



LAWYERS' COMMITTEE FOR  
**CIVIL RIGHTS**  
U N D E R L A W



## **TOO POOR TO PAY: ARKANSAS FINES & FEES TOOLKIT**

# ABOUT THE LAWYERS' COMMITTEE



The Lawyers' Committee for Civil Rights Under Law (Lawyers' Committee), a nonpartisan, nonprofit organization, was formed in 1963 at the request of President John F. Kennedy to involve the private bar in providing legal services to combat racial discrimination. Now in its 56<sup>th</sup> year, the Lawyers' Committee is continuing its quest to "Move America Toward Justice." The principal mission of the Lawyers' Committee is to secure, through the rule of law, equal justice for all, particularly in the areas of criminal justice, fair housing and community development, economic justice, educational opportunities, and voting rights.

The Lawyers' Committee established its Criminal Justice Project to address racial disparities within the criminal justice system that contribute to mass incarceration. This work includes challenging laws and policies that unfairly burden African American communities, including the unconstitutional jailing of poor defendants solely because they are unable to pay criminal justice debt that results from court-imposed fines, fees, and costs. Our work also concentrates on improving pretrial justice, including ending practices that rely on "money bail" and make a person's access to freedom dependent upon their ability to pay, and promoting programs and policies that ensure equality and fairness in policing and court operations. The Lawyers' Committee uses litigation, advocacy and public education to help achieve a more just and equitable criminal justice system.

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# INTRODUCTION

In March 2019, the Criminal Justice Project of the Lawyers' Committee for Civil Rights Under Law produced its report, "Too Poor to Pay: How Arkansas's Offender-Funded Justice System Fuels Mass Incarceration." The Report made several major findings, including:

- The Arkansas Fines Collection Law governs the assessment and collection of all monetary fines imposed by courts for criminal, civil, or traffic violations. It requires consideration of an individual's ability to pay prior to incarceration for nonpayment of fines and fees, but it does not enumerate types of information to be considered by judges when making an ability to pay determination.
- Many judges proceed directly to the penalties prescribed by the Arkansas Fines Collection Law, without first conducting the ability to pay determination required by the Law, or after conducting only cursory inquiries about things irrelevant to an ability to pay determination, such as whether defendants possess smart phones or have tattoos.
- When individuals are unable to pay fines and fees, the Arkansas Fines Collection Law permits courts to order additional time for payment, reduce the amount of each installment, or revoke the fine or unpaid portion in whole or in part. Judges are not effectively utilizing these options.
- Missed payments are a common occurrence in Arkansas, where 19 percent of the population lives in poverty, and African Americans and Hispanics are twice as likely to suffer poverty. Missed payments often result in "process-based" charges, like Failure to Pay, Failure to Appear, and Contempt, that result in additional fines and penalties.
- Poor recordkeeping in Arkansas courts exacerbates the challenges faced by indigent defendants. Defendants often have no way to track the total debt owed or ensure their payments are properly applied to their outstanding debt.
- Prolific use of arrest warrants and driver's license suspensions as methods of enforcing payment of fines and fees traps poor Arkansans in a vicious cycle of poverty and incarceration.

Perversely, the poorest individuals ultimately pay the most money. Indigent individuals are required to pay an installment fee for the opportunity to make monthly payments when they cannot afford to pay their fines and costs immediately and in full. They must also make monthly supervision payments to the probation company to collect their installment payments and monitor their payment history until the total balance is paid.

The Report suggested a road map for those seeking to conduct effective policy advocacy, community organizing, and litigation to bring an end to the harmful and unlawful jailing of individuals due to their poverty.

This Toolkit supplements the Report and provides clear examples for those seeking to prevent recurring harm to poor and underserved communities through enforcement of fines and fees. It is focused on advancing four overarching areas of fines and fees reform: conflicts of interest, poverty penalties and poverty traps, the ability-to-pay determination, and transparency and accountability.<sup>1</sup> The Toolkit was created to answer the most frequently asked questions about implementation from our partners in the field. We highlight legislation from other jurisdictions to illustrate how Arkansas's criminal justice system could be structured differently.

