

# Assessing the Impact of Court Costs and Fees on Juveniles and Families

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December 19, 2017

*Prepared for the Jessie Ball duPont Fund*



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## Assessing the Impact of Court Costs and Fees on Juveniles and Families

This report is a review of the literature regarding juvenile court fees and the impact on youth and families. The Delores Barr Weaver Policy Center (Policy Center) explores this public policy issue in Florida, as well as the related statutes and policies guiding the levying of court fees on youth involved in the juvenile justice system, with a deeper look at the practices in the 4<sup>th</sup> Judicial Circuit. This report is the first of three phases of exploratory research grounded in the Policy Center’s research model. The phases include: 1) Reviewing and understanding information and available data, 2) Listening to children, families, and service providers to provide context about the impact of policies and to identify gaps in practice, and 3) Formulating meaningful research questions and a study design to go deeper in an effort to provide pragmatic recommendations. The goal of this research is to reduce inequities and align practices with public policy while a deeper look at Florida’s 4th Judicial Circuit provides an opportunity to identify where reform is needed and create recommendations for changes at a local level.

Recent reports suggest that court fees create a de facto “debtor’s prison” for citizens involved in the justice system that prolongs and escalates justice system involvement. Juvenile court fees contribute to the revolving door of justice system involvement, *but unlike for adults, the fees for children are incurred on their families as well*. Though the vast majority of states have laws around fees and fines related to criminal justice system involvement, there is a shortage of research on the broad and intergenerational consequences juvenile laws and policies have on juveniles and families.

### A Review of the Literature on Juvenile Court Costs

A comprehensive 2016 report by the Juvenile Law Center entitled *Debtors’ Prison for Kids? The High Cost of Fines and Fees in the Juvenile Justice System* has recently demonstrated the prevalence and impact of juvenile court costs.<sup>1</sup> The Juvenile Law Center identifies eight kinds of costs imposed on juveniles and their families. These are costs related to “probation/supervision, informal adjustment/diversion, evaluation/testing, cost of care, fines, expungement costs, and restitution.” A state by state analysis reveals that statutes linking payment to these aspects of the juvenile justice system are varied.

- 22 states link payment to probation/supervision by statute
- 22 states link payment to diversion/informal adjustment by statute
- 43 states “have statutes designating fines for youth in the juvenile justice system or their parents”
- 47 states “have statutes on cost of care”

The costs ultimately imposed on youth *and their families* could range from small amounts to thousands of dollars. For a youth incarcerated, the average length of time in Alameda County, California, fines and fees would total almost \$2000.<sup>2</sup> This total is roughly equivalent to two months’ salary for an individual making federal minimum wage, or several months of public

benefits. In a 2017 study of adolescent offenders in Pennsylvania, researchers found that over 90% of youth in their sample “were ordered to pay costs (fines and fees) at disposition,” and these costs averaged over \$400. Roughly a quarter of youth “still had outstanding fines, fees, and/or restitution upon case closing.” Adolescent offenders still owed an average of \$237 when their cases were closed.<sup>3</sup> In nearly every state, juveniles can be charged “multiple court-related costs, fines, and fees” and these costs are often imposed as a matter of practice, even without relevant statutes.

### Intent of Court Fees

The stated intention of these court fees is to subsidize and underwrite state and local general revenue for the criminal justice system. Structural reliance on fees to fund court operations goes against best practices recommended by the American Bar Association, the National Center for State Courts, and other justice experts who have cautioned against relying on fees to create self-supporting court operations. According to Stephanie Campos-Bui, Teaching Fellow at the Berkley Law Policy Advocacy Clinic, “these practices run counter to the rehabilitative purpose of the juvenile system by resulting in high pain to families. On top of the harm to families, these fees often result in little or no financial gain to local jurisdictions.”<sup>4</sup>

### Questions Raised about Constitutionality of Court Fees

#### ***Failed Determination of Ability to Pay***

More research is needed to understand the constitutionality of imposing penalties on youth and their families for their failure to pay, particularly if there is a flaw in evaluating a family’s ability to pay. A California Senate Committee analysis concluded that administrative fees for probation may violate constitutional equal protection principles. As the committee analyst noted, “[b]y imposing financial responsibility on parents or other responsible persons for costs undertaken for the protection of society or the rehabilitation of the minor, this bill may violate constitutional guarantees of equal protection.”<sup>5</sup>

The Washington State ACLU chapter sued Benton County, Washington in a class action lawsuit on behalf of three individuals who were forced to serve time in jail or serve on a work crew after court fees were imposed—which was deemed as unlawful without first determining the defendants’ ability to pay the fees.<sup>6</sup> Again in Lexington County, South Carolina, the ACLU pressed charges for the unwritten practices that jailed more than 1,000 people a year for inability to pay on time; the suit challenged the practice of arresting and incarcerating low-income people with traffic tickets and misdemeanor offenses.<sup>7</sup>

#### ***Debt Collectors***

Many states authorize localities to outsource probation supervision or debt collection. As these companies and the government actors engaging them should be accountable to the public for their policies and performance, they should be required to disclose contracts and render them easily accessible.<sup>8</sup> It is recommended that attorney generals structure contracts to require debt-collectors to use reasonable payment plans and prohibit the use of abusive or unfair debt collection practices and excessive fees when contracting with third parties to collect criminal justice debt.<sup>9</sup>

While unclear if this practice applies to outstanding juvenile fees as well, national advocacy groups are taking the lead to challenge debt collection practices. In January 2015, the ACLU announced a federal lawsuit challenging the debt collection practices and the agency employed to recover court fees. The collection practices were challenged as unconstitutional because it included threat of jail time.<sup>10</sup> Furthermore, in 2015, the Southern Poverty Law Center settled a lawsuit against a city in Alabama for using a for-profit probation company, Judicial Correction Services, to threaten impoverished people with jail time when they could not pay traffic fines. The Southern Poverty Law Center sent similar letters of intent to ninety-two counties in Alabama.<sup>11</sup> In a ruling in 2012 in a suit involving Judicial Correction Services, an Alabama judge said that the probation system in one town had led to a “debtor’s prison.”<sup>12</sup> “Some collection companies secure the arrest of probationers who are behind on their payments as a way of coercing them or their families into coming up with some of what they owe.”<sup>13</sup> These unregulated practices can thus take a toll on victims’ families. In some cases, company employees approach jailed probationers’ families and negotiate with them for payment. This practice uses the courts to jail offenders in order to hold them hostage in financial negotiations with spouses, parents, and other relatives who are desperate to get them released.<sup>14</sup>

In Florida, statute 938.29 allows for a lien upon property (real and personal) for any individual or the parent of a youth who has received assistance from a public defender to provide due process services after being found indigent for costs. Largely because youth are so often unable to pay, these costs are misaligned with the rehabilitative mission of the juvenile justice system. On a practical level, court costs impose burdens on youth and their families without addressing the root causes of behavior, without contributing to rehabilitation, and without necessarily improving community safety. In September 2016, President Obama said in a Presidential Proclamation that, “The financial costs of the juvenile court system can be debilitating and can unfairly penalize children from poor families – by reducing the fees and fines on youth, we can avoid pushing families into debt and decrease this disproportionate burden.”<sup>15</sup> Further, agencies such as the American Bar Association, the National Center for State Courts and other justice experts caution against relying on fees to fund court operations.<sup>16</sup> (See Appendix D for the State of Conversations and the advocacy groups implementing initiatives regarding court costs).

