

# NCSL

CELEBRATING 50 YEARS

## STATE APPROACHES TO LEGAL FINANCIAL OBLIGATIONS

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Criminal and Civil Justice Program

August 23, 2024



# WHO IS NCSL?

- Non-profit, bi-partisan organization.
- Members are all 7,386 legislators and 30,000 legislative staff in 50 states, D.C. and U.S. territories.
- Offices in Denver and D.C.
- Among our goals – to provide legislatures with information and research about policy issues at both the state and federal level.
- NCSL tracks state policy developments in all public policy areas.



# WHAT ARE LEGAL FINANCIAL OBLIGATIONS (LFOS)?

## FINES

- Monetary punishments for infractions, misdemeanors or felonies.
- Punish offenders and deter others from committing similar offenses.



## FEES

- White House Council of Economic Advisors: “itemized payments for court activities, supervision, or incarceration, charged to defendants.”
- Support operational costs.



# ARGUMENTS FOR LEGAL FINANCIAL OBLIGATIONS



**Court Funding**



**Deterrent**

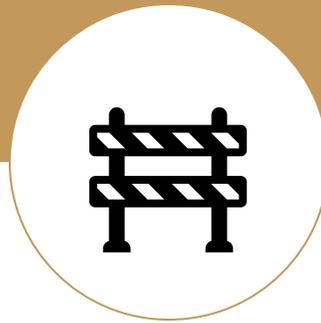


**Taxpayers**

# ARGUMENTS AGAINST USING LEGAL FINANCIAL OBLIGATIONS



**Court Funding?**



**Barriers to Paying &  
Collecting**



**Deterrent?**

# WHAT WE WILL LOOK AT TODAY

## LFOS IN THE JUSTICE SYSTEM

- Court-related fees.
- Incarceration/detention-related fees.
- Community supervision fees.

## NON-PAYMENT

- Consequences of non-payment.
- Downstream effects.

## LEGISLATIVE RESPONSES

- What are states doing?



# LEGAL FINANCIAL OBLIGATIONS IN THE JUSTICE SYSTEM

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# COURT-RELATED FEES



- Filing fees, cost of court staff (e.g., court reporter transcribing testimony, court clerk), jury fees, etc.
- State and local courts.
- Often these fees are not calibrated based on an individual's ability to pay.

# COURT-RELATED FEES: NORTH CAROLINA



Category <sup>1</sup>	Total Amount	Amounts & Amount Descriptions			
District Court Infraction (IFC/IF_)	<b>181.00</b>	147.50	GCJ	5.00	Indigent Defense
		12.00	Facilities	5.00	Service of Process
		4.00	TCD		
		7.50	LEO Retirement		
District Court Infraction Chapter 20 Offense (IFTC/IFT_)	<b>191.00</b>	147.50	GCJ	5.00	Indigent Defense
		12.00	Facilities	5.00	Service of Process
		4.00	TCD	10.00	Chapter 20
		7.50	LEO Retirement		
District Court Misdemeanor (CRDC/CRD_)	<b>183.00</b>	147.50	GCJ	5.00	Indigent Defense
		12.00	Facilities	5.00	Service of Process
		4.00	TCD	2.00	DNA
		7.50	LEO Retirement		
District Court Misdemeanor Chapter 20 Offense (CRTC/CRT_)	<b>193.00</b>	147.50	GCJ	5.00	Indigent Defense
		12.00	Facilities	5.00	Service of Process
		4.00	TCD	2.00	DNA
		7.50	LEO Retirement	10.00	Chapter 20

Source: North Carolina Judicial Branch. [Court Costs and Fees Chart](#) (2024).

# COURT-RELATED FEES: NORTH CAROLINA



OTHER CRIMINAL FEES	AMOUNT
Appointment of Counsel Fee. G.S. 7A-455.1.	75.00
Certificate of Relief Fee. G.S. 15A-173.2(h). <sup>4</sup>	50.00
Civil Revocation Fee (impaired driving CVRs, only). G.S. 20-16.5(j).	100.00
Community Service Fee. G.S. 143B-1483	250.00
Continuous Alcohol Monitoring (CAM) Fee (offenses prior to Dec. 1, 2012). G.S. 20-179. <sup>5</sup>	Varies <sup>6</sup>
Continuous Alcohol Monitoring (CAM) Fee (parolees, only). G.S. 15A-1374. <sup>7</sup>	Varies
Criminal Record Check Fee. G.S. 7A-308(a)(17).	25.00
Dispute Resolution Fee. G.S. 7A-38.3D and G.S. 7A-38.7.	60.00 per mediation
Expunction Fee, petitions under G.S. 15A-145, 15A-145.1, 15A-145.2, 15A-145.3, 15A-145.4, and 15A-145.	175.00

Source: North Carolina Judicial Branch. [Court Costs and Fees Chart](#) (2024).