The Lawyers' Committee would like to extend many thanks to attorneys and staff at Venable LLP and volunteers from decARcerate Arkansas for the work devoted to this toolkit.

# CONFLICTS OF INTEREST

Courts order individuals to pay fines and fees, enforce payment obligations through incarceration and driver's license suspensions, and utilize the revenue collected to supplement their operating budgets. Projected revenue from fines and fees is included in county and municipal budgets. If courts fail to collect this amount, they will not be able to sustain their operations. Conflicts of interest arise because courts and government actors benefit directly from the money collected as court debt.

Many courts feel pressure to fundraise funds through fines and fees because the revenue is used to pay for salary and personnel costs.<sup>2</sup> In pursuit of this goal, courts routinely avoid alternatives to fines and fees that do not produce revenue, such as community service, to meet budgetary gaps. The justice system is undermined by the perception that the budgetary concerns outweigh the need for justice. Some states are addressing this issue by capping the contribution of court revenue to fund local operating costs.

Given the privatization of criminal justice, probation and debt collection companies may also have conflicts of interest because they rely on fees for income.<sup>3</sup> In pursuit of revenue, probation companies are incentivized to extend the length of supervision and to request conditions that require financial costs.<sup>4</sup> Private debt collectors add a surcharge to unpaid criminal justice debt, presenting a conflict of interest.<sup>5</sup>



## 1.1 Recommendations for Legislators

- 1.1.1 Fully fund courts from the state's general budget, instead of leaving budgetary gaps that must be filled using revenue from fines, fees, costs, and bond forfeitures<sup>6</sup>*
- 1.1.2 Short of funding the courts completely, limit the amount of revenue that municipalities keep from fines, fees, costs, and bond forfeitures*

Arkansas law presumes an abuse of police power when more than 30 percent of a municipality's revenue is produced by fines and costs from misdemeanor traffic offenses or highway citations.<sup>7</sup> Overreliance on court debt to generate revenue should raise similar concerns about abuse. One way to reduce the inherent conflict of interest is to limit the amount of revenue from court debt that returns to the court or municipality.

In 2016, the Missouri legislature passed an act that only permits 30 percent of general operating revenues to be collected from court debt and redirects any excessive revenue to schools:

Every county, city, town, and village shall annually calculate the percentage of its annual general operating revenue received from fines, bond forfeitures, and court costs for municipal ordinance violations and minor traffic violations, including amended charges for any municipal ordinance violations and minor traffic violations, whether the violation was prosecuted in municipal court, associate circuit court, or circuit court, occurring within the county, city, town, or village. If the percentage is more than thirty percent, the excess amount shall be sent to the director of the department of revenue. The director of the department of revenue shall set forth by rule a procedure whereby excess revenues as set forth in this section shall be sent to the department of revenue. The department of revenue shall distribute these moneys annually to the schools of the county in the same manner that proceeds of all fines collected for any breach of the penal laws of this state are distributed.<sup>8</sup>

- The act requires each county, city, town, or village that has chosen to have a municipal court division to present an annual financial report to the state auditor detailing:
  - General operating revenue;
  - The total revenues from fines, bond forfeitures, and court costs for municipal ordinance violations and minor traffic violations; and
  - The percentage of the annual general operating revenue from fines, bond forfeitures, and court costs.
- Failure to remit the excess revenue to the director of the department of revenue may result in an election to determine whether the noncompliant county, city, town, or village should be disincorporated.

### *1.1.3 Eliminate certain fines and fees*

While Arkansas, like many states, utilizes a deeply entrenched offender-funded justice model, the legislature should closely review the fines and fees that are imposed. This review should include the elimination of fees that are unrelated to criminal justice and are simply tacked on to generate revenue, fines and fees that generate revenue for law enforcement, and fines and fees imposed before the adjudication of guilt.<sup>9</sup>

### *1.1.4 Remove perverse incentives of private probation and debt collection companies*

Legislation that changes how private probation and debt collection companies receive payment for their services would eliminate conflicts of interest. Compensation based on the number of probationers who complete supervision would undermine the financial incentives probation companies currently have to supervise as many people for as long as

possible.<sup>10</sup> Similarly, limiting the percentage that debt collectors may charge for their services would alleviate conflict of interest concerns.



