

Fines, Fees, and Fundamental Rights: How the Fifty States Measure Up, Seven Years After Ferguson



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I. Introduction

In the summer of 2013, I sat down with a defense attorney in a small Mississippi Delta town to ask how her municipal court was handling misdemeanors and violations. She laughed and said that she had never set foot in that courtroom and couldn't imagine why she would bother. After all, she said, "it's mostly just traffic court."

As it turned out, that court's judge had issued hundreds of arrest warrants for people who were struggling to pay exorbitant fines and supervision fees in traffic-related cases. His court was disposing of cases in sixty seconds or less, and putting anyone who couldn't pay right away on "offender-funded" probation. Some of those people told me that the only thing their probation officer ever said to them was, "I hope you've got my money today." Many eventually ended up behind bars for failing to pay debts they couldn't even afford to put a dent in.¹

At the time, the local attorney's dismissive, "nothing to see here" attitude toward low-level fines and fees cases was only too common. That, in spite of the tireless efforts of some defenders, activists, and community leaders to sound an alarm.² But that situation changed for the better just two years later.

In 2015, the U.S. Department of Justice published its investigation of the police department in Ferguson, Missouri. The DOJ's intervention was sparked by the nationwide outcry over Michael Brown's death at the hands of local police officer Darren Wilson. Its scathing report, however, laid bare a much wider set of systemic problems. Ferguson had adopted an approach to policing that was not only racist but predatory. The municipality's police and courts were targeting the municipality's poor and black residents. What's more, these authorities were deliberately using their discriminatory enforcement of low-level offenses as a moneymaking tool. It all added up to a kind of legally sanctioned extortion racket.³

The Ferguson report had a nationwide impact. Beyond the unique evils of Ferguson, it focused public attention on the neglected, everyday injustice of the judiciary's bottom rungs. It laid bare for all to see what people close to the problem already knew. A toxic mix of stiff fines, discriminatory policing, and an over-proliferation of punishable offenses is a constant menace to many struggling Americans. Too many courts punish misdemeanors, traffic violations, and other relatively minor transgressions with

onerous monetary sanctions and user fees that people simply cannot afford to pay—and then punish them more harshly still when they don't pay up.⁴ And too often, all of this is part of a repugnant effort to raise revenue off the backs of people who are already struggling to make ends meet.⁵

Many advocates hoped that the Ferguson report and the attention it garnered would mark a turning point. But did it? Seven years after Michael Brown's killing, are American courts respecting the rights of litigants in fines and fees cases?

That question is incredibly difficult to answer, because it requires us to look at a complex matrix of laws and policies at the state and local levels.⁶ Fines and fees cases generally unfold in state and local courts. The relevant standards—if they exist at all—are rooted in a tangled mix of statutes, court rules, executive orders, and state constitutional requirements. Issues governed by statute in one state may be determined pursuant to court rule in another, and left largely to the discretion of individual judges in a third.

For example, take the three neighboring states of Texas, Oklahoma, and Arkansas. Texas and Oklahoma both require courts to conduct ability-to-pay assessments—hearings where a court determines whether and/or what a person can afford to pay in light of their financial circumstances—at the time monetary sanctions are imposed. In Texas, this requirement is imposed by statute.⁷ In Oklahoma, it is a function of court rule.⁸ And in Arkansas, no statute or rule requires ability-to-pay assessments at the time of sentencing. That means that individual courts can choose to carry them out, or not, according to whatever criteria they choose.

Furthermore, key fines and fees issues that are inextricably linked to one another may not be governed pursuant to any one coherent approach. For example, courts in New Hampshire and Massachusetts are guided by clear criteria in determining a litigant's ability to pay.⁹ However, in both states, some fines or fees simply cannot be waived, irrespective of a person's ability to pay them.¹⁰ It doesn't do much good to implement strong ability-to-pay procedures if courts lack the discretion to actually modify or waive fines and fees accordingly.