### **Impact of Court Costs on Youth and Their Families**

Juvenile court fees impact youth in several significant ways: by exacerbating poverty, driving youth deeper into the system, and perpetuating juvenile justice racial disparities.

#### ***Exacerbation of Poverty***

It can be difficult to impossible for youth, especially youth in poverty, to come up with court cost payment themselves. State and federal laws prevent youth of certain ages from working at all, and limit the hours of others,<sup>17</sup> and those who are old enough to work may be unable to find jobs. Between 2001 and 2014, the number of jobs held by individuals 14-18 declined from 5.2 million to 3.5 million as millennials took a larger shares of jobs accessible for teen workers.<sup>18</sup>

There are important differences in employment between racial and socioeconomic groups as well.

- In the summer of 2012, 16% of Asian teens were employed, 20% of Black teens were employed, 25% of Hispanic teens were employed, and almost 38% of White Non-Hispanic teens were employed.
- Low income youth were least likely to be employed. Youth from families making under \$20,000/year had an employment rate of only 21% compared to 38% of youth from families making \$100,000-\$150,000/year.<sup>19</sup>

Requiring young people to engage in excessive work to pay off court costs may be counterproductive, as students who work over twenty hours per week may have lower grades and higher drop-out rates than their peers.<sup>20</sup>

Realistically, these costs ultimately impact the whole family unit instead of just the individual child. The juvenile justice system is distinct in that families can more explicitly be held accountable and liable for costs. In some states, *not only youth but their parents faced consequences* such as having a license revoked or suspended or even being incarcerated for failure to pay juvenile justice costs. When families become more stressed economically, social and emotional bonds may also be strained. A participant in the Juvenile Law Center survey, for example, said that juvenile justice debt created a “rift” between children and their families.

The Berkley Law Clinic conducted a series of interviews with youth and their families regarding the personally harmful impact of administrative juvenile court fees. The interviews suggest significant harm for families without the ability to pay: 1) fees force families to choose between paying the county and paying for necessities, 2) the fees put a strain on often already strained relationships between the youth and their families, and 3) fees incentivize actions that may be costlier and harmful to society. For example, a youth reviewed considering running away from home in the hope it would relieve his family of the fee burden.<sup>21</sup>

The American Bar Association recommends that before states “provide or increase punitive sanctions to parents of juvenile offenders, [states] should carefully consider the existing barriers to parental involvement in the lives of their children, such as a lack of affordable day care and after-school programs, the inaccessibility of adequate mental health services, and the insufficient attention that public social services/child welfare agencies give to families with troubled adolescents.”<sup>22</sup>

### ***Failure to Pay Fees Drives Youth Deeper into System***

For youth and families unable to pay, costs drive youth further into the system and keep them involved with the system longer. When diversion is associated with payment, youth unable to pay may be refused diversion and formally processed instead.<sup>23</sup> When this happens, a chance for intervention to avoid justice involvement is missed, pushing the juvenile into the system for the inability to pay. Court costs then function as a gatekeeper whereby youth who are unable to pay are formally processed and funneled deeper into the system while those with the ability to pay for diversion and services are able to stay in their own communities, and avoid the stigma and repercussions associated with a juvenile record.<sup>24</sup>

When failure to pay extends probation, it unfairly increases the amount of time a child spends under increased surveillance and scrutiny. By keeping a youth on probation longer, it increases their chances of being charged with a non-law violation of probation for behaviors typical of adolescents (e.g. skipping school, violating curfew). In some states, including Florida, failure to pay constitutes a violation of probation or constitute grounds for a young person's probation to be revoked. In the Juvenile Law Center study, "respondents in seven states reported that failure to pay probation costs can result in juvenile justice placement." Even after controlling for relevant demographics and case characteristics, the sheer amount of financial penalties significantly increases the likelihood of recidivism."<sup>25</sup>

The fact that youth are committed for inability to pay is especially concerning as youth facilities have high rates of physical<sup>26</sup> and sexual<sup>27</sup> violence, and given that juvenile placement inhibits education and increases the chance of recidivism.<sup>28</sup> Juvenile placement also impacts future opportunities for employment, housing, military involvement, and having a driver's license.<sup>29</sup> In January 2012, the U.S. Department of Justice issued an "Advisory for Recipients of Financial Assistance...on Levying Fines and Fees on Juveniles."<sup>30</sup> This advisory emphasized the fact that youth are often unable to pay, that families then face hardship as a result of juvenile justice-related debt, that fines and fees have been linked to increased recidivism, and that the consequences of this debt may follow juveniles into adulthood.

### ***Court Costs Perpetuate & Increase Juvenile Justice Racial Disparities***

Youth of color and youth from poor families are over-represented in the juvenile justice system, and court costs exacerbate these disparities. Multiple factors contribute to the over-representation of poor youth in the juvenile justice system. According to Tamar Birckhead, Associate Professor of Law at the University of North Carolina at Chapel Hill and criminal defense attorney, these factors include:

Unequal access to quality counsel, a 'needs-based delinquency system' that allows children with access to private services to avoid justice system involvement entirely, high rates of crossover youth entering the juvenile justice system from the child welfare system, and disproportionate entry into the system by youth in highly policed schools and neighborhoods.<sup>31</sup>

Costs also have a more salient impact on communities of color, regardless of similar offending rates,<sup>32</sup> youth of color are disproportionately involved in the juvenile justice system compared to White youth. African Americans and Hispanics/Latinos comprise one-third of the population but represent two-thirds or more of the young people confined.<sup>33</sup> According to the Justice Policy Institute:

African American youth are confined at a rate nearly five times that of white youth, Hispanic/Latino young people are confined at nearly twice the rate of white young people, and American Indian young people are confined at more than three times the rate of white youth.<sup>34</sup>

