) (eliminating authority to suspend licenses for failure to pay fines and fees, except for failure to pay criminal fines; authorizes litigants to enter into payment plans).
- <sup>271</sup> H.B. 5846, 100th Leg., Reg. Sess. (Mich. 2020) (eliminating authority to suspend driver’s license for failure to pay fines and fees or failure to appear in cases unrelated to serious driving offenses).
- <sup>272</sup> H.F. 10, 92nd Leg., 1st Spec. Sess. (Minn. 2021); H.F. 2887, 93d Leg., Reg. Sess. (Minn. 2023).
- <sup>273</sup> This column does not include states that suspend for failure to pay but do not separate authorize for failure to appear.
- <sup>274</sup> H.B. 1352, 2019 Reg. Sess. (Miss. 2019).
- <sup>275</sup> H.B. 217, 66th Leg., Reg. Sess. (Mont. 2019).
- <sup>276</sup> S.B. 219, 81st Leg. (Nev. 2021).
- <sup>277</sup> N.H. Rev. Stat. Ann. §§ 263:56-a(I)(b), (II)(a) (West 2023).
- <sup>278</sup> S.B. 47, 56th Leg., Reg. Sess. (N.M. 2023).
- <sup>279</sup> S. 7053-A, 244th Leg. (N.Y. 2021).
- <sup>280</sup> S.B. 488, 2020 Gen. Assemb, 1st Sess. (N.C. 2020) (authorizes a litigant whose license has been revoked solely for failure to pay to apply for a restricted license).
- <sup>281</sup> H.B. 4210, 80th Leg. Assemb., Spec. Sess. (Oreg. 2020).
- <sup>282</sup> S. 0078, 2019 Gen. Assemb. (R.I. 2019) (allows litigants to avoid suspension for failure to pay by “mak[ing] satisfactory arrangements with the court for payment;” entitles litigants to request ability to pay hearing before court suspends license for failure to pay).
- <sup>283</sup> H.B. 839, 111th Gen. Assemb.(Tenn. 2019) (retroactive bill requires courts to inquire as to ability to pay and to offer licensees the option to make payments on an installment plan and, if licensee is indigent and/or requests installment plan, requires court to issue a restricted license).
- <sup>284</sup> H.B. 2048, 86th Leg. Sess., Reg. Sess. (Tex. 2019) (repealed the “driver responsibility program,” including the authority to suspend licenses for failure to pay, and automatically reinstated most driver’s licenses previously suspended under the program. Tex. Transp. Code Ann. § 706.004 (West 2023) (jurisdictions may still restrict deny renewal of licenses for failure to pay).
- <sup>285</sup> H.B. 143, 64<sup>th</sup> Leg., Gen. Sess. (Utah 2021).
- <sup>286</sup> H. 571, 2015-2016 Gen. Assemb., Reg. Sess. (Vt. 2016) (repeals authority to suspend license for failure to pay in cases involving non-driving conduct, repeals authority to suspend for failure to pay traffic violations that do not authorize imposition of points against an individual’s driving record, establishes option to enter into payment plan to avoid suspension for failure to pay, creates reinstatement program, amongst other provisions).
- <sup>287</sup> S.B. 1, 2020 Leg., Reg. Sess. (Va. 2020).
- <sup>288</sup> S.B. 5226, 67th Leg., Reg. Sess (Wash. 2021) ([eliminates license suspension for failure to pay fines and fees associated with traffic infraction so long as litigant affirmatively checks box stating “inability to pay;” entitles litigants to an inability to pay hearing; maintains suspension as mechanism for failure to appear or “failure to respond”](#)).
- <sup>289</sup> “Traffic and Parking Ticket Penalty Amendment Act of 2018,” D.C. Law 22-175 (D.C. 2018), <https://code.dccouncil.gov/us/dc/council/laws/22-175> (eliminates driver’s license suspension for unpaid traffic debt or failure to appear at traffic hearing but did not address restrictions on license renewals for unpaid traffic debt); “Clean Hands Certification Equity Amendment Act of 2021,” DC B24-0237, 24th Council (D.C. 2022) (lifting ban on driver’s license renewals for legal system debt).
- <sup>290</sup> H.B. 4958, 84th Leg., 2d Reg. Sess. (W.V. 2020).
- <sup>291</sup> See Wyom. Stat. Ann. §§ 31-7-129, 31-9-302 (statutes authorizing discretionary suspensions and establishing mandatory suspensions do not include suspensions for failure to pay).