## 1.2 Recommendations for Advocates

Advocates are uniquely positioned to illustrate and humanize conflicts of interest that undermine the criminal justice system:

- Request revenue data to show how much a county, city, town, or village is relying on court debt to generate revenue.
- Obtain the breakdown of the fees and costs added to fines and highlight those unrelated to a criminal justice function.
- Lobby for the release of revenue data from private probation and debt collection agencies.
- Publicize accounts from individuals whose total court debt ballooned due to the imposition of fees and costs.
- Interview people in the court and the broader community about the ways their perception of the legitimacy of the criminal justice system is affected by conflicts of interest.
- Push legislators to require alternate metrics for compensation of private probation and debt collection agencies. Instead of incentivizing private probation companies to keep individuals under supervision as long as possible to extend the number of monthly payments, compensation could depend on completion of supervision.
- Introduce legislators to individuals who were subjected to abusive practices by private probation and debt collection agencies.



# POVERTY PENALTIES & TRAPS

Poverty penalties occur when poor people receive harsher punishments than wealthier people for the same infraction as a result of their poverty.<sup>11</sup> For example, a \$10 fee is added each month when court debt is paid in installments. Over the course of a year, someone who could not afford to pay their fine in full pays \$120 more than someone who could afford to pay at once.

Poverty traps are policies that both punish poor people more severely as well as keep them in poverty by inhibiting their ability to make a living or meet basic needs and obligations. Examples of poverty traps include: making the payment of fees and fines a condition of probation or parole so poor people are incarcerated for violations when they cannot afford to pay and the suspension of driver's licenses for unpaid fines.<sup>12</sup>

States and municipalities that are reluctant to raise taxes are often forced to seek alternative funding streams for state and local government. This results in the disproportionate shifting of criminal justice debt onto those who engage with the system. This shift is a significant burden and can have detrimental consequences as poor Arkansans suffer greater consequences than those with means.



## 2.1 Recommendations for Legislators

Arkansas lawmakers have a number of solutions available to eliminate poverty penalties and traps. Throughout the nation, states have utilized legislative efforts to implement alternatives to incarceration and monetary sanctions, effectively ensuring that fees and fines do not become a poverty trap for economically disadvantaged people in those jurisdictions.

Reform measures are available to policymakers who want to improve the system and prevent the incarceration and punishment of Arkansans solely because they are poor. Additionally, it often costs more to collect debt than to receive payments. The harms suffered by indigent persons can be abated with the adoption of remedial measures. For example, abandoning the practices of issuing arrest warrants and driver's license suspensions as methods of enforcement can protect indigent defendants from poverty traps and penalties.

### *2.1.1 Enact reformatory measures*

- Enact legislation to abandon the reliance on poverty penalties and implement policies eliminating fees and interest incurred during incarceration.
- Abandon the reliance on poverty penalties through the enactment of statutes that enforce current legislation instructing courts to waive, limit, or reduce fines and fees when someone cannot afford to pay.

- The Supreme Court of Michigan enacted court rules to guide Michigan judges in the exercise of their discretion to modify a debt by imposing a payment plan, modifying any existing payment plan, or waiving all or part of the amount of money owed.<sup>13</sup>
- Philadelphia created a statute of limitations for the collection of debts due to court fees.<sup>14</sup>

### *2.1.2 Amend court rules to encourage fair collection practices*

Reducing or even forgiving fines and fees is a helpful way to encourage fair collection practices. Some states, including California and Iowa, are creating amnesty programs designed to incentivize individuals to make any payments they can by enrolling in feasible payment plans and payment forgiveness programs.<sup>15</sup>

### *2.1.3 Provide special considerations for juvenile justice debt*

Because the imposition of debt presents unique challenges for juveniles, special consideration should be taken in crafting legislation to adequately address their debt.