In addition to being sentenced to probation more often, Black youth also serve longer probation than White youth which at a minimum, has a financial impact.<sup>35</sup> For example, The Policy Advocacy Clinic at UC Berkeley Law School revealed that in Alameda County, California the average Black youth serves 25 days in Juvenile Hall (detention), 22 months on probation, 34 days on electronic monitoring, and 11 drug tests. In comparison, White youth on average serve 11 days in Juvenile Hall (detention), 10 months on probation, 21 days on electronic monitoring, and 5 drug tests. According to the 2009 rates, this comes at a cost of \$3,438 for Black families, \$2,563 for Latino families, \$2,269 for Asian families compared to \$1,637 for White families.<sup>36</sup> “In other words, African American families are doubly harmed by current practices—their children are overrepresented within the system, and they are liable for higher fees because of longer probation conditions.”<sup>37</sup>

### Benefits of Implementing Alternative Practices: California as a Model

There are a number of states that are implementing policies to reduce and/or stop the imposition of court fees (See Appendix C for a description). California is a model in passing recent statewide legislation (SB 190) to limit the imposition of fees on juveniles in detention based on research and actions taken by local counties. In 2009 Los Angeles County, California, the county with the largest juvenile probation department declared a moratorium on juvenile detention fees. This came after receiving pressure from the "Youth Justice Coalition and a series of articles in the *Los Angeles Times* reporting excessive fee amounts and aggressive collection tactics.”<sup>38</sup> The *Los Angeles Times* reported the county only recovered \$2.6 million of the \$23.6 million billed in 2008.<sup>39</sup> With the change in policy, now youth only pay a \$50 Public Defender fee. The Los Angeles County Commission on Human Rights expressed an understanding that the fees were undermining family reunification, “If the stated goals of probation are to rebuild lives and provide healthier and safer communities, how do the incredibly harsh billing practices that contribute to so much family stress and conflict, match with those goals?”<sup>40</sup> A grandmother in Los Angeles County was billed more than \$1,000 for her granddaughter’s stay in Los Angeles County detention. With grandmother living on Social Security benefits, she could not afford the payments, yet the county spent nearly \$13,000 to pursue the debt.<sup>41</sup> In the same year Los Angeles County declared a moratorium on juvenile detention fees, in light of the 2009 budget crisis, Alameda County, California increased juvenile fees for families more than twelve-fold (from average of \$243 to \$2,861).<sup>42</sup> However, in early 2016, Alameda County imposed an immediate moratorium on all fees charged to parents and guardians with children in the juvenile justice system.<sup>43</sup> This followed the release of data showing that the costs of collecting court-imposed debt generated little income.<sup>44</sup> Not including the cost of public defenders and court appointed attorneys, the approximate annual net revenue of collecting court imposed fees was \$150,000 (\$400,000 collected at an administrative cost of \$250,000), which is minuscule in comparison to the county’s \$2.74 billion dollar budget; making the yields of little to no net financial gain to the county.<sup>45</sup> In June 2016, legislation was passed to permanently block the probation department from collecting probation fees, past due and outstanding probation fees, public defender fees, drug or substance abuse testing, and GPS monitoring fees.<sup>46</sup>



Alameda County was the first in the State of California to repeal juvenile probation and public defender fees<sup>47</sup> and the third county to eliminate juvenile administrative fees. Contra Costa County was the second county to eliminate juvenile administrative fees in 2016.<sup>48</sup> Legal guardians were billed up to \$30 per day of incarceration and \$17 a day for GPS monitoring while on probation.<sup>49</sup> Several other counties in California have approved similar moratoriums, including Santa Clara County, following research that shows the fees disproportionately affect people of color and low-income families.<sup>50</sup> San Francisco County never charged juvenile administrative fees.<sup>51</sup>

In 2017, California Governor Jerry Brown signed a bill (SB 190) that limits all cities and counties from collecting fees from families with children under 21 in juvenile detention.<sup>52</sup> This followed the release of analysis by the Policy Advocacy Clinic at UC Berkeley Law School which found some counties had ***fee practices that violated federal and state laws by depriving families of due process of law and counties often make little revenue or even lose money due to the work it takes to obtain payment from parents and guardians.***<sup>53</sup>

## A Closer Look at Florida and the 4<sup>th</sup> Judicial Circuit

Florida has a reputation of administering “cash register justice” because of a heavy reliance on fees to fund courts in the adult system. ***Florida was the first state to privatize probation collection services and it is now a common practice across at least a dozen states.***<sup>54</sup>

Moreover, the private debt collection firms that collections are outsourced to in Florida can add a surcharge of up to 40% on unpaid court debt.<sup>55</sup> “The interest rate disproportionately impacts low-income persons, because those with the financial means to pay their LFOs [legal financial obligations] quickly can avoid interest accrual that exacerbates debt burdens and prolongs criminal justice involvement.”<sup>56</sup>

According to the State of Florida Office of Program Policy Analysis & Government Accountability (OPPAGA), “fines, fees, service charges, and court costs are important sources of revenue that help fund the state courts system.”<sup>57</sup> However, ***OPPAGA acknowledges that collection efforts are particularly ineffective in the juvenile division where defendants are much less likely to be able to pay, and has recommended that collections efforts be focused in other divisions.***<sup>58</sup>

Costs also have a negative impact on the parents of juveniles charged in the justice system and can themselves become implicated financially. The Duval County Clerk of Courts website asks parents to “keep in mind that a final judgment, or lien, is placed against the parents (or guardians) of all juveniles that owe court fees.”<sup>59</sup> If a driver’s license has been revoked, “court fees on all outstanding cases must be paid in full” in order to be reinstated.<sup>60</sup> In Florida, it costs \$45 to reinstate a suspended license and \$75 to reinstate a revoked license.<sup>61</sup> A first time offense of driving with a suspended or revoked license is considered a misdemeanor of the second degree, which is punishable by up to 60 days of imprisonment or \$500,<sup>62</sup> forcing families into difficult decisions and potentially further debt.

In August 2016, the New York Times published an article about Dequan Jackson, who was only thirteen when he was charged in Jacksonville with battery “for banging into a teacher while horsing around.” During his one year of probation, Dequan kept curfew, attended anger

management counseling, and worked 40 hours a week in a food bank. Despite this, the inability to pay the \$200 his family owed in “court and public defender fees” ended up extending his probation for “14 more months, until they pulled together the money at a time when they had trouble finding quarters for the laundromat.”<sup>63</sup>

## A Review of Florida Policy and Statutes

The state by state analysis of laws conducted by the Juvenile Law Center reveals that in some states, youth or families may be incarcerated for failure to pay. Other states establish that for youth who fail to pay, their probation can be revoked, they can be turned away from diversion programs, or they can be held in contempt of court. And in some states, including Florida the driver’s licenses of youth or parents can be revoked or suspended. Florida has statutes imposing restitution costs on youth, cost of care on parents and policies in place providing judicial determination to impose juvenile probation or supervision costs or fees on parents. All of these have implications for the youth and their families in Florida.

