This policy brief on Court Fees and Fines kicks off our Criminal Justice Reform Forum and Advisory Council. This is the first policy brief of the Criminal Justice Reform series.

Introduction

Criminal justice reform is one of the most important bipartisan policy areas gaining widespread support among young Americans and legislators at all levels of government. This moment in history—a global pandemic coupled with an overwhelming public outcry for significant reform in our justice system—is prompting policy experts and lawmakers to call for bold and balanced legislative reforms. One specific and straightforward way in which legislators can make a significant impact in their communities is reforming court fines and fees.

Court fines are monetary penalties imposed to deter criminal action, while court fees are payments to the court for “using” the criminal justice system through public defenders, incarceration, and court proceedings. While court fines and fees were originally conceived to discourage crime, there has been an alarming increase in the monetary burden imposed on defendants since their creation. Over time, many jurisdictions have come to rely on these fines and fees to fund court and prison systems, and their budget gaps have led to staggering increases in penalty amounts to make up the difference. In many cases, this dynamic incentivizes aggressive and targeted policing, which disproportionately overburdens communities of color, and damages the relationship between law enforcement and their communities. These unreasonable fines and fees harm defendants and drain families—most of whom are low-income—from important resources. They also translate to hundreds of thousands of dollars of expected revenue going unpaid every year, making such a collection system an ineffective way to fund local governments and services.

Resolving the disparity around fines and fees is a critical component to fixing our broken criminal justice system. It would restore a focus on reentry into society debt-free, promote anti-recidivism, and keep valuable resources in the community. Below are some examples of how legislators and policymakers around the country are addressing this issue.

1. Fines
   a. Pretrial Services
      i. Prompt pretrial justice
      ii. Risk-based assessments in pretrial release programs
      iii. Increasing individual agency during the pretrial process
   b. Pretrial Highlight: Bail reform

2. Fees
   a. Juvenile fees accrued while incarcerated
   b. Drivers license suspensions
   c. Voting rights suspensions
**Fines**

The vast majority of jail populations, 74 percent according to a recent study, are people who are not convicted of any crime but cannot afford their bail and are awaiting trial. Many of these people interact with the system through low-level non-violent offenses including loitering, vandalism, driving without a license, public drinking, and traffic violations; however, these offenses most often result in unreasonable and unaffordable fines for low-income communities. When people cannot pay their fines they are most often threatened with jail time or suspensions of driver’s licenses. Some methods to ensure these fines do not overburden Americans are to stop over-policing communities of color, implement a sliding scale for fine payments, and create payment plan systems without charging interest.

**Pretrial Services**

Multiple states have recognized the dysfunction and injustice generated by the current system, and have worked to remedy the problem during the pretrial process. By changing fine regimes, implementing policies like bail reform and pretrial services such as prompt pretrial justice, performing risk assessments (RAT) in pretrial release programs, and increasing individual agency during the pretrial process, lawmakers are creating new norms in their criminal justice systems and returning resources to their communities.

**RECENT LEGISLATION AND PROGRAMS:**

- Colorado's bipartisan bill [SB191](https://leg.colorado.gov/bills/sb19-135) tackles pretrial justice by requiring a prompt bond hearing within 48 hours of an arrest, shortening the time a defendant may remain in custody before trial.
- Many states have implemented risk assessments in pretrial release programs which calculate the “risk” of a defendant not returning to court for trial. Some state courts and legislatures have passed bipartisan legislation that require the use of RAT, New Jersey and Vermont; other states’ policies encourage these tools, like those in Florida.
- Increased communication about programs and tools available for defendants during the pretrial process supports individual agency. For example: Santa Clara County, California launched the “No Cost Release” campaign in partnership with various justice agencies. The campaign sent pretrial service officers to jails daily to share information about non-monetary release systems, significantly increasing communication and knowledge of pretrial programs among incarcerated populations.

**Pretrial Highlight: Bail reform**

Money bail was originally established as collateral to ensure that a defendant showed up to court for their trial, but studies have shown released defendants have comparable or better rates of appearance in court without the need for cash bail. In 2020, 555,000 unconvicted people are held in detention due to the fact they could not afford their bail. However, the practice of jailing people before trial who cannot afford bail has resulted in US taxpayers assuming the economic burden of over $38 million dollars per day or $14 billion annually. Bail reform reduces jail populations, thus freeing up community resources for use elsewhere, and begins to correct the balance on the over-criminalization of low-level offenses. With significant bipartisan support, many states have created innovative policies to ensure defendants are receiving affordable bails, and reforming or eliminating cash bail.
**RECENT LEGISLATION:**
- New Jersey became one of the first states to reform pretrial proceedings with the New Jersey Criminal Justice Reform Act, passed in January 2017, which essentially eliminated cash bail. Once passed, New Jersey saw a reduction by 20% in their jail population, thus lowering the amount of tax-payer money funneled into the prison system.
- In 2019 Colorado passed HB1225, eliminating monetary bail for certain low-level offenses such as a class 3 misdemeanor.

**Fees**

Below are some examples of policies that reform court fees which overburden defendants by charging them for their “use” of the criminal justice system. This practice shifts the debt of “cost” for the criminal justice system from taxpayers to defendants which only leads to higher-recidivism rates and overwhelming debt to anyone interacting with the system. From court proceedings to court-mandated drug testing and probation fees, these debts can build while a person is incarcerated, which ensures that upon release, they are often hundreds or thousands of dollars in debt.

