



ALTERNATIVES TO IMPRISONMENT FOR UNPAID