Muddying the waters even more, most states do not have unified court systems.¹¹ County, municipal, and other local courts may approach similar issues in very different ways, according to disparate rules and pursuant to very

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limited state control. This can create a gap between relatively progressive state laws and retrograde local practices. It can also create pockets of good local practices that outstrip progress at the state level—as in San Francisco, which has adopted a range of fines and fees reforms that have no equal at the state level.¹²

All of this means that the national reality of court practices around fines and fees has many thousands of distinct parts. For precisely this reason, there has been no comprehensive reporting on the laws, policies, and courtroom procedures—or indeed the substantive outcomes—of fines and fees cases across the country. We know that millions of people are litigants in fines and fees cases, we know that many of them are struggling with poverty, and we know that they collectively owe something far in excess of \$27 billion in fines and fees debt.¹³ However, our understanding of how the courts in individual states actually treat fines and fees litigants is uneven, and often highly anecdotal.

II. Measuring State Performance

This past May, the National Center for Access to Justice (NCAJ) published an index that tries to offer some clarity around this confusing national picture.¹⁴ NCAJ's Fines and Fees Index rates how every U.S. state's laws and policies around fines and fees measure up against essential elements of rights-respecting practice. It also examines how well the states perform in relation to one another. The goal was not to benchmark states against a utopian ideal. Rather, we set out to measure their laws and policies against a minimally adequate rights-respecting approach to fines and fees. We worked to set benchmarks that were ambitious, but also pragmatic and achievable by every state.

With this in mind, we rooted our work in a set of clear principles that are meant to transparently ground the work in NCAJ's perspective—which, in turn, was heavily influenced by the external partners we worked with on the project. Those principles are as follows:

- States may use fines as an appropriate punishment for violations of law, but they should ensure that fines are tailored to reflect what a person can afford to pay.
- States should ensure that fines are not used to shift the costs of the justice system away from government and onto the shoulders of individuals in conflict with the law.
- States should ensure that courts take a rigorous and proactive approach to ensuring that no person is incarcerated or otherwise punished for “failing” to pay fines and fees that they are unable to afford to pay without undue hardship.
- States should not impose unreasonably harsh collateral consequences on people with unpaid fines and fees.
- States should make rigorous efforts to collect key data on the imposition and human impact of fines and fees and make those data publicly available.

In consultation with a group of external experts,¹⁵ NCAJ translated these principles into seventeen concrete policy benchmarks we think every U.S. state should be able to meet, framed around the following real-world policy goals:

- States should abolish all “user fees,” and in juvenile courts they should also abolish monetary fines.
- States should ensure that court and law enforcement budgets are not tied to the amount of fines and fees revenue they collect, so as not to incentivize predatory policing. Similarly, states should not use private firms to pursue fines and fees debt, so as not to incentivize abusive collection tactics.
- All courts should be required to conduct ability-to-pay determinations whenever they sentence people to fines and fees. They should also be guided by concrete and mandatory standards in making those decisions.
- To make ability-to-pay determinations meaningful, courts need to have the discretion to modify or waive all fines and fees depending on their outcome.
- No one should be punished for failing to pay fines and fees debt unless the state actually proves that the nonpayment was willful—that is, that the person *chose* not to pay, rather than failed to pay because their circumstances made it impossible.
- States should not condition the right to vote, the right to drive, or access to record expungement on payment of fines and fees debt.
- States should collect and publish key data about the impact of fines and fees, including a focus on different demographic groups.

Each of our seventeen benchmarks is weighted according to its relative importance, and a state that met all of them would earn a perfect score on a 100-point scale. The complete list of our seventeen benchmarks, along with a detailed explanation of our rationale for including each of them, is available online.¹⁶

The final step in this endeavor was to research the degree to which every U.S. state actually meets these benchmarks. The Fines and Fees Index measures whether state laws, court rules, executive orders, and other sources of policy align with our benchmarks. It does *not* purport to measure the degree to which states and their courts actually live up to their own policies, or implement them well. In some cases, the gap between policy and on-the-ground reality may be profound.

In assessing state performance, we made a deliberate effort to recognize laws and policies that are somewhat protective of rights, even though they don't quite meet the benchmarks we set out. For example, we awarded states partial credit if they had good policies in place in the state courts but failed to extend these to the local level. In many cases, we also afforded partial credit to specific policy approaches that we recognize as positive even though they fall short of the benchmarked policies we think necessary.

All of this necessitated an exhaustive research effort with thousands of potential data points across the country.¹⁷

The larger point here is that we framed the research around a desire to err in the direction of giving credit where it's due, and we also gave credit for good law and policy even where it might not be implemented well on the ground. This means that our results should, if anything, tend to exaggerate the extent of states' good practice. This makes it all the more striking that our results were so uniformly grim.