### **Florida Statute 938.27**

Persons found to be guilty of a law violations or have violated probation, regardless of whether adjudication is withheld, are liable for the payment of the cost of prosecution and investigation. Cost of prosecution and investigation shall be included in every judgment made against the “guilty” person regardless of the person’s present ability to pay. The court requires the cost to be paid within a specified period or pursuant to a payment plan (i.e., by the end of the period of probation or 5 years after the end of the imprisonment if probation is not ordered). If the court does not specify when cost should be paid, the cost must be paid immediately. Payment of these costs shall be a condition of probation and the court may revoke probation for failure of paying these costs. Court costs, fines, and fees shall be enforced by the order of the courts and collected by clerk of the circuit and county courts (*see Appendix A for descriptions of all fees and related statutes*). Juveniles who have their adjudication withheld are also required to pay fees towards the Crimes Compensation Trust Fund, which according to Florida Statute 938.03, shall not be waived by the court.

The clerk of courts must attempt to seek unpaid costs, fines, and fees through a collection court, collections docket, or other collections process that is established by the court. If the costs, fines, and fees remain unpaid after 90 days, the clerk of court shall refer the account to a private attorney or collection agent to collect the individual’s unpaid financial obligations.

### **Collection of Fees/Reporting**

On a quarterly basis, the clerks of court are mandated by Florida statute to report data on collections. The Florida Clerks of Court Operations Corporation (CCOC) sets performance standards to measure the clerks’ success in collecting revenue. Collections are then tracked each quarter to assess each clerks of courts performance for effectively collecting court costs, fines, fees, and service charges. According to the Florida CCOC, the clerks of court performance standard<sup>64</sup> goal for annual collection rate for juvenile delinquency is 9%.<sup>65</sup>

- In FY 2015-2016, Florida collected 16% of the court costs, fees, fines, and service charges were collected from the juvenile delinquency court division.<sup>66</sup>

- For FY 2011-2012, Florida's 4<sup>th</sup> Judicial Circuit latest data available revealed Clay and Nassau counties had higher collection rates (44% in Nassau, 42% in Clay) than Duval County (11%).<sup>67</sup>
- In 2015-2016 the total collectible amount and collections rate was combined for *both juvenile delinquency and dependency in Florida's 4<sup>th</sup> Judicial Circuit*. This represents an increase in collections; however, collection rates may be skewed because two systems (delinquency and dependency) were combined. Again, Clay and Nassau counties had higher collection rates (63% in Clay, 57% in Nassau) than Duval County (30%).<sup>68</sup>

#### Florida's 4<sup>th</sup> Judicial Circuit, 2011-2012<sup>69</sup>

- **Juvenile Delinquency Court:** Over \$500,000 was assessed in costs, fines, and fees. Approximately \$128,000 of the total collectible costs was collected (25%).
- **Circuit Criminal Court:** Over \$17 million was assessed in costs, fines, and fees. Approximately \$942,000 of the total collectible costs was collected (5%).
- **County Criminal Court:** Over \$7 million was assessed in costs, fines, and fees. Approximately \$2 million of the total collectible costs was collected (34%).

This analysis reveals that the amount collected in Florida's 4<sup>th</sup> Judicial Circuit Juvenile Court fees is miniscule in comparison to amounts collected in Circuit and County Criminal court. A cost benefit analysis is not able to be completed because local data to know the administrative costs for fee collection (e.g. administrative staffing, postage) is not publically available. It is possible that if administrative costs of collecting juvenile fees is more than \$128,000, the cost of fee collection is more than what can be recouped.

## A Review of Local Practices and Trends in the 4<sup>th</sup> Judicial Circuit

### **Summary of Fees**

According to The Duval County Clerk of Courts, juveniles are charged \$50 to apply for a public defender or court appointed counsel and \$25 for determination of indigent status. According to the Florida Department of Juvenile Justice, parents, and guardians can be charged up to \$5/day for cost of care of a young person who is confined or \$1/day for a young person on probation. It becomes the parent or guardian's responsibility to apply for a waiver if the fees will cause financial hardship (refer to Appendix A for full list of fees and Appendix B for the DJJ cost of care brochure).<sup>70</sup> Additionally, depending on the offense, a youth may be required to pay restitution

costs and the court may retain jurisdiction over a child until the restitution order is satisfied or until the court orders otherwise. For every payment made towards restitution, a clerk's processing fee is also accrued. Additional court fees often include fees for issuing each summon necessary, fees for verifying any instrument presented for certification prepared by someone other than a clerk (fee per page), and a fee for participating in teen court.

### ***Judges have discretion to waive costs for Juveniles***

In Duval County, costs totaling \$200 (prosecution, public defender, and crime compensation fee) and the dollar a day for cost of supervision and five dollars a day for commitment are generally imposed. However, judges often use their discretion when assessing costs and these fees are often waived for families and youth who cannot afford to pay the costs. In Duval County, some examples of when costs and fees have been waived by judges in delinquency cases include when parents are not employed full time or unemployed or when parents are not present in court with their children. Duval County juvenile judges have also used community service and writing of book reports as ways to waive the court costs, fines, and fees, however, not all judges waive fees.

In the Nassau County and Clay County the practice differs. In the Policy Center's experience of working with girls in Nassau County, the Policy Center has paid court costs, fines, and fees to get a girl off of probation because costs were the only requirement that she did not meet. However, in Nassau County, court costs, fines, and fees have also been waived through civil liens. In Clay County, some judges give girls judgements for court costs and supervision costs, even when they are in foster care.

Although many of the court costs, fines, and fees are legally mandatory by statute, it is unclear if in practice all of the costs are waived or if only the discretionary costs are waived. Ultimately, judges have discretion on whether the costs are waived, or if other alternatives are implemented.

***The number of youth assessed fees is not publically available, limiting an understanding of the number of families who are impacted and their average cost of fees. It is also unknown how many youth pay or do not pay fees.***

## Observation of Costs in Duval County

On November 9, 2017, in observation of adult criminal court, in Duval County, 16 women and men were on the court docket. One of the sixteen individuals was a juvenile who was transferred to adult court. Court costs and other fines and fees (e.g., public defender application and fee) were only stated after the individual entered a guilty plea. The court costs and fees were read to the individual as a part of their sentencing requirements. The court costs range from \$323.00 to \$618.00. For each of the cases where the individual who plead guilty was represented by a public defender, the judge stated that they have to pay \$150.00 for a public defender application and public defender fee in addition to paying court costs. One individual had to pay \$150.00 for a court appointed lien. One individual was ordered to pay a \$120.00 statutory fee. There were two individuals who were appointed a public defender to represent them because of an inability to afford private counsel. Court costs or public defender fees were not discussed when the judge appointed them. There was one individual who appeared before the judge for violation of probation for not paying their court costs (\$965.10) and their cost of supervision (\$960.00).

