

DEBTORS' PRISON FOR KIDS?

Toolkit for Eliminating Costs, Fines, and Fees in the Juvenile Justice System

OVERVIEW

Approximately one million youth appear in juvenile court each year. In every state, youth and families face juvenile justice costs, fees, fines, or restitution. Youth who can't afford to pay for their freedom often face serious consequences, including incarceration, extended probation, or denial of treatment—they are unfairly penalized for being poor and pulled deeper into the justice system.

Many families either go into debt trying to pay these costs or must choose between paying for basic necessities, like groceries, and paying court costs and fees. Research shows that costs and fees increase recidivism and exacerbate economic and racial disparities in the juvenile justice system.

This toolkit provides basic resources for state advocates working on these issues, including:

- ✓ **Policy recommendations on costs, fines, and fees;**
- ✓ **Policy recommendations on restitution;**
- ✓ **Talking points** for use with policy makers or the press;
- ✓ **A resource list**, including examples of successful alternatives.

RECOMMENDATIONS FOR DEVELOPMENTALLY APPROPRIATE POLICIES ON COSTS, FINES, AND FEES FOR YOUTH

Youth are not required to pay for:

- probation
- supervision
- diversion
- evaluation
- court costs
- cost of medical care not covered by parent's insurance
- fines

If such costs are imposed, policies make clear that:

- ✓ **Fees are discretionary, not mandatory.**
- ✓ **The judge considers a youth's eligibility to pay, and:**
 - the court has clear guidelines for financial eligibility
 - youth and parents have the right to counsel and due process in the financial eligibility determination
- ✓ **Failure to pay does not lead to:**
 - a formal petition being filed in the juvenile justice system
 - a violation of the terms of probation or of an informal adjustment or consent decree
 - out-of-home placement or extended time in out-of-home placement
 - a denial of treatment
 - a denial of program participation
- ✓ **Fee amounts are capped** at amount that a teenager can reasonably be expected to pay while still under juvenile court jurisdiction.
- ✓ **Youth are permitted to pay fees either through community service or through employment**, with probation assisting in finding the service or employment opportunities, and ensuring that the employment or service supports the child's best interest.
- ✓ **Data is collected to track:**
 - impact of costs and fees on recidivism
 - racial disparities in application of costs and fees
 - fiscal impact of costs and fees
 - impact on youth and families of costs and fees
- ✓ **Costs and fees are prohibited if they have a racially disparate impact or increase recidivism.**

RECOMMENDATIONS FOR DEVELOPMENTALLY APPROPRIATE POLICIES ON RESTITUTION FOR YOUTH

- ✓ **Restitution is imposed only when payments will be made to the victim.** Restitution should not be used to pay into a general fund or to pay insurance companies.
- ✓ **Restitution is determined at a judicial hearing with all parties present.** All parties, including parents if they are financially liable, should be represented by counsel.
- ✓ **Restitution is imposed on parents only for a specific role in the delinquent act** with a hearing and due process for that determination, and child is not penalized for parent's failure to pay.
- ✓ **Work programs are available as an alternative to payment and:**
 - don't interfere with a child's education
 - are time limited
 - are developmentally appropriate
 - teach skills
 - allow youth to keep some portion of their earnings
 - pay at least minimum wage
- ✓ **Probation assists youth in finding a job,** as an alternative to a work program, and the youth may retain some portion of his or her wages.
- ✓ **Restitution offsets any civil liability** so that youth or parents are not required to double.
- ✓ **Failure to pay restitution does not lead to deeper juvenile justice involvement,** including automatic probation revocation or incarceration.
- ✓ **Restitution 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 of financial obligations on youth and families in poverty.
- ✓ **Restitution has reasonable time limits** in keeping with the rehabilitative goals of the juvenile justice system.
- ✓ **Data is collected to track:**
 - impact of costs and fees on recidivism
 - racial disparities in application of costs and fees
 - fiscal impact of costs and fees on government budget
 - impact on youth and families of costs and fees

RESOURCE LIST

Juvenile Justice System Resources:

- Juvenile Law Center Debtors' Prison Website (<http://www.jlc.org/DebtorsPrisonforKids>) provides national overviews, laws of each state, survey results, and Juvenile Law Center publications (listed below).
- *Debtors Prison for Kids? The High Cost of Fines and Fees in the Juvenile Justice System* – Executive Summary, Feierman et al., Juvenile Law Center, 2016 (<http://debtorsprison.jlc.org/documents/JLC-Debtors-Prison-executive-summary.pdf>)
- *Debtors Prison for Kids? The High Cost of Fines and Fees in the Juvenile Justice System*, Feierman et al., Juvenile Law Center, 2016 (<http://debtorsprison.jlc.org/documents/JLC-Debtors-Prison.pdf>)
- *Justice System Imposed Financial Penalties Increase the Likelihood of Recidivism in a Sample of Adolescent Offenders*, Piquero & Jennings, 2016. (<http://debtorsprison.jlc.org/documents/JLC-Debtors-Prison-criminology-study.pdf>)
- *High Pain, No Gain: How Juvenile Administrative Fees*, Selbin and Campos, 2016 (http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2738710).
- "Double-Charged: The True Cost of Juvenile Justice," *Youth Radio*, 2014 (<https://youthradio.org/journalism/juvenile-justice/double-charged/>).