- The Orleans Parish Juvenile Court in Louisiana officially ended the practice of charging juvenile fines and fees.<sup>16</sup>
- Alameda County, California recently repealed administrative fees that are charged to the families of juveniles in the criminal justice system.<sup>17</sup>
- The State of California is considering statewide legislation to prevent counties from charging these fees.
- Washington State also recently eliminated some juvenile justice system fees and fines.<sup>18</sup>

### *2.1.4 Abandon the practice of suspending driver's licenses for nonpayment of fines and fees*

Driver's license suspension is a poverty penalty that creates a poverty trap. Without notice, many people continue to drive and pick up additional charges and fees. Without the opportunity to be heard, people are being punished simply because they are poor, not because they willfully disregarded the order to pay fines and fees. Enacting legislation that addresses this practice could help prevent the cycle of debt and detention.

- In March of 2018, California ended the practice of suspending driver's licenses for unpaid traffic fines.<sup>19</sup>

- Similarly, Mississippi stopped suspending driver’s licenses for unpaid court fines in 2017 and Michigan enacted legislation eliminating debt from unpaid “driver responsibility fees”<sup>20</sup> that led to license suspensions.<sup>21</sup>

### 2.1.5 Provide alternatives to monetary sanctions

Creating alternatives in the forms of community service or other non-monetary payments is another option available to legislators. Many states already authorize judges to impose community service as an alternative to incarceration, and some jurisdictions have also created community courts to ensure that defendants receive services in addition to appropriate sanctions, while increasing procedural justice.<sup>22</sup>

- Houston’s Homeless Court allows homeless defendants to fulfill their sentence’s requirements by participating in community service, counseling, computer or literary classes, or job-search programs.<sup>23</sup> When alternatives are provided, special care must be made to ensure access for people with disabilities.



## 2.2 Recommendations for Advocates

Advocates for those facing poverty traps and penalties should utilize a comprehensive approach to document court practices in efforts to hold judges and court personnel accountable.

Advocates can take the following steps to address poverty traps and penalties:

- Submit Freedom of Information Act (FOIA) requests to obtain aggregate counts of license revocations for failure to pay, broken down by issuing court on a statewide level, to determine whether or not a jurisdiction favors coercive collection methods that may have long cycles of debt and detention. Submit FOIA requests to obtain fee schedules that can provide summaries of the variety of monetary assessments imposed by a particular court or judge.
- Memorialize an individual judge’s or court’s collection practices and policies by obtaining copies or photographs of local rules, posted signs, or standardized letters or notices.
- Obtain court schedules showing dates for arraignments and the existence of any specialized dockets, such as payment status dockets or drug court dates, which can enable court observation.
- Obtain information about how often applications to seal records are denied. Arkansas law requires an individual to have paid off all court-imposed debt before he or she can have a misdemeanor case record sealed.

# ABILITY TO PAY DETERMINATIONS

In Arkansas, as in courts all across the country, judges regularly and routinely punish people for nonpayment of criminal justice debt without considering their ability to pay. These practices, such as indigent incarceration, driver’s license suspension, probation and parole revocation, and other punitive consequences, violate protections embedded in both the U.S. Constitution and the Arkansas Fines Collection Law.

Decades of Supreme Court precedent have established the constitutional right to a judicial inquiry into ability to pay – a comprehensive evaluation into a person’s genuine ability to pay fines, fees, and costs. When courts fail to meaningfully consider a person’s ability to pay – including whether they receive public assistance, are unemployed, homeless, or were recently incarcerated – poverty is criminalized, mass incarceration expands, and economic inequality becomes more entrenched across the state.

Indeed, both federal and state law require the court to make a willfulness determination:

“Prior to punishment, courts must consider an individual’s ability to pay and make a finding—based on evidence—that the individual’s nonpayment was due to a *willful refusal* to obey the court’s order or *failure to make good faith efforts to pay*.”<sup>24</sup>

It is because of this distinction that ability to pay determinations are so crucial to the criminal justice process. Despite this, courts in Arkansas often fail to conduct affirmative inquiries into ability to pay. Accordingly, policymakers and advocates play a major role in addressing the harms associated with criminal justice debt.