III. A Disturbing Picture

This article endeavors to unpack the practical implications of NCAJ's findings. The easiest way to summarize those findings is as follows: No U.S. state is performing acceptably—let alone well—in its efforts to protect the rights of litigants in fines and fees cases. Even the top score—Washington state's 54 out of 100—would be a failing grade on any exam.¹⁸

The lowest-performing states on the Fines and Fees Index—like Arkansas (6 out of 100), Alabama (5 out of 100), and Wyoming (3 out of 100)—have taken almost no meaningful steps to ensure respect for litigants' rights in fines and fees cases. These states lack safeguards to prevent people from being sentenced to monetary sanctions they could never afford to pay. At the same time, they generally allow draconian punishments for “failing” to come up with the money. There is a general lack of binding standards and guidance in some key areas, like how to determine whether a person is indigent. Meanwhile, there is an absence of necessary judicial discretion in others, like how much an obviously poor litigant should be forced to pay in court fees.

The picture is more complicated with regard to the highest-performing states. Generally speaking, these do well in some areas but have glaring failures in others. For example, Washington is ahead of most states in requiring ability-to-pay determinations in fines and fees cases¹⁹ and providing courts with substantive guidance on making those determinations.²⁰ On the other hand, the state strips some people of their voting rights for failure to pay court debt²¹ and continues to impose harmful administrative fees in juvenile court cases.²² Oklahoma, another top performer, does not disenfranchise anyone simply because they owe fines and fees debt, as Washington does.²³ However, Oklahoma does not enshrine any criteria that speak to a presumption that a litigant is indigent—an important protective measure that Washington does have in place.²⁴

Good practice on some issues is relatively widespread. Twenty-one states explicitly require proof that any failure to pay fines and fees was willful, before incarcerating someone on that basis. The same number of states have taken desperately needed temporary steps to mitigate the impact of fines and fees debt in light of the COVID-19 pandemic's economic fallout. And twenty-seven states—a razor-thin majority but a majority nonetheless—refrain from stripping formerly incarcerated people of their voting rights simply because they owe court debt.

On the other hand, every state still makes use of pernicious user fees whose only purpose is to squeeze revenue out of litigants who are often struggling with poverty. No state does a passable job of collecting data on the impact of fines and fees on vulnerable populations.

IV. Reasons for Optimism

There is a silver lining to this bleak overall picture, though—one that could make reforms easier to win. While no state performs well across the whole range of its fines and fees policies, almost all of the good practice policies we are looking for are on the books in at least one state. This means that advocates pressing for change do not need to persuade legislators to try something untested or invent something new. They can, for the most part, point to models that already exist in the real world.

Some good policies, like ensuring that courts have broad discretion to waive or modify fines and fees, are relatively widespread. Fifteen states meet that benchmark, and another twenty-three states have at least taken partial steps in the right direction. In other cases, like the need to eliminate the conflicts of interest that arise when court or law enforcement budgets depend on the amount of fines and fees extracted from litigants, examples of good practice are harder to find. Only four states meet that benchmark, with one other enacting reforms that move it partly in the right direction.²⁵ But even in that case, we have real-world examples that prove it can be done.