# INCARCERATION-RELATED FEES

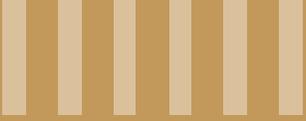


- Fees associated with room and board as well as services inside the carceral setting (e.g., classes or medical care).
- Most states have statutes authorizing a fee to be charged for an individual's stay in jail or prison.
- Some states allow for civil suits for non-payment.

# FLORIDA

- Processing fee at admission.
- § 944.033 authorizes a "subsistence fee" to be assessed by county jails.
- Fees vary by county.





# FLORIDA: ORANGE COUNTY

Fee Type	Cost
Daily Subsistence Fee	\$2.25
Booking / Admin Fee	6.00
Probation Cost of Supervision Fee, per month	50.00
Pre-Trial Diversion Fee per month	50.00
Work Release Subsistence Fee, per day	7.15
Alternative Community Service Enrollment Fee	10.00
Alternative Community Service Re-Enrollment Fee	50.00
Drug Testing Fee	17.00
Community Corrections Intake Fee	20.00
Expedited Booking Fee	20.00

*Note: Fees are presented here for convenience only, and are subject to change without notice.*

*For updated fees, or for additional detail, please contact the Orange County Corrections Department.*

*Florida Statutes: 948.09, 951.033*

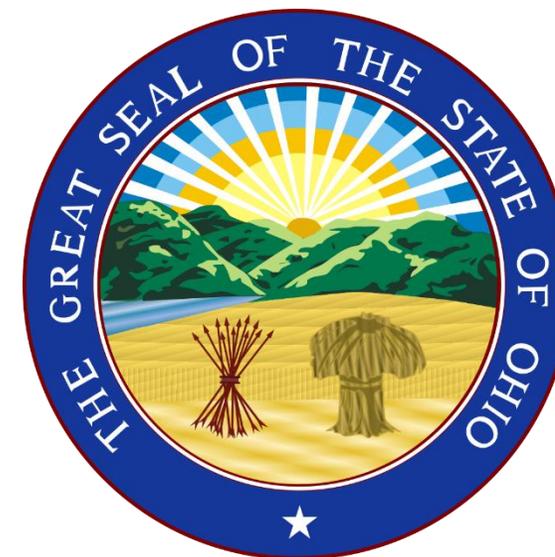
*Florida Model Jail Standards: 2.15*

*Non-exempt documents, logs and other records are available under the terms of the public records policy on Page 9 to 11*

Source: [Orange County Fee Directory](#)

# JUVENILE DETENTION FEES: OHIO AND WISCONSIN

- Pickaway County, Ohio:
  - [\\$75/day](#); "the Court may order either one or both parents/guardians to pay the [\$75.00] per diem as child support for the child's care and maintenance during the course of the child's detention."
- Dane County, Wisconsin:
  - [\\$130/per night](#).
  - Eliminated debt and fees in county juvenile justice system.



# COMMUNITY SUPERVISION-RELATED FEES



- Fees associated with probation and parole (electronic monitoring, court-ordered treatment, drug testing, etc.).
- Assessed on a daily, weekly or month basis.
- The majority of states have laws allowing for supervision fees—this is true of both probation and parole.
- Most states statutorily authorize probation or parole revocation for failure to pay.

# KENTUCKY: PROBATION SUPERVISION FEES

State	Probation Supervision Fees	Probation Programming Fees
<b>Kentucky</b>	<p>Felony supervision: not less than \$10/month while on active supervision but not more than \$2,500/year; Misdemeanor supervision: not less than \$10/month while on active supervision but not more than \$500/year Ky. Rev. Stat. Ann. § 439.315</p> <p>Supervision of city or county adult misdemeanor probation/work release program shall be not less than \$100 nor more than \$500 per year. Ky. Rev. Stat. Ann. § 439.315</p>	<p>Drug and alcohol testing and analysis Ky. Rev. Stat. Ann. § 533.030</p> <p>Reasonable fee for monitoring device in the supervision and equipment usage Ky. Rev. Stat. Ann. § 439.470</p>

Source: Fines and Fees Justice Center & Reform Alliance. [50 State Survey: Probation & Parole Fees](#) (2022).