## 3.1 Recommendations for Legislators

Legislation is one means of strengthening ability to pay proceedings. Several recommendations are provided to ensure courts meaningfully consider an individual’s ability to pay criminal justice debt. Examples of model bills are also included.

### 3.1.1 Provide robust notice provisions

Individuals should receive comprehensive notice concerning their court-imposed financial obligations, the applicable judicial standards, the information that will be considered, and the consequences they face for not meeting these obligations.

- Among the key provisions of Minnesota House Bill 3357 (2018), all new traffic tickets would include language informing recipients that they may be required to pay a state surcharge, a fee which may be waived or reduced if the recipient demonstrates financial hardship.<sup>25</sup>

### *3.1.2 Standardize criteria*

Courts should enumerate the types of information that will be considered in an ability to pay determination, including tax documentation, proof of receipt of public benefits, school enrollment forms, affidavits, and other documents concerning outstanding financial obligations or debt. Courts should also consider information that an individual has been homeless, incarcerated, or resided in a mental health or treatment program in the last six months; or has a household income at or below 200 percent of the federal poverty guidelines, thereby presuming an inability to pay or inability to pay in full.

- Texas Senate Bill 1637 (2019) outlines several factors courts may consider when determining if a judgment imposes an undue hardship on a defendant, including mental or physical impairment, pregnancy, childcare, work hours, transportation limitations, or homelessness.<sup>26</sup> If the court finds that the defendant is unable to pay, it must provide alternative methods for discharging the fine, such as deferred payment, payment plans, community service or participation in a tutoring program, full or partial waiver of fines and fees, or any combination of these actions.

### *3.1.3 Memorialize determinations on record*

Courts should further require affirmative findings of fact, memorialized for the record, that an individual willfully refused to pay or failed to make good faith efforts to pay, before sentencing. Courts should likewise make express findings of inability to pay on the record, reserving punishment only when the State has proven, “by a preponderance of the evidence, that the non-payment was inexcusable.”<sup>27</sup>

- Nebraska Legislative Bill 259 (2017) prohibits incarcerating people who cannot afford to pay court fines and fees.<sup>28</sup> Under this bill, individuals who cannot afford their court costs, and who have not yet been arrested for nonpayment, can request an ability to pay hearing with the court.

### *3.1.4 Exercise judicial discretion*

Once inability to pay has been determined, the Arkansas Fines Law establishes a protective procedure that courts must follow. If an individual is unable to pay their court debt, the court is authorized to enter an order “revoking the [debt] or the unpaid portion thereof in whole or in part.”<sup>29</sup> Similarly, if an individual can pay their fines and fees, but the court concludes that immediate payment would cause “a severe and undue hardship,”<sup>30</sup> the court may authorize installment payments based on what the individual indicates is an affordable payment.

- Per Missouri Senate Bill 572 (2016) courts must follow established procedures to allow indigent defendants to present information on their financial condition and to consider such evidence if determining fines and costs, establishing payment requirements accordingly.<sup>31</sup> The bill expressly prohibits the practice of

detaining defendants as a means to coerce payment, unless found to be in contempt of court through due process procedures.



### 3.2 Recommendations for Advocates

Advocacy is another means to ensure fair and equitable judicial practices are taking place. Several action items are listed to safeguard ability to pay determinations. Advocates should:

- Present regular Know Your Rights trainings to inform members of the public of their rights under the U.S. Constitution and State law. These trainings may be done in partnership with pro-bono attorneys, local law clinics, members of the state bar association, law enforcement officers, community organizations, or direct-service providers.
- Identify community leaders who can serve as liaisons between the courts and the community concerning reforms to the criminal justice system. Ensure that these representatives can adequately explain the importance of ability to pay.
- Actively engage community organizations, governmental officials, and other pertinent actors by informing them that ability to pay is a critical issue. Provide related, ongoing trainings on ability to pay, alternate sentencing programs, and poverty decriminalization measures. Evaluate trainings to ensure they remain relevant and effective.
- Support measures for equitable reforms to the criminal justice system, focusing on removing financial barriers and other hardships. Build diverse, intersectional coalitions to advance these goals.