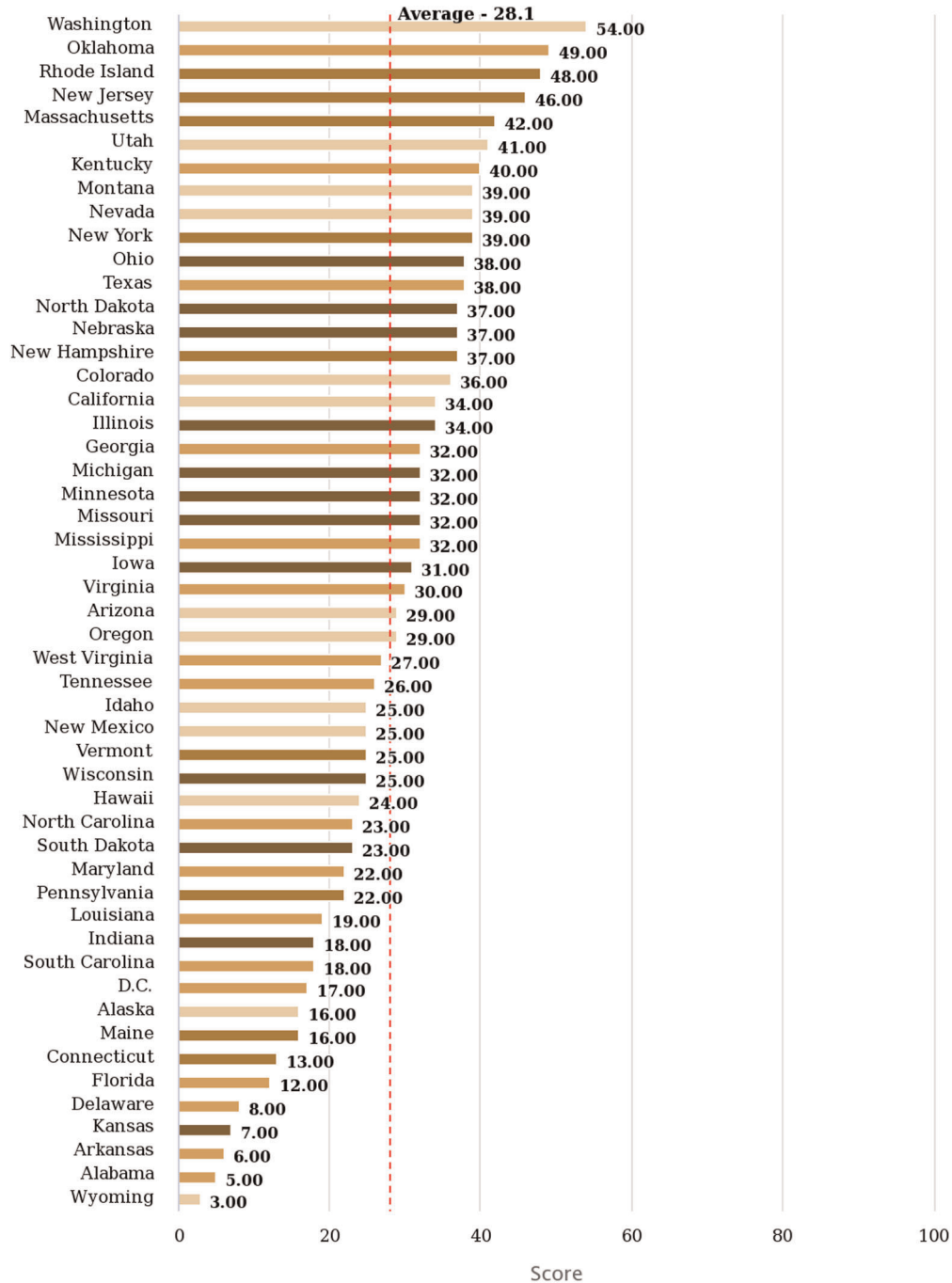
This proves that good practice is a practical reality rather than a utopian ideal. To some degree, fines and fees turns out to be an area where states really are functioning as the “laboratories of democracy” they are often wistfully described as. No state is doing well overall, but every state could vastly improve its performance simply by replicating policies other states already have on the books.

In fact, one could arrive at an overall fines and fees score of 86 out of 100—considerably better than the real-world top score of just 54—by cobbling together good policies that already exist in one or more states. One way to get that result would be to emulate policies that are already on the books in a politically diverse collection of just seven states: Utah, New York, Oklahoma, Washington, California, New Jersey, and Rhode Island.²⁶

What's more, examples of good practice do not necessarily correlate with partisan control. Across many key issues, like ending the suspension of drivers' licenses for nonpayment of court debt, examples of good practice are as common in “red” states as in “blue” ones. It seems reasonable to hope that all of this speaks to a positive case for reform that cuts across party lines. The example of good fines and fees policies in Texas, for example, might be useful in persuading Republican legislators in Florida that reform is a good idea.

Persuasion has its limits, and it's worth considering whether empirical findings about state performance on fines and fees can also be used to generate a less friendly kind of pressure. Some blue-state legislators might indulge

Figure 1.
Overall State Rankings on Fines and Fees



NCAJ Fines and Fees 2020

Source: National Center for Access to Justice, Fines and Fees (2020), <https://ncaj.org/state-rankings/2020/fines-and-fees>

smug and complacent assumptions about how Republican-led states perform on fines and fees issues, for example. But across key areas of abusive policy—like the suspension of drivers’ licenses for nonpayment of court debt—liberal-leaning states rank prominently among the worst offenders. Confronting solidly blue states with the reality that Texas outperforms them on key rights issues might be a useful way to wake them up.