# KENTUCKY: PAROLE SUPERVISION FEES

State	Parole Supervision Fees	Parole Programming Fees
<b>Kentucky</b>	Felony supervision: not less than \$10/month while on active supervision but not more than \$2,500/year Misdemeanor supervision: not less than \$10/month while on active supervision but not more than \$500/year Ky. Rev. Stat. Ann. § 439.315	Reasonable fee for monitoring device in the supervision and equipment usage Ky. Rev. Stat. Ann. § 439.470

Source: Fines and Fees Justice Center & Reform Alliance. [50 State Survey: Probation & Parole Fees](#) (2022).



# NON-PAYMENT

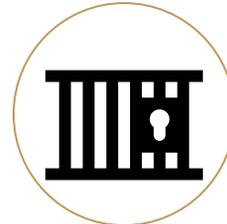


# UNPAID FINES AND FEES: COLLATERAL CONSEQUENCES

**Driver's License Suspension**



**Re-Incarceration**



**Familial/Social**



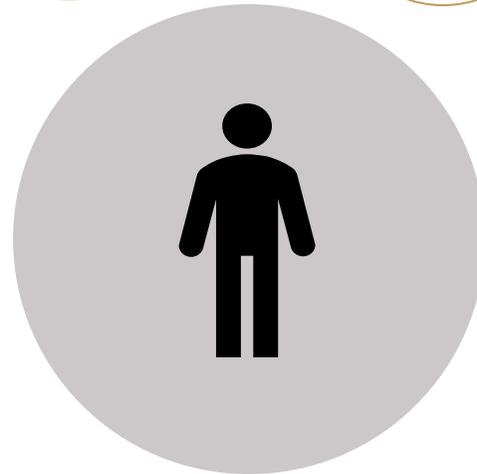
**Record Clearance**



**Civil Judgement**



**Financial Stability**



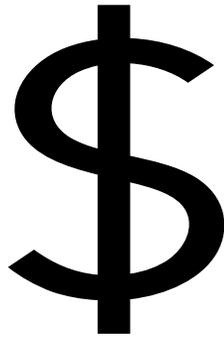
# DEBT-BASED DRIVER'S LICENSE SUSPENSIONS

- Over **half the states** --> suspend driver's licenses for non-payment.
- **2017: 25 states and D.C.** --> bipartisan legislation to curb or eliminate license suspension or restriction.
- Not just lawmakers:
  - American Association of Motor Vehicle Administrators.
  - Suspension for highway safety violations.





**IMPACT ON  
INSTITUTIONS  
IMPOSING LEGAL  
FINANCIAL  
OBLIGATIONS**



**Fiscal Efficiency**



**Perception of  
Justice and Fairness**



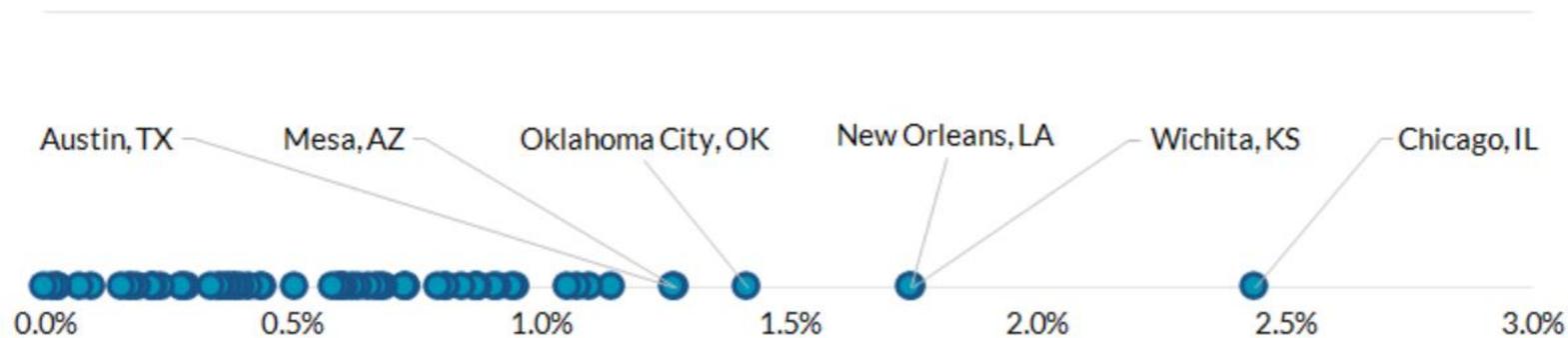
**Public Safety**

# FISCAL EFFICIENCY

FIGURE 3

## Fines, Fees, and Forfeitures Revenues

Share of general revenues, cities and townships with populations over 300,000, 2021



Source: US Census Bureau, Annual Survey of State and Local Government Finances (2021), July 2023.