# TRANSPARENCY & ACCOUNTABILITY

Increasing transparency and accountability in the courts is a necessary step for smart justice reform. Access to data allows legislators and advocates to identify problems such as abusive practices and racial disparities, and subsequently make informed, evidence-based recommendations.

Transparency around court practices is also an important pathway for individuals to effectively navigate the system. As an overall practice, information sharing enhances the legitimacy of the courts and promotes fair and efficient operations.



## 4.1 Recommendations for Legislators

Legislation is one avenue for increasing court system transparency and accountability. While court systems may collect and report data on their own, legislation can provide funding and mechanisms to standardize reporting on a larger scale. A handful of states have taken a legislative approach to codifying court transparency requirements in their statutes. A few examples include legislation to impose statewide reporting obligations, legislation to establish a commission to review the impact of court debt, and legislation to require transparency between courts and indebted defendants. Excerpts from model bills are summarized below.

### *4.1.1 Impose reporting obligations*

Michigan requires the clerk of each court to report on the total number of cases in which cost assessments were imposed, the total amount of cost assessments imposed, and the total amount of cost assessments collected by the court.

- Yearly reporting requirements: “If the court imposes any cost... no later than [date] of each year the clerk of the court shall transmit a report to the state court administrative office in a manner prescribed by the state court administrative office that contains all of the following information for the previous calendar year: the name of the court, the total number of cases in which costs... were imposed by that court, the total amount of costs that were imposed by that court... [and] the total amount of costs imposed...that were collected by that court.”<sup>32</sup>
- Monthly reporting requirements: “The clerk of the court shall do... the following on the last day of each month: transmit a written report to the department on a form the department prescribes containing all of the following information for that month: the name of the court, the total number of criminal convictions or dispositions for offenses that if committed by an adult would be criminal obtained in that court, the total number of defendants or juveniles against whom

an assessment was imposed by that court, the total amount of assessments imposed by that court, the total amount of assessments collected by that court, [and] other information required by the department.”<sup>33</sup>

South Dakota passed legislation in 2015 establishing an Obligation Recovery Center to streamline debt collection across state agencies. The legislation requires the center to provide annual reports on the flow of funds through the Center.

- “The center shall annually report after conclusion of the prior fiscal year to the Government Operations and Audit Committee concerning the activity of the center including the number of debts referred to the entity, the annual amount and nature of the debt obligations recovered by the center, the number of debts referred from the center to private collection agencies and the results of those referrals, and the costs and expenditures incurred by the center.”<sup>34</sup>

#### *4.1.2 Establish a commission to review the impact of court debt*

In 2016, Illinois passed the Illinois Access to Justice Act, which established a Statutory Court Fee Task Force whose purpose was “to conduct a thorough review of the various statutory fees imposed or assessed on criminal defendants and civil litigants.”<sup>35</sup>

Membership of the Task Force was established to be “15 members, appointed as follows: one each by the Speaker of the House of Representatives, the Minority Leader of the House of Representatives, the President of the Senate, and the Minority Leader of the Senate; 2 by the association representing circuit court clerks; 2 by the Governor, and 7 by the Supreme Court.”<sup>36</sup>

The legislation further established that “at the direction of the Supreme Court, the Administrative Office of the Illinois Courts shall provide administrative support to the Task Force” and “the Task Force shall submit a report containing its findings and any recommendations to the Supreme Court and the General Assembly by [date].”<sup>37</sup>

#### *4.1.3 Require transparency between courts and indebted defendants*

Recent legislation passed in Texas requires that defendants receive a “criminal justice debt statement” – a written bill that lists costs owed – prior to requiring payment.

- “In a justice or municipal court, a cost is not payable by the person charged with the cost until a written bill is: produced or ready to be produced, containing the items of cost; and signed by the officer who charged the cost or the officer who is entitled to receive payment for the cost.”<sup>38</sup>



## **4.2 Recommendations for Advocates**

Advocates seeking to reform court practices regarding criminal justice debt can make a substantial impact in the areas of transparency and accountability. As voices for the



general public concerned with offender-funded justice systems, advocates are in a unique position to both demand more transparency from courts and hold them accountable. Advocates can pressure courts to be more transparent by submitting FOIA requests, and hold them accountable by advocating for and participating in monitoring and oversight commissions.