Perhaps these findings can also motivate activists who have trained their fire on Republican-led states for practices that many Democratic legislatures have also embraced. For example, it would be salutary if activists who have rightly slammed Florida for restricting voting rights over unpaid court debts would ratchet up the pressure on blue states like Delaware that do exactly the same thing.²⁷

V. The Way Forward

Since every state has such a long way to go, where is the right place to begin? There's no single answer. One could make a strong case that states should focus on especially harmful practices that hinge on policy at the state level—as opposed to changes that would require distinct reform efforts across dozens of county or municipal systems. This would include, for instance, debt-based restrictions on voting rights and debt-based suspensions of drivers' licenses—areas where state rather than law always governs. The Free to Drive campaign, led by the Fines and Fees Justice Center, has made real headway pushing states to reconsider debt-based license suspensions, for example.²⁸

On many issues, change at the state level has more or less far-reaching potential depending on whether the court system is unified. In unified systems, the impact of reforms can more easily percolate across the entire judiciary. In non-unified systems, campaigns targeting numerous local jurisdictions might be required. Change that might be possible to realize through a unified court system's judicial rulemaking in one state may require changes to dozens of independent municipal laws in another. That kind of county-by-county trench warfare is simply unwinnable in many states. Reforms might be won in one municipal system even as people living under another continue to suffer abusive fines and fees policies.

This points to a powerful argument that reformers should work toward creating unified systems where they don't exist—which describes about half of all U.S. states, according to the National Center for State Courts.²⁹ Because so much fines and fees enforcement happens at the local level, reforms that impact only the state courts in a decentralized system are of particularly limited utility in this arena. A unified system makes systemic change easier than it might be in a hydra-headed, non-unified system.

In some states, though, realistic hopes will lie in the direction of relatively incremental steps—and certainly not a restructuring of the entire judiciary. Incremental, politically feasible change will mean different things in different states. In some states, it might require an emphasis on progress that can be realized by court rule rather than legislative action. In others, it might mean winning local reforms in large population centers—places where change might be both politically achievable and high impact.

The bottom line is that there is an urgent need for change, and it needs to start now, even if it can't happen all at once. NCAJ's Fines and Fees Index shows that state governments have largely failed to adopt modest, pragmatic reforms necessary to guarantee meaningful respect for litigants' rights in fines and fees cases. Progress has been halting, uneven, and in many states simply nonexistent—despite an increase in public awareness and good reporting on fines and fees injustice.

On the other hand, our findings show that the path forward may be clearer than some advocates fear, even if it isn't an easy one to walk. A fractured and highly localized policy landscape has kept one optimistic reality hidden

from view: pockets of good practice do exist on most key fines and fees issues. If states can be persuaded to look to one another for inspiration, the country as a whole could make tremendous progress toward a fairer justice system.