## Scope of Problem

Based on the exploratory review, the extent of levying court cost fees on youth in the 4<sup>th</sup> Judicial Circuit is not clear. With a new State Attorney for Florida's 4<sup>th</sup> Judicial Circuit, many administrative changes have taken place and along with it, changes in practice. There appear to be differences in practices in each county and even within each courtroom. The new Chief of Probation has also reported some changes. The issue of levying court fees does not appear to be a priority as it was in past at Juvenile Detention Alternative Initiative (JDAI) meetings. In 2014, based on data that is reported to the Office of Juvenile Justice and Delinquency Prevention (OJJDP), 38,251 youth were petitioned to juvenile court for delinquency and status offenses in Florida.<sup>71</sup> In Circuit 4, there were 2,638 youth petitioned to juvenile court for delinquency offenses: 2,071 youth in Duval County, 466 youth in Clay County, and 101 youth in Nassau County. Using numbers that are available and knowing that approximately \$500,000 in fees were imposed on youth in 2011-2012, our calculations suggest that the average cost of court fees is about \$190 per youth.

The research shows that court fees disproportionately impact youth in poverty and youth of color. With the framework and calculations used by the Berkeley Law Clinic, the Policy Center extrapolated current research about costs based on the average length of stay for youth on probation. In 2013-2014, Black youth were three times more likely than White youth to be placed on probation in Duval County.<sup>72</sup> Black youth stay on probation an average of 46 days longer than White youth in Duval County. Using this research, the financial impact on Black youth in the Duval County juvenile justice system:

- When considering the cost of supervision for youth on probation (\$1/day), and based on the average length of stay on probation by race/ethnicity, the cost is higher for Black youth (\$417) than White youth (\$371).
- When looking at the data by gender and race, the 2013-2014 data reveals that *Black girls in Duval County stayed on probation the longest on average*: 133 days longer than White girls and 90 days longer than White boys, 73 days longer than Black boys, 38 days longer than Hispanic girls and 98 days longer than Hispanic boys. That is, Black girls have the highest cost (\$472 for Black girls; \$339 for White Girls and \$399 for Black boys).

The costs to youth and their families are exacerbated when court costs, fines, and fees are imposed in addition to their cost of supervision.

## Issues Identified for Reform

### ***Lack of data***

We have learned that there is no systematic collection of aggregate data. Data about the number of youth who have received court fees for juvenile justice system involvement is not available through Clerk of Courts, State Attorney's Office, Public Defender's Office, or through Juvenile Probation. We do not know who has to pay or how much they pay on average, and we do not know the percentage of youth who do not pay.

## **Waivers**

We do not know how many waivers are issued and there appears to be inconsistencies in what mandatory and discretionary fees get waived or reduced. It is not clear who requests the waiver and who has the final authority. It appears that parents, public defenders, and probation officers can request a waiver of fees. Correspondence from Donna Webb, Circuit Probation Chief, noted that two years ago, she met with all three judges and they agreed to hear probation officer arguments at judicial reviews. That intervention resulted in the closure of probation cases for many youths who were still on probation for misdemeanor offenses for not paying court costs. Although without official figures/numbers available from the Florida Department of Juvenile Justice (DJJ), Webb reported that probation caseloads shifted from 70 youth to 40 per caseload.<sup>73</sup>

## **Policy regarding collection of fees**

The expectation is that 9% of court fees will be collected from the juvenile court jurisdiction. The amount of fees that are collected now are combined with court fees from dependency court. The collection rates –although different by county suggest there is no real system or practice in place to collect fees. While the literature on impact on youth and families who do not pay is astounding, it is not clear what the impact on youth and families who do not pay is locally.

## **Recommendations**

### **1. Monitor Court Fees and Run Cost Benefit Analyses**

In order to better understand the consequences of costly practices like juvenile administrative fees, the state of Florida and each county should collect and maintain better data on youth who are imposed fees by the system.<sup>74</sup> With better data, we can assess the fiscal benefit of court fees and to what extent they advance or set back rehabilitative and public safety goals of the system.<sup>75</sup> Locally, we can apply the cost benefit model developed by Washington State Institute for Public Policy (WSIPP) that monitors the benefit of every intervention put into place. For each of the juvenile justice programs assessed, the model displays comprehensive benefit-cost results in five parts:

- “Benefit Cost-Summary Statistics per Participant,” the model displays present value life cycles and costs by calculating total benefits (taxpayer and non-taxpayer benefits), total net program costs, benefits minus costs (net present value), benefit to cost ratio, and the chance that the benefits will exceed the costs.
- “Detailed Monetary Benefit Estimates per Participant,” the model factors in benefits from changes to: crime, labor market earnings associated with high school graduation, health care associated with educational attainment, costs of higher education, and adjustment for the deadweight cost of the program. It also calculates the monetary benefits of these changes to taxpayers, participants, others (non-taxpayers and non-participants), and indirect benefits.
- “Detailed Annual Cost Estimates per Participant,” the model calculates estimates of the costs to implement programs in Washington.

- “Estimated Cumulative Net Benefits over Time,” the model presents a graph illustrating the cumulative net benefits per participant for the first fifty years beyond initial investment in the program.
- “Meta-Analysis of Program Effects” section, the model combines results from separate studies on a program, policy, or topic to estimate its effect on an outcome, systematically evaluating all credible evaluations that can be located on each topic (where the outcomes measured are the types of program impacts that were measured in the research literature, such as crime or educational attainment).<sup>76</sup>

## **2. Conduct More Research**

More research is needed to understand the actual impact and types of penalties on youth and families for their failure to pay. We recommend the following data points be formally requested through the Florida Department of Juvenile Justice:

- List of summary judgements against youth by gender and race/ethnicity in aggregate form detailing whether fees are waived, the amount of fees imposed, and outcomes regarding payment.
- De-identified list of youth who still have outstanding court fees or who have recently been imposed court fees. Questions to answer include: Are there any egregious cases impacting youth who must stay on probation longer? For how many days longer? Are collection agency fees imposed?
- Aggregate summary of youth required to pay restitution costs and average amount. Length of time court retains jurisdiction over the youth until the restitution order is satisfied or until the court orders otherwise.

Further, we recommend qualitative research to understand policy impact through the experiences of youth and families involved. Additionally, as part of the next layer of research, we recommend including key stakeholders (probation officers, judges, Public Defender, State Attorney). These can be documented through a series of listening sessions or individual interviews.

### *Suggested Questions for Youth and Families*

- What types of fees did you have to pay, how much were the fees? How much debt was incurred?
- How were these fees explained? What/When did you know about fees? What were the processes for paying?
- What were some consequences of not paying? (e.g., youth or parents had a driver’s license suspended or revoked or were prevented from obtaining a license; youth were deprived of treatment; youth or parents were held in contempt; and youth faced arrest warrants?)
- What examples would you like to share with the community about your experiences with the system as related to court cost fees?
- What are some recommendations for improving the juvenile justice system process as related to fees?