#### *4.2.1 Submit FOIA requests*

Advocates seeking information from courts on the operation of debt collection may be interested in requesting data related to the following areas:

- Imposition of debts;
- Revenue collection;
- Disposition of collected money;
- Collection costs;
- Waivers based on inability to pay;
- Probation;
- Warrants executed; and
- Reasons for arrests and incarceration.<sup>39</sup>

While many courts utilize a clear “Failure to Pay” charge, before submitting a FOIA request, advocates should be sure to identify other charges that may serve the same purpose, and/or are often associated with poverty. Some examples include Failure to Comply, Contempt of Court, Driving on a Suspended License, Failure to Appear, and Probation Revocation.

#### *4.2.2 Advocate for and participate in Monitoring and Oversight Commissions*

In May 2015 the Missouri Supreme Court ordered the creation of a Municipal Division Work Group to review municipal practices and make recommendations.<sup>40</sup> The work group was composed of a cross-section of judges and advocates in the state, and the order stated that “the work group also is requested to hold one or more public hearings and to consult with interested parties.”<sup>41</sup>

Similarly, in 2011, Massachusetts established a Special Commission to Study the Feasibility of Establishing Inmate Fees. The Commission was required to include a “representative from prisoners’ legal services.”<sup>42</sup>

By advocating for oversight commissions, serving on committees, and attending public hearings, advocates can have a significant role in encouraging transparency and accountability in the courts.