Notes

- ¹ See Human Rights Watch, *Profiting from Probation: America's "Offender-Funded" Probation Industry* (Feb. 5, 2014), <https://www.hrw.org/report/2014/02/05/profitting-probation/americas-offender-funded-probation-industry>.
- ² See, e.g., Thomas Harvey et al., *ArchCity Defenders, Municipal Courts White Paper* (2014), <https://www.archcitydefenders.org/wp-content/uploads/2019/03/ArchCity-Defenders-Municipal-Courts-Whitepaper.pdf>; see also American Civil Liberties Union, *In For a Penny: The Rise of America's New Debtors' Prisons* (Oct. 2010), <https://www.aclu.org/report/penny-rise-americas-new-debtors-prisons?redirect=prisoners-rights-racial-justice/penny-rise-americas-new-debtors-prisons>; Alicia Bannon et al., *Brennan Center for Justice, Criminal Justice Debt: A Barrier to Re-entry* (2010), https://www.brennancenter.org/sites/default/files/2019-08/Report_Criminal-Justice-Debt-%20A-Barrier-Reentry.pdf; Rebekah Diller, *Brennan Center for Justice, The Hidden Costs of Florida's Criminal Justice Fees* (2010), https://www.brennancenter.org/sites/default/files/2019-08/Report_The%20Hidden-Costs-Florida%27s-Criminal-Justice-Fees.pdf; Rebekah Diller et al., *Brennan Center for Justice, Maryland's Parole Supervision Fee: A Barrier to Re-entry* (2009), https://www.prisonlegalnews.org/media/publications/brennan_center_for_justice_marylands_parole_supervision_fee_a_barrier_to_reentry_2009.pdf.
- ³ U.S. Dep't of Justice Civil Rights Division, *Investigation of the Ferguson Police Department* (2015), https://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson_police_department_report.pdf, at 3-4.
- ⁴ See, e.g., *Last Week Tonight with John Oliver: "Municipal Violations,"* YouTube (Mar. 23, 2015), <https://www.youtube.com/watch?v=OUjpmT5noto>.
- ⁵ See Mike Maciag, *Addicted to Fines*, *Governing: The Future of States and Localities* (Aug. 19, 2019), <https://www.governing.com/archive/gov-addicted-to-fines.html>; J.F., *A Judicially Sanctioned Extortion Racket*, *The Economist* (Jan. 20, 2014), <https://www.economist.com/democracy-in-america/2014/01/20/a-judicially-sanctioned-extortion-racket>.
- ⁶ While fines and fees policy is mostly determined at the state and local levels, the federal government does have an important role. In 2016, the Justice Department issued a "Dear Colleague" letter that admonished state judiciaries to respect the constitutional rights of litigants in fines and fees cases. That document set down some clear guidance about the necessary components of a rights-respecting approach to fines and fees, but it was rescinded just a year later under the Trump administration, which viewed it as an example of federal overreach. However, several state supreme court justices subsequently affirmed that they saw the guidance as a correct interpretation of courts' obligations in this space.
- ⁷ *Tex. Code Crim. Proc. Art. 42A.655. Added by Acts 2015, 84th Leg., R.S., Ch. 770 (H.B. 2299), Sec. 1.01, eff. Jan. 1, 2017.*
- ⁸ The procedural protections and requirements regarding defendants' fines and fees in criminal matters are set forth in the Rules of the Oklahoma Court of Criminal Appeals (OCCA), the court of last resort for criminal matters in Oklahoma. The Oklahoma legislature mandated that the OCCA should have this rule-making authority. See 22 O.S. § 983(D). The OCCA's Rules are set forth in Title 22, Chapter 18,