### *Interviews/Listening Sessions with Stakeholders Guiding Questions*

- What types of court fees exist? What are the average amounts of fees for juveniles charged with an offense who is handled judicially through the juvenile court? Are there differences when youth are adjudicated delinquent? Are the fees on the books applied in practice (e.g. public defender costs)? Are there additional fees that are not “on the books?” What are some of the exceptions/waivers to fees in practice?
- What percentage of youth/families pay their fees?
- Are there any shifts in practice that have impacted the imposition of fees on youth? In what ways are these helpful? In what ways do they pose additional challenges?
- What happens when youth/families cannot pay? Or choose not to pay? What are some consequences of not paying (e.g., youth or parents had a driver’s license suspended or revoked or were prevented from obtaining a license; youth were deprived of treatment; youth or parents were held in contempt; youth faced arrest warrants) How often does this happen?
- When do the collection agencies start to get involved? Any egregious examples (collection companies)?
- What do you want the community to know as related to court cost fees and the justice system?
- What are your recommendations for improving policy and/or practice in our community?



## Appendix A: List of Fees and Related Statutes

Table 1. General Court Costs, Fines, Fees, and Service Charges Description	Juvenile Fees	Adult Fees
<b>Court Costs</b>		
Cost of Prosecution and Investigation	\$50 or \$100	\$50 or \$100
Crimes Compensation Trust Fund	\$50	\$50
Crime Prevention Fund	\$20 or \$50	\$20 or \$50
Application Fee for determination of indigent status	\$50	\$50
Public Defender or Court Appointed Counsel application fee	\$50	\$50
Attorney's fees and cost for indigent youth	No less than \$50 or \$100	No less than \$50 or \$100
Crime Stoppers	\$20	\$20
Local Government Criminal Justice Trust	-	(varies)
Crimes against Minors	\$151	\$151
Additional Court Costs and Surcharges	\$65	\$65
<b>Fees</b>		
Issuing a summons	\$10 per summons	\$10 per summons
Restitution payments	(varies)	(varies)
Clerk's processing fee for each restitution payment	\$3.50	\$3.50
Cost of Supervision	\$1 per day	(varies)
Cost of Care	\$5 per day	(varies)
Teen Court	\$3	\$3
<b>Fines</b>		
Fine-First Degree Misdemeanor	Not to exceed \$1,000	Not to exceed \$1,000
Fine- Second Degree Misdemeanor	Not to exceed \$500	Not to exceed \$500
Fine-First Degree Felony	Not to exceed \$10,000	Not to exceed \$10,000
Fine- Second Degree Felony	Not to exceed \$10,000	Not to exceed \$10,000
Fine- Third Degree Felony	Not to exceed \$5,000	Not to exceed \$5,000
Fine- Life Felony	-	Not to exceed \$15,000

### **Judgment for Cost of Prosecution and Investigation (Florida Statute 938.27)**

The costs recovered for the cost of prosecution on behalf of the State Attorney is deposited into the State Attorneys Revenue Trust Fund. The investigative costs recovered on behalf of a state agency is remitted to the Department of Revenue for deposit in the agency operating trust fund. The investigative costs recovered on behalf of the Department of Law Enforcement is deposited in the department's Forfeiture and Investigative Support Trust Fund.

- Cost of prosecution and investigation in misdemeanor cases **\$50.00**
- Cost of prosecution and investigation in felony cases **\$100.00**

\*If there is sufficient proof of higher cost incurred, the court may set a higher cost for prosecution.

### **Crimes Compensation Trust Fund (Florida Statute 938.03)**

Individuals who are convicted of or adjudicated of a delinquent act, misdemeanor, or felony offense shall be assessed cost to be deposited in the Crimes Compensation Trust Fund. This cost shall also be assessed for individuals who have adjudication withheld and for defendants that pleads nolo contendere. The court shall not waive this cost.

- Crimes Compensation Trust Fund Cost **\$50.00**

### **Crime Prevention Fund (Florida Statute 775.083)**

In each case where an individual who is convicted of or is adjudicated delinquent for a felony, misdemeanor, or violation of any municipal or county ordinance if the violation constitutes a misdemeanor under state law, court costs shall be assessed and collected to be deposited in the county's prevention fund. This costs shall also be assessed for defendants that pleads nolo contendere.

- Crime Prevention Fine for Felony offenses **\$50.00**
- Crime Prevention Fine for Non-felony offenses **\$20.00**

### **Determination of Indigent Status (Florida Statute 27.52)**

In order for an individual to have a public defender appointed to them, their parents or legal guardian must apply for a determination of indigent status through the clerk of court. There is an application fee to determine indigent status. The application fee shall be paid within seven days after submitting the application. If the fee is not paid after seven days, the court shall make the application fees as part of the sentence or as a condition of probation. Majority of the application fee for determination of indigent status is deposited into the Indigent Criminal Defense Trust Fund administered by the Justice Administrative Commission and the clerk retains two percent of the application fees.

- Determination of Indigent Status Application Fee **\$50.00**

### **Application Fee for Court Appointed Counsel (Florida Statute 27.52)**

For each application for court appointed counsel filed, an application fee shall be paid to the clerk of court. The application fee shall be paid within seven days after submitting the application. If the fee is not paid after seven days, the court shall make the application fees as part of the sentence or as a condition of probation. All application fees collected by the clerk

shall be remitted to the Department of Revenue for deposit into the Indigent Criminal Defense Trust Fund administered by the Justice Administrative Commission and the clerk retains two percent of the application fees

- Application Fee for Court Appointed Counsel **\$50.00**

#### **Public Defender Attorney Fee (Florida Statutes 938.29)**

The court shall appoint a public defender to represent indigent youth because of the parent's inability to pay. Individuals guilty of a delinquent act or violation of probation who receives assistance from the public defender's office shall be liable for payment for an application fee and attorney's fees and costs. The fees and costs are assessed regardless of whether adjudication is withheld. In delinquency cases, the public defender attorney's fees and costs shall be imposed by the court despite the parent's ability to pay. The attorney's fees and costs shall be set in all misdemeanor and felony cases, which includes proceedings where the underlying offense is a violation of probation. All funds collected shall be remitted to the Department of Revenue for deposit into the Indigent Criminal Defense Trust Fund administered by the Justice Administrative Commission. Attorney's fees and costs shall be paid in full or in installments at the time specified by the court. The court can order the attorney's fees and costs to be paid as a condition of probation, of suspension of sentence, or of withholding the imposition of sentence.

- Per case for misdemeanor offenses **no less than \$50.00**
- Per case for felony offenses **no less than \$100.00**

\*A higher amount can be set by the court if there is sufficient proof that higher fees or costs incurred.