Source: [Tax Policy Center](#), Urban Institute & Brookings Institution (2024).

# FISCAL EFFICIENCY

*"In general, smaller cities and townships tend to rely more heavily on fines, fees, and forfeitures than larger cities. On average, **cities with populations under 100,000 raised 2.6 percent of general revenue from fines, fees, and forfeitures in 2017, while cities with populations over 100,000 collected 1.6 percent from fines, fees, and forfeitures.**"*

Source: [Tax Policy Center](#), Urban Institute & Brookings Institution (2024).

# PERCEPTIONS OF JUSTICE AND FAIRNESS



- Adults with low incomes --> more likely than those with higher incomes to report being charged or owing money for court or incarceration-related fines and fees.
- Black and Latino adults --> reported being charged or owing money for fines and fees at higher rates than their white counterparts.

Source: [Tax Policy Center](#), Urban Institute & Brookings Institution (2024).

# PERCEPTION OF FAIRNESS AND JUSTICE

- April 2023 [Dear Colleague Letter](#):
  - *"And to the extent that such practices are geared toward raising general revenue and not toward addressing public safety, they can erode trust in the justice system."*
- "Uncoupling" court and law enforcement budgets from revenue collected from fines and fees.
- Encourage transparency regarding how funds from LFOs are allocated.



Source: U.S. Department of Justice. [Fines & Fees](#) (2023).

# PUBLIC SAFETY: ALABAMA AND NEW MEXICO

## ALABAMA:

- 2014 [report](#):
  - 38% of respondents admitted to having committed at least one crime to pay off existing court debt.
  - 20% committed more serious crimes than the crime that precipitated the monetary sanctions.

## NEW MEXICO:

- 2023 [report](#):
  - 41% of respondents stated they committed a crime to pay off court-ordered fines and fees.
  - Greater than two-thirds of respondents stated they had been victims of crime.



# LEGISLATIVE RESPONSES



# ADULT CRIMINAL JUSTICE SYSTEM: DELAWARE

## HB 244 (2022)

- Eliminates nearly all fines and fees in the juvenile justice system for youth unable to pay.
- Prohibits driver's license suspension for failure to pay court debt.
- Eliminates public defender and probation supervision fees.
- Estimated General Fund loss = \$1,195,800.
  - One time appropriation of \$100,000 in 2023.
  - Recurring appropriation to Administrative Office of the Courts = \$216,000.

# ADULT CRIMINAL JUSTICE SYSTEM: NEW MEXICO

## HB 139 (2023)

- Eliminates bench warrant and post-adjudication fees.
- Expands the types of community service that can be done in lieu of monetary payment.
- Allows the court to eliminate unpaid fees prior to bill's effective date.
- Does not eliminate fines.

## SB 47 (2023)

- Directs Division of Motor Vehicles to reinstate all driver's licenses suspended for nonpayment of fines or fees.
- Does not eliminate suspensions or revocations based on dangerous driving.

# ADULT CRIMINAL JUSTICE SYSTEM: NEVADA AND OKLAHOMA

## NEVADA [SB 416 \(2023\)](#):

- Eliminates "room and board" fees.
- Eliminates medical co-pays.
- Applies to the state's prisons.

## OKLAHOMA [HB 2259 \(2023\)](#):

- "Cost hearing" where judge can determine ability to pay.
- Judge can waive all or part of the fines, costs, fees, and assessments, imposed by the court or required by law to be paid.



# JUVENILE JUSTICE SYSTEM



- 2018 – 2023 --> nearly 20 states have enacted measure limiting or prohibiting LFOs in juvenile system.
- 2023: Seven states—**Arizona, Illinois, Indiana, Michigan, Montana, Texas** and **Washington**—enacted laws eliminating or curbing the imposition of monetary sanctions on youth and their families.
- 2024: at least 10 states have introduced or passed legislation related to juvenile fines and fees.
- [Department of Justice](#): youth in juvenile courts should be presumed indigent.



# THANK YOU!

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**Oct. 29-30, 2024**