**Juvenile Fees Accrued while Incarcerated**

After incarceration, fees can pile up for juveniles and their guardians. For juvenile offenders, a stint in the criminal or juvenile justice system could spell financial ruin for life. In many states, convicted juveniles are charged for supervision, counsel, and housing costs for the time they are in custody. They and/or their guardians will exit the system owing the state thousands of dollars, or more in most cases. Juvenile justice has some of the strongest bipartisan support among young legislators who are dedicated to giving young offenders a second chance after incarceration.

**RECENT LEGISLATION ABOLISHING FEES FOR JUVENILES:**
- In January 2018, California SB190 prohibited counties from charging fees to parents and guardians on behalf of their child’s detention, drug testing, etc.
- Sponsored by the Assembly Judiciary Committee in 2019, Nevada passed AB439 abolishing fees imposed in juvenile proceedings.

**Driver’s License Suspensions**

States can eliminate the suspension of driver’s licenses as punishment for nonpayments of court debts. Suspending driver’s licenses unnecessarily criminalizes ordinary behavior, and creates another obstacle for families to overcome in order to pay off their fines and fees; license suspension compounds debt over time, and often overburdens vulnerable individuals back into the cycle of debt and criminalization.
RECENT LEGISLATION ELIMINATING THE SUSPENSION OF DRIVER’S LICENSES FOR FAILURE OF PAYMENT TO DEBTS:

- West Virginia HB4958, enacted in 2020, on top of eliminating driver license’s suspensions, also allows courts to accept electronic payment systems and payment plan systems for those who cannot pay their debts in full.
- Virginia SB1, enacted in 2020, reinstates driver’s licenses to those who were suspended prior to July 2019 and does not require a person to pay for the reinstatement of their license.
- Texas HB2048, repealed the Driver Responsibility Program, which suspended nearly 1.4 million Texans drivers for unpaid debts.

Voting Rights Suspensions

As of 2019, nearly 6 million individuals have their voting rights suspended due to a prior conviction or the inability to pay for court fees and fines. While many states automatically restore voting rights after an incarcerated individual’s release, 20 states withhold voting rights from individuals until completion of parole or probation. Five states explicitly require payment of all fines and fees before restoration of voting rights, even for non-criminal offenses. A citizen’s right to vote should never be suspended due to unpaid fees and fines, especially when these penalties take no consideration of the individuals’ ability to pay.

RECENT LEGISLATION:

- Colorado passed HB1266 in 2019 allowing a person serving a sentence of parole to register to vote and vote in any election.
- A bipartisan coalition introduced Tennessee’s HB547/SB589 which restores the voting rights of persons with felony convictions upon completion of sentence, parole or probation.

Conclusion

Now is the time to take bold action to re-envision a new generation of American criminal justice—one that affords equal respect and opportunities for rehabilitation to all. An excellent first step in this process is to resolve the broken fine and fee regimes that exist in many jurisdictions throughout the United States, which will remove burdensome penalties that hurt communities more than deter infractions. Given the current economic recession and record unemployment from the global pandemic, eliminating and reducing the amount of fines and fees that defendants owe the justice system will provide much needed economic stimulus to local economies, and will aid Americans trying to procure basic necessities during these troubling times.
Criminal Justice: Sample Legislation

All bills included below were introduced with bipartisan co-sponsorship and/or received bipartisan support at some point. Bills are presented in no particular order and inclusion does not reflect a MAP endorsement. Email policy@millennialaction.org for more info or to submit your legislation.

Court fines and fees/ Pretrial justice
- **OH SB68** - Allow community service in lieu of driver reinstatement fee
- **LA HB249** - Eliminating probation fees and regulating privatized probation services
- **VA HB1196** - Repeals driver's license suspension for unpaid fines and fees
- **CA SB144** - Permanently block all counties from imposing court fines and fees
- **NC HB1106** - Restores discretion to state judiciary on pretrial release conditions

Sentencing reform
- **CA SB1111** - Youth sentencing – 18-20-year-olds remain in the juvenile system.
- **MI SB84** - Increases the age of criminal responsibility to 18, 17-year-olds will be handled in the juvenile justice system
- **NV AB236** - Reduces penalties for some lower-level crimes and increase access to diversion programs
- **GA HB984** - Sentencing reform
- **OR SB1008** - Overhaul youth justice system, allow youth convicted in adult court to be considered for release from prison after serving 50% of their sentence

Anti-recidivism
- **UT HB397** - Changes to record expungement and creation of Juvenile Expungement Act
- **OH HB263** - Revise occupational license restrictions for those convicted of criminal offenses
- **WV HB2459** - Waiving the lifetime ban for individuals with drug felonies to apply for SNAP
- Record Expungement and Clean Slate:
  - **IL HB4171** - No fee required for records expunged or sealed
  - **OH SB160** - Mechanism for expungement of records of old convictions
  - **MI HB4980** - Automated system for record clearing without application
  - **CT HB5712** - Automatic record expungement

Justice reinvestment
- **IL HB2541** - Creates the Re-Entering Citizens Civics Education Act.
- **NJ S2249** - Creates for nonviolent juvenile offenders the option of participating in the Juvenile Offender Community Conservation and Improvement Services Program, which includes vocational, educational, and physical training, and counseling
- **HI SCR127** - Resolution encouraging implementation of school restorative justice practices state-wide
- **WI AB30/SB34** - Career training while incarcerated
- **MA S 2675** - Development of qualified community justice and correction programs
- **CO HB1017** - Concerning treatment of individuals with substance use disorders who come into contact with the criminal justice system.