#### **Crime Stoppers (Florida Statute 938.06)**

The court shall assess court costs for crime stoppers programs against any individual who is convicted of any criminal offense regardless of whether adjudication is withheld.

- Crime Stoppers \$20.00

#### **Local Government Criminal Justice Trust (Florida Statute 938.05)**

Individuals who are found guilty or pleads nolo contendere to a misdemeanor, criminal traffic offense, or felony shall pay additional court costs. The costs collected by the clerk of court shall be deposited in the fine and forfeiture fund.

- Felonies **\$225.00**
- Misdemeanors **\$60.00**
- Criminal traffic offenses **\$60.00**

#### **Additional Court Cost and Surcharges (Florida Statute 939.185)**

Individuals who are convicted of or adjudicated of a delinquent act, misdemeanor, or felony offense may be assessed an additional court cost. This cost shall also be assessed for defendants that pleads nolo contendere. The funds collected from the additional court cost is split in four ways: 25% is allocated to fund innovations (as determined by the chief judge of the

circuit) to supplement state funding for the elements of the state court systems and county funding for court-related functions, 25% is allocated to assist counties in providing legal aid programs, 25% is allocated to fund personnel and legal materials for the public as part of a law library, and 25% is used as determined by the board of county commissioners to support teen court programs, juvenile assessment centers, and other juvenile alternative programs. The clerk shall defer payment of this costs if the youth is determined to be indigent.

The court may impose by ordinance a surcharge to a youth who is adjudicated of a delinquent act, misdemeanor, or felony offense. The funds from the surcharge shall be remitted to a unit of the local government to replace fine revenue deposited into the clerk's fine and forfeiture fund.

- Additional Court Costs and Surcharges **not to exceed \$65.00**

#### **Issuing a Summons (Florida Statute 28.241)**

The clerk of court shall collect a service charge of \$10 for issuing an original a summons (original, electronic, or certified copy) against the individual that is seeking to have the summons issued.

- Issuing a Summons \$10.00

#### **Restitution for Juveniles (Florida Statute 985.437)**

Restitution may be ordered by the court for adjudicated delinquent youth who are under the jurisdiction of the court. The court's order of restitution shall be implemented by the Florida Department of Juvenile Justice (FL DJJ) as part of the probation program. If the youth is committed to a residential program, the restitution order should be implemented before they are released from commitment. The court may order the child to make restitution in various ways: money, through a promissory note cosigned by the youth and their parent or legal guardian, or in kind for the damage or loss caused by the youth's offense. When restitution is ordered by the court, the amount of restitution must be reasonable and may not exceed an amount that the youth and parent or legal guardian could be expected to pay.

The clerk of the circuit court is responsible for receiving and dispensing restitution payments. Thus, the court shall order the youth or their parent or legal guardian to pay the officer of the clerk an amount that does not exceed the cost that is incurred by the clerk as a result of receiving and dispensing restitution payments. If the court is able to determine through a hearing that the parent or legal guardian has made diligent efforts to prevent the child from engaging in delinquent acts, the parent or legal guardian can be free from the liability of restitution. Jurisdiction may be retained over the youth and the youth's parent or legal guardian until the restitution order is satisfied or until the court orders otherwise.

- Duval County Clerk of Courts Processing Fee for Each Restitution Payment **\$3.50**

#### **Cost of Supervision and Cost of Care for Juveniles (Florida Statute 985.039)**

For youth who are placed into nonsecure detention, probation, conditional release, post-commitment probation, or nonresidential commitment, the court shall order the parent or legal guardian to pay the Florida Department of Juvenile Justice (FL DJJ) a fee for the cost of supervision. The fee for cost of supervision is per day for each day the youth is under

supervision. For youth who are placed into secure detention or placed on committed status and the temporary legal custody of the youth is under FL DJJ, the court shall order the parent or legal guardian to pay FL DJJ a fee for the cost of care. The fee for cost of care is per day that the youth is in the temporary legal custody of FL DJJ.

If the court finds that the youth's parent or legal guardian to be indigent or that the payment of these fees will create a significant financial hardship, the court shall waive the fee or reduce it to an amount that is deemed appropriate. If the parent is the victim of the delinquent act or violation of law, the court may reduce or waive the fee for the costs of supervision or care for the parent as long as the parent is cooperating with the investigation for the offense. Payment of these fees shall be ordered by the court as part of the detention or disposition order. For youth who turn 18 years old prior to the detention or disposition hearing, the court may order the youth, rather than the parent, to pay the fees. For youth who turn 18 years old while under the supervision or care of FL DJJ, the court may hold a hearing to determine if any party should be further obligated to pay fees for cost of supervision or care.

- Cost of Supervision **\$1.00 per day**
- Cost of Care **\$5.00 per day**

#### **Alternatives to Monetary Payment of Court Costs, Fines, and Fees**

According to Florida Statute 938.30, the judge may order community service as an alternative to paying court costs for individuals who have the inability to pay their financial obligations. Florida Statute 938.29 allows for a lien upon property (real and personal) for any individual or the parent of a youth who has received assistance from a public defender to provide due process services after being found indigent for costs. A claim of lien is the legal claim to property as security against any amount of money or service owed to another person or entity.

## Appendix B: - How to make a Cost of Care Payment (from DJJ website)

Under Florida law (F.S. 985), parents, guardians, and non-custodial parents may be charged for the supervision, care, support, and maintenance of their child in secure detention, home detention, probation supervision, residential commitment, conditional release, and post-commitment probation. Please review the Cost of Care documents below for further information, and direct all questions to your child's Juvenile Probation Officer.

- [Cost of Care Brochure](#)
- [Cost of Care Poster](#)

A bill will be sent each month indicating the amount charged, the dates the child was admitted to and released from the program, or was under supervision, and the total unpaid balance due. The amount due is payable upon receipt of the bill. Additionally, all payments will require the use of your Cost of Care Account Number and DJJID Number. Account balances are only updated on the 1st of every month, if you have any questions about your account please contact us at 1-888-335-3201

### Cost of Care Payment Options

Make a payment by check or money order payable to:

Department of Juvenile Justice  
Bureau of Finance and Accounting  
Cost of Care Recovery Unit  
2737 Centerview Drive  
Tallahassee, FL 32399-3100

1. Make a one-time payment online using the [Remote Payments Online / One Time Payment Option](#) which will allow you to use the following forms of payment. (Please note there is a \$2.00 fee per transaction for this service.):
  - Visa
  - MasterCard
  - Debit Card (with Visa or MasterCard logo)
  - Checking/Savings Account (bank routing and account number required)
2. Create a payment account online using the [Remote Payments Online / Enrolled Payment System](#). This is the same as option 2 but the system will store your information and make it easier for you to make monthly payments or even set up a reoccurring payment. (Please note there is a \$2.00 fee per transaction for this service.)
3. Make a payment over the phone by calling us at 1-844-722-6249 (toll free). The system will allow you to use the following forms of payment (Please note there is a \$2.00 fee per transaction for this service.):
  - Visa
  - MasterCard
  - Debit Card (with Visa or MasterCard logo)
  - Checking/Savings Account (bank routing and account number required)

## Appendix C: State Initiatives

**Maine** Maine Code allows for the following alternatives in dispositional orders when a juvenile is adjudicated:

“A. The court may allow the juvenile to remain in the legal custody of his parents or a guardian under such conditions as the court may impose. Conditions may include participation by the juvenile, his parents or legal guardian in treatment services aimed at the rehabilitation of the juvenile and improvement of the home environment. [1987, c. 400, §2 (AMD).]