- Appendix, Section VIII. The court proceedings that occur pursuant to these rules are collectively known as “Rule 8” proceedings. Rule 8.1 requires the court to conduct an ability-to-pay hearing at sentencing.
- ⁹ N.H. Rules of Crim. Proc., Rule 29(e)(2); Mass. Gen. Laws ch. 269, § 14(d); Mass. Gen. Laws ch. 269, § 14B(b) Mass. Gen. Laws ch. 266, § 29.
- ¹⁰ In New Hampshire, although N.H. Rev. Stat. sec. 499:18-b gives judges wide discretion to waive fees, it leaves certain potential exceptions (“Except as otherwise specifically provided by the rules of the court . . .”). In Massachusetts some, but not all, fines and fees allow for discretionary waiver. See Massachusetts Trial Courts, Report of the Massachusetts Trial Court Fines and Fees Working Group (Nov. 17, 2016), <https://www.mass.gov/files/documents/2016/11/nq/report-of-the-fines-and-fees-working-group.pdf>, at 7.
- ¹¹ National Center for State Courts, How Many States Are “Unified”? (Feb. 24, 2021), <https://www.ncsc.org/information-and-resources/info-and-res-page-card-navigation/trending-topics/trending-topics-landing-pg/how-many-states-are-unified-there-is-no-definitive-answer-because-there-is-no-definitive-definition2>.
- ¹² See, e.g., San Francisco County Ordinance No. 131–18 (2018) (abolishing all discretionary fees imposed by San Francisco County).
- ¹³ In April 2021, the Fines and Fees Justice Center (FFJC) published a study that tallied all publicly available records of outstanding fines and fees debt, arriving at the staggering total of \$27 billion. The FFJC report emphasizes that this figure greatly understates the true total, because many states do not report these figures at all and so cannot be included in the tally. Briana Hammons, Fines and Fees Justice Center, Tip of the Iceberg: How Much Criminal Justice Debt Does the U.S. Really Have? (Apr. 2021), https://finesandfeesjusticecenter.org/content/uploads/2021/04/Tip-of-the-Iceberg_Criminal_Justice_Debt_BH1.pdf, at 4.
- ¹⁴ National Center for Access to Justice, Fines and Fees 2020, <https://ncaj.org/state-rankings/2020/fines-and-fees>.
- ¹⁵ For a full list of these external experts, see National Center for Access to Justice, Fines and Fees in American Courts: An Overview of NCAJ’s Fines and Fees Indexing Project (2021), <https://ncaj.org/sites/default/files/2021-05/Fines%20and%20Fees%20in%20American%20Courts.pdf>, Appendix D. The external experts were selected for their broad range of expertise and perspective. Some are noted experts on fines and fees policy writ large, some are criminal justice reform advocates whose work spans a range of issues, and some are experts in particular areas of policy related to fines and fees, such as juvenile justice.
- ¹⁶ *Id.*
- ¹⁷ NCAJ relied on extensive pro bono support to carry out this research, and the project would not have been possible without it. An attorney with the New York law firm Stroock & Stroock carried out initial research to test the viability of the fines and fees policy benchmark formulations. A team of pro bono attorneys from Hughes Hubbard & Reed conducted most of the original legal research to establish the fines and fees findings in all the states.
- ¹⁸ For visualizations and citations that explore the full range of NCAJ’s findings, state by state, see National Center for Access to Justice, Fines and Fees 2020, <https://ncaj.org/state-rankings/2020/fines-and-fees>.
- ¹⁹ *State v. Blazina*, 182 Wn. 2d 827, 344 P.3d 680, 682 (Wash. Sup. Ct. 2015) (requiring judges to explicitly consider defendants’ ability to pay nonmandatory LFOs at time of sentencing).
- ²⁰ See Rev. Wash. Code § 10.01.180(3) (requiring ability-to-pay determinations to consider (i) defendant’s income and assets, (ii) defendant’s basic living costs including other legal financial obligations, and (iii) defendant’s bona fide efforts to acquire additional resources).
- ²¹ See Rev. Wash. Code §§ 29A.08.520, 10.82.090. Washington provisionally restores voting rights to convicted individuals no longer under the authority of the department of corrections, with two exceptions: (1) if the court determines that an individual has willfully failed to pay fines and fees; and (2) if a person has failed to make three payments in a twelve-month period, upon request by the county clerk or restitution recipient for the prosecutor to seek revocation of voting rights. Once revoked, voting rights are not restored until the individual has made a “good faith effort” to pay, meaning payment of the full principal (non-interest) amount, or at least fifteen monthly payments in an eighteen-month period.
- ²² See Rev. Wash. Code § 13.40.180 (fines and fees Washington imposes in juvenile court cases). See *also* Rev. Wash. Code § 13.40.220 (charges for juvenile cost of confinement); Rev. Wash. Code § 10.101.020 (charges for cost of counsel); and various other fees under chapter 13.40.
- ²³ 26 Okla. Stat. Ann. § 4–101(1).
- ²⁴ In Washington, a court shall not order a defendant to pay court costs if the defendant is indigent under Rev. Wash. Code § 10.101.010(3)(a)–(c), which sets out criteria that trigger a presumption of indigence.
- ²⁵ The four states that meet this benchmark are Alaska, New York, South Dakota, and Utah. Missouri has enacted reforms that move it substantially, but not entirely, in the right direction.
- ²⁶ See National Center for Access to Justice, *supra* note 15, at 13.
- ²⁷ See Delaware Dep’t of Elections, Information for Convicted Felons, <https://elections.delaware.gov/voter/felons.shtml> (Delaware law allows felons to register to vote once they have completed their sentence). But “[w]hen a court imposes a fine, costs or restitution upon a defendant, the court or justice of the peace may direct as follows . . . [w]here the defendant is sentenced to a period of probation as well as fine, costs or restitution that payment of the fines, costs or restitution shall be a condition of the probation.” Del. Code Ann. tit. 11, § 4104(a)(3).
- ²⁸ See *generally* Free to Drive, <https://www.freetodrive.org>.
- ²⁹ See National Center for State Courts, *supra* note 11.