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- <sup>1</sup> Harvard Law School Criminal Justice Policy Program (CJPP), *Confronting Criminal Justice Debt: A Guide to Policy Reform* 16 (2016), *available at* <http://cjpp.law.harvard.edu/publications/confrontingcjdebt>.
- <sup>2</sup> CJPP, *supra* at 9.
- <sup>3</sup> CJPP, *supra* at 10.
- <sup>4</sup> CJPP, *supra* at 10-11.
- <sup>5</sup> CJPP, *supra* at 11.
- <sup>6</sup> CJPP, *supra* at 12.
- <sup>7</sup> ARK CODE ANN. § 12-8-403.
- <sup>8</sup> S.B. 572, 98<sup>th</sup> Gen. Assemb., Reg. Sess. (Mo. 2016) (enacted), repealing and replacing §§ 479.350, 479.360.
- <sup>9</sup> CJPP, *supra* at 12-13.
- <sup>10</sup> CJPP, *supra* at 12-13.
- <sup>11</sup> CJPP, *supra* at 6.
- <sup>12</sup> CJPP, *supra* at 6.
- <sup>13</sup> Mich. Supreme Court, ADM File No. 2015-12.
- <sup>14</sup> Daniel Denvir, Philadelphia City Paper, *Philly Courts Rein In Debt Collection Campaign*, (2014), *available at* <https://www.theinvestigativefund.org/blog/2014/10/09philly-courts-rein-debt-collection-campaign/>.
- <sup>15</sup> Homeless Houston (HH), *Homeless Court: Court For the Homeless* (2016), *available at* <https://www.homelesshouston.org/homeless-court/homeless-court-details>.
- <sup>16</sup> The New Orleans Advocate, *New Orleans Becomes First City In South To Axe Court Fees For Delinquent Youths* (2018), *available at* <https://www.theadvocate.com/neworleans/news/courts/article05d1eaae-a195-11e8-b468-fb86e528bc83.html>.
- <sup>17</sup> Jeffrey Selbin & Stephanie Campos, Berkeley Law Policy Advocacy Clinic, *High Pain, No Gain: How Juvenile Administrative Fees Harm Low-Income Families in Alameda County, California* (2016).
- <sup>18</sup> S.B. 5564, 64<sup>th</sup> Leg., Reg. Sess. (Wa 2015).
- <sup>19</sup> State of California, Department of Motor Vehicles, *DMV Removes Driving Suspensions for Failure to Pay Fines* (2018), *available at* [https://www.dmv.ca.gov/portal/dmv/detail/pubs/newsrel/2018/2018\\_21](https://www.dmv.ca.gov/portal/dmv/detail/pubs/newsrel/2018/2018_21).
- <sup>20</sup> Jeff Amy, U.S. News, *Mississippi Stops Yanking Driver's Licenses for Unpaid Fines* (2017), *available at* <https://www.usnews.com/news/best-states/mississippi/articles/2017-12-19/mississippi-stops-yanking-drivers-licenses-for-unpaid-fines>.
- <sup>21</sup> Chad Livengood, *Crain's Detroit Business*, *Snyder signs bills wiping out \$630 million in unpaid driver fees* (2018), *available at* <https://www.crainsdetroit.com/article/20180301/news/654226/snyder-signs-bills-wiping-out-630-million-in-unpaid-driver-fees>.
- <sup>22</sup> Allegra McLeod, Georgetown University Law Center, *Decarceration Courts: Possibilities and Perils of a Shifting Criminal Law* 100 (2012), *available at* <https://scholarship.law.georgetown.edu/cgi/viewcontent.cgi?article=2285&context=facpub>.
- <sup>23</sup> HH, *supra* at 1.
- <sup>24</sup> Myesha Braden, et al, The Lawyers' Committee for Civil Rights Under Law (LCCRUL), *Too Poor To Pay: How Arkansas' Offender-Funded Justice System Drives Poverty & Mass Incarceration* 25 (2019), *available at* [https://adobeindd.com/view/publications/f3b39ab5-1da5-409e-97a6-a0b060d2f578/1/publication-web-resources/pdf/FINAL\\_ARReport\\_Draft1\\_031419.pdf](https://adobeindd.com/view/publications/f3b39ab5-1da5-409e-97a6-a0b060d2f578/1/publication-web-resources/pdf/FINAL_ARReport_Draft1_031419.pdf).
- <sup>25</sup> H.F. 3357, 90<sup>th</sup> Leg., Reg. Sess. (Mn 2018).
- <sup>26</sup> S.B. 1637, 86<sup>th</sup> Leg., Reg. Sess. (Tx 2019).
- <sup>27</sup> LCCRUL, *supra* at 10.
- <sup>28</sup> N.E. LB259, 105<sup>th</sup> Leg. Reg. Sess. (Ne 2017).
- <sup>29</sup> LCCRUL, *supra* at 10.
- <sup>30</sup> LCCRUL, *supra* at 10.
- <sup>31</sup> S.B. 572, 98<sup>th</sup> Gen. Assemb. Reg. Sess. (Mo 2016).
- <sup>32</sup> Mich. Comp. Laws § 769.1k(8) (1927) (amended 2017).
- <sup>33</sup> Mich. Comp. Laws § 780.905(7)(b) (1989), (amended 2011).
- <sup>34</sup> S.D. Codified Laws § 1-55-16 (2015).
- <sup>35</sup> 705 Ill. Comp. Stat. § 95/25 (2013), *amended by* P.A. 098-0763 § 5 (2014).

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<sup>36</sup> *Id* at. § 95/25.

<sup>37</sup> *Id* at § 95/25.

<sup>38</sup> S.B. 287, 84<sup>th</sup> Leg., Reg. Sess. (Tx 2015) (codified at TEX. CODE CRIM. PROC. ANN. art. 103.001 (West 2015)).

<sup>39</sup> CJPP, *supra* at 39.

<sup>40</sup> Supreme Court of Missouri, Municipal Division Work Group (MDWG), Report to the Supreme Court of Missouri 1, 1 (2016), *available at*: <https://www.courts.mo.gov/file.jsp?id=98093>.

<sup>41</sup> MDWG, *supra* at 136.

<sup>42</sup> Commonwealth of Massachusetts, Executive Office of Public Safety and Security (EOPSS), Report of the Special Commission to Study the Feasibility of Establishing Inmate Fees 19 (2011), *available at* <http://www.mass.gov/eopss/docs/eops/inmate-fee-final-7-1-11.pdf>.



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