B. The court may require a juvenile to participate in a supervised work or service program. Such a program may provide restitution to the victim by requiring the juvenile to work or provide a service for the victim, or to make monetary restitution to the victim from money earned from such a program. Such a supervised work or service program may be required as a condition of probation if:

- (1) The juvenile is not deprived of the schooling that is appropriate to the juvenile's age, needs and specific rehabilitative goals;
- (2) The supervised work program is of a constructive nature designed to promote rehabilitation and is appropriate to the age level and physical ability of the juvenile; and
- (3) The supervised work program assignment is made for a period of time not exceeding 180 days.”<sup>77</sup>

**Nevada** In Nevada, youth are allowed to keep some portion of their earnings from work programs that serve as alternatives to payments.<sup>78</sup>

**New York** In New York, “[r]estitution is capped at a reasonable amount tied to the youth’s ability to pay, balancing the need to make the victim whole with the potential lasting burdens on youth and families in poverty.”<sup>79</sup>

**Ohio** In Ohio, youth may participate in community service in lieu of paying a fine which may ameliorate the harsh consequences of imposing fines in the juvenile justice system.<sup>80</sup>

“If a child who is adjudicated a delinquent child is indigent, the court shall consider imposing a term of community service under division (A) of section [2152.19](#) of the Revised Code in lieu of imposing a financial sanction under this section. If a child who is adjudicated a delinquent child is not indigent, the court may impose a term of community service under that division in lieu of, or in addition to, imposing a financial sanction under this section. The court may order community service for an act that if committed by an adult would be a minor misdemeanor. If a child fails to pay a financial sanction imposed under this section, the court may impose a term of community service in lieu of the sanction.”<sup>81</sup>

In Ohio, private debt collectors use letterhead from the attorney general's office when they send demand letters arising from debt owed to the state.<sup>82</sup> This action blurs the lines between the state and a private debt collection company. California and New Jersey allow private vendors to help bring in outstanding fines by contracting with traditional debt-collection agencies, often the same firms that collect on credit card or health care debt. The companies often tack additional one-time or monthly service fees onto debtors' bills.<sup>83</sup>

**Oklahoma** The Oklahoma code ensures youth cannot be denied access to certain programs or services because of an inability to pay costs or fees.<sup>84</sup>

"A juvenile shall not be denied admittance to any juvenile drug court program based upon the inability of the juvenile and the person responsible for the health or welfare of the juvenile, as defined in Section 2-1-103 of this title, to pay court costs or other costs or fees."<sup>85</sup>

**Pennsylvania** In Allegheny County, youth under the age of 14 who are not permitted legal employment have the opportunity to go above and beyond the amount of community service required to earn money to help pay their restitution.<sup>86</sup> In addition, employment services and vocational skills training are available for juveniles as important mechanisms for facilitating debt repayment and to assist them in developing requisite job skills to improve their chances of successful reintegration.<sup>87</sup>

The city of Philadelphia also announced in March 2017 that it will immediately cease its practice of billing parents for the cost of their children's incarceration mere hours after a front-page Marshall Project story in *The Washington Post* highlighted the practice in the city and across the nation.<sup>88</sup>

**Washington** The Washington State legislature's passage of the Year Act eliminated juvenile diversion fees, juvenile court costs and appellate costs, collection fees for juvenile financial obligations, adjudication fees, and certain fines. It also permits youth to petition the court for legal financial obligation relief or modification, directing the court to instead consider other factors (such as ability to pay, other debts, and restitution owed). The Act also gives judicial discretion regarding consideration of a youth's ability to pay restitution and "allows youth to have juvenile records sealed if they have made a good faith opportunity to pay restitution."<sup>89</sup>



## Appendix D: State of National Conversations & Advocacy Efforts

Moving forward, special focus is needed on research and advocacy that assesses the extent to which court costs exacerbate disparities, increase recidivism, and potentially hinder reintegration into society. The research that does exist has led to more discussion about the issue in mainstream media. For example, NPR has run a series entitled *Guilty and Charged*, which profiles the impact of court fees, particularly on the poor.<sup>90</sup>

The Juvenile Law Center's report has been referenced in major news outlets including *The New Yorker*,<sup>91</sup> *The New York Times*,<sup>92</sup> and the *Huffington Post*.<sup>93</sup> The Juvenile Law Center has been spearheading activism specific to the juvenile system. According to their website, they met with both the Department of Justice and the White House to share the findings of their report and presented at a Capitol Hill briefing.<sup>94</sup>

The Southern Poverty Law Center itself focuses mainly on maltreatment within the system, but they have taken on work related to the unconstitutionality of incarcerating individuals for poverty. For example, they filed a case in 2016 against Judge Robert J Black, who "operated a modern-day debtors' prison by illegally jailing indigent people unable to pay fines or court costs."<sup>95</sup>

The American Civil Liberties Union, focuses its juvenile justice work on youth incarceration and the school-to-prison pipeline, but they and their affiliates have also filed lawsuits/launched campaigns pushing back against debtors' prisons in states such as Michigan, Mississippi, Ohio, Washington, Colorado, New Hampshire, Georgia, and Louisiana. According to the ACLU, this work began in 2009.<sup>96</sup> The ACLU has also published a report about the prevalence of debtors' prisons within the adult justice system.<sup>97</sup>

The Vera Institute of Justice announced a new initiative in 2016 that set out to "examine the full costs of a justice system which relies heavily on revenue from defendants and their families, and provide recommendations for an alternative funding structure to decrease the human and financial toll created by this system."<sup>98</sup> The Vera Institute published their full report, "Past Due: Examining the Costs and Consequences of Charging for Justice in New Orleans" in January 2017, and also highlighted the core issues that costs don't always take into account a defendant's ability to pay, that poor defendants can get funneled deeper into the system and end up incarcerated, and that this system ultimately costs the city more than it would have gained in fees. The cost-benefit analysis also revealed that criminal justice fees funded a tiny fraction—just four percent of the overall cost to run the criminal justice system in New Orleans.<sup>99</sup>

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