Key Resources on Criminal Court Debt:

- U.S. Department of Justice "Dear Colleague" Letter on Law Enforcement Fees and Fines (March 14, 2016), (http://www.acgov.org/board/bos_calendar/documents/DocsAgendaReg_06_28_16/GENERAL%20ADMINISTRATION/Regular%20Calendar/CAO_Auditor_Probation_PUBHLTH_236281.pdf).
- Council of Economic Advisers Issue Brief, *Fines, Fees, and Bail: Payments in the Criminal Justice System that Disproportionately Impact the Poor*, December, 2015 (https://www.whitehouse.gov/sites/default/files/page/files/1215_cea_fine_fee_bail_issue_brief.pdf).
- *Confronting Criminal Justice Debt: A Guide for Policy Reform*, Harvard Criminal Justice Policy Project, 2016 (<http://cjpp.law.harvard.edu/publications/confrontingcjdebt>).
- *A Pound of Flesh: Monetary Sanctions as Punishment for the Poor*, Alexes Harris, 2016 (American Sociological Association).

SUCCESSFUL REFORM EXAMPLES

Alameda County, California Repeals Juvenile Costs:

- Recommendations to Board of Supervisors and ordinance repealing court costs, (http://www.acgov.org/board/bos_calendar/documents/DocsAgendaReg_06_28_16/GENERAL%20ADMINISTRATION/Regular%20Calendar/CAO_Auditor_Probation_PUBHLTH_236281.pdf).
- Proposed resolution and Information to Board of Supervisors Urging the Moratorium (March, 2016), (http://www.acgov.org/board/bos_calendar/documents/DocsAgendaReg_03_29_16/PUBLIC%20PROTECTION/Regular%20Calendar/Supervisor%20Valle_Supervisor%20Carson_229888.pdf).
- Press release of East Bay Community Law Center for repeal of costs (July, 2016), (<http://ebclc.org/in-the-news/ac-first-in-state-to-repeal-juv-fees/>).
- Press release of East Bay Community Law Center for moratorium on costs (April, 2016), (<http://ebclc.org/in-the-news/alameda-county-halts-juvenile-probation-fees/>).

Washington State Legislation Eliminates Multiple Juvenile Costs:

- Press release of Columbia Legal Services on Governor’s Signing the YEAR Act (2015), (<http://www.columbialegal.org/sites/default/files/YEAR-Act-2015.pdf>).
- YEAR Act, SB 5564 – 2015-16, (<http://apps.leg.wa.gov/billinfo/summary.aspx?bill=5564&year=2015>).

TALKING POINTS

Juvenile court costs, fines, and fees:

- **Are widespread.** Almost every state law permits multiple costs, fines, and fees to be imposed on youth. Every state relies on restitution as an integral part of their juvenile justice system.
- **Lead to harsh consequences.** Survey respondents in 41 states indicated that costs led to serious problems for youth and families, including youth being incarcerated instead of remaining at home, in school, and in their community; families going into debt; and civil judgments that followed young people into adulthood.
- **Make communities less safe.** Criminology research shows that costs and fees actually increase recidivism, even when controlling for other factors.
- **Exacerbate racial disparities.** There is a clear link between costs, fines, and fees, and racial disparities in the juvenile justice system. In a sample of over 1,000 youth, research showed that having unpaid costs after case closing led to higher recidivism, and that youth of color were 68% more likely to have unpaid costs than their white peers. The problem of racial equity in the juvenile justice system is complex and persistent – this research gives us at least one concrete policy solution that can make a difference.
- **Hurt poor families.** Across the country, parents are choosing between basic necessities like groceries and court fees. Costs and fees are pulling families in need deeper into poverty.
- **Create a system of justice by income.** Youth in poverty are more likely to face separation from their families, incarceration, and harsh conditions like solitary confinement and strip searches, while youth who can remain at home with their families, and gain access to community-based services and treatment.

It’s absurd to think that children can pay into the system. In almost every state, these costs are imposed on kids too young to work, too young to enter into contracts, and of compulsory school age. It just doesn’t make sense to ask kids to pay into the court or justice system.

Even a single fee imposed on a young person can be devastating. A 13-year-old in Arkansas spent three months incarcerated because he couldn’t pay a fine for skipping school. A teenager in Pennsylvania faced an additional year of probation just because she couldn’t pay her probation fee.

Alternatives work. Across the country, juvenile justice systems use thoughtful and innovative approaches to hold youth accountable without relying on financial obligations.

Costs are ineffective revenue sources. Alameda County California recently repealed court costs after finding the fiscal benefit of the costs to the county was negligible.

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