



Progress on the Road to Justice

A growing number of states and local governments are choosing to reform inequitable fees and fines for the betterment of their communities.

BY ANDREW BOARDMAN

Fees and fines in the justice system can be anything but just. Too many state and local governments tap legal-system collections, rather than adequate tax systems,

to fund shared essentials like public safety and education. As a result, people with few financial resources are loaded with court-imposed debt often levied with little concern for their ability to pay. The cost is borne disproportionately by low-income, Black, and Brown families, heightening barriers to economic inclusion, and holding back well-being and health.

A growing number of states and localities are choosing a better approach. Catalyzed by advocacy from affected communities, dozens of jurisdictions from all regions of the country have acted in recent years to eliminate or reform inequitable fees and fines. Momentum for change continued

to build in 2023, with no fewer than seven states enacting substantial improvements, which include:

- New Mexico eliminated criminal legal fees statewide.
- Arizona, Montana, and Illinois eliminated youth court fees in 2023, and Indiana acted to limit fees for low-income families.
- States and localities are making important progress in reducing court fees for youth and making fees and fines less overwhelming for low-income households.
- Momentum for fee and fine reforms has grown in recent years, with action in more than a dozen states and several localities.

Moving away from high-pain, low-gain fees and fines puts communities in a better position to thrive.¹ While considerable work remains to be done, these recent actions show the path forward for states and localities—and

help illustrate why inequitable court penalties are a dismal alternative to a sound tax code.

WHERE PROGRESS IS HAPPENING

More than 15 states cut back their use of fines and fees in 2022 and 2023, adopting new approaches to eliminate harmful monetary sanctions for children and adults and bring penalties into better alignment with people's financial realities. (Many cities and counties have done the same.) These moves come as state and local leaders, spurred on by advocacy from affected communities, begin to reckon the true cost of the deeply inequitable status quo.

In one significant move in 2023, New Mexico ended all fees imposed on or after conviction in criminal court and abolished fees for missing a payment or hearing, levies that had weighed heavily on New Mexico families struggling to make ends meet.² New Mexico's new law makes it the second state to fully eliminate criminal



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court fees, following groundbreaking action by California in 2020.³

Several states are reforming fees and fines in their juvenile justice systems. Arizona, Montana, and Illinois advanced reforms in 2023 to phase out court fees on kids, and a new Indiana law prohibits youth fees unless a court proves a family has sufficient income and assets to pay. Colorado, Delaware, Louisiana, Texas, New Jersey, and New Mexico are among the states taking similar steps in recent years.

More states and local governments are also reining in justice fees that have an especially heavy impact on low-income people and communities. In New Jersey, for instance, a new law means that defendants will no longer pay fees for using a public defender. And in Nevada in 2023, lawmakers decided that people in prison will no longer be charged for

medical care or forced to pay room and board fees for their own incarceration.

Cities and counties are achieving progress, too. Local governments recently eliminating or curbing fees and fines include the City and County of San Francisco; Los Angeles County and Alameda County, California; Dallas County, Texas; Metropolitan Government of Nashville and Davidson County, Tennessee; and Ramsey County, Minnesota. Dozens more are examining and enacting reforms in partnership with organizations such as Cities and Counties for Fine and Fee Justice and the National League of Cities.

State and local policymakers and court leaders are also advancing strategies to make fees and fines more proportionate to financial means. In one sign of progress, a quarter of states now require courts to determine a person's

ability to pay any time penalties are imposed, providing criteria for people with low incomes and other significant financial barriers to receive reduced or waived fees and fines.⁴ Governments have also expanded access to more affordable long-term payment plans.

In addition to requiring or recommending that courts assess ability to pay, some places are doing more to ensure these determinations happen consistently and fairly. One promising innovation in this area is simple-to-use online tools providing straightforward guidelines to judges and people facing fees and fines.⁵

In the State of Washington, for example, courts use a legal financial obligation calculator launched in 2018 to evaluate a person's financial situation and options for reduced payments or other alternatives.⁶ Similarly, California developed a website called MyCitations, introduced as a pilot in 2019, allowing low-income people facing traffic fines to apply for reduced payments. The online tools in Washington and California are accessible to both judges and the public, enhancing equity, transparency, and consistency in the use of fees and fines.

The federal government is stepping up too. Earlier in 2023, the Department of Justice issued a public notice to state and local courts warning them of the harms from predatory and discriminatory fee and fine practices. The department also recommitted to partnerships with states and localities to help improve their policies, renewing an effective initiative from the Obama administration.⁷

LESSONS LEARNED

Governments are increasingly taking steps to curb their reliance on regressive court-imposed fees and fines. They are building a promising track record of results that can inform the path ahead for stronger and fairer communities.

One important insight is that fees and fines are a far less effective revenue source than is often believed. When policymakers load up on unaffordable fines and fees to fund public services, they are redoubling reliance on a costly, counterproductive, and inequitable system—a system that is no substitute for a sound tax code.

State and local governments collect approximately \$14 billion in fees and fines each year. But evidence suggests a large share of these dollars are not made available to support the public services for which they are intended. Instead, much of it simply funds the substantial costs required to collect and enforce fees and fines in the first place.⁸ An investigation by the Brennan Center, for example, finds that many governments spend nearly as much on enforcement as they collect, and some spend even more than they bring in.

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Even so, research suggests that governments still fail to collect the majority of fees and fines assessed by courts. The result is tens of billions of dollars of debt hanging over people who are unable to pay.¹² The unpaid obligations often collect escalating late penalties that families still cannot afford to pay, deepening their

financial hardship. Justice-system debt also puts people at risk of jail time and other costly consequences.¹³

Policymakers can foster better outcomes by reducing unaffordable fees and fines and shifting to higher-quality revenue sources instead. California's ability-to-pay system for traffic penalties, MyCitations, is one example of a better approach in action, as a recent report shows.¹⁴ When fines for low-income MyCitations users are more affordable relative to income, the report finds, the likelihood of payment increases substantially. Importantly, the total dollars collected are greater when people with lower incomes are asked to pay smaller amounts. In other words, imposing increasingly onerous fines and fees results in less revenue, not more.

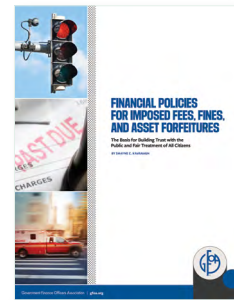
The bottom line is that fees and fines impose immense costs and have clear limits as a revenue source. Policymakers' escalating use of these penalties over the last several decades was neither equitable nor sustainable, and low-income and Black families shouldered a disproportionate share of the overload.

CONCLUSION

Ultimately, success at rebalancing fees and fines will likely depend also on state and local leaders recommitting to building a tax system that delivers ample resources for fulfilling public priorities like providing a justice system without relying on onerous poverty penalties.¹⁵ Here there is some cause for concern. In 2023,¹⁶ a third of states took a move in the wrong direction by enacting costly tax cuts aimed at taking care of their wealthiest,¹⁷ including some changes that will further constrain localities' ability to create sustainable and equitable tax codes.¹⁸ These backward steps are likely to reinforce the revenue pressures that drive states and localities to abuse fees and fines.

But there's also ample reason for hope. Demand for a better way forward remains strong, and recent progress on fees and fines helps to lay bare the stark cost of inaction. ■

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LEARN MORE

GFOA provides plenty of additional information on this topic. To learn more, visit GFOA's Financial Foundations Framework web page, which includes a research report—"Financial Policies for Imposed Fees, Fines, and Asset Forfeitures" (Shayne Kavanagh, August 2020)—and policy templates.

gfoa.org/fees-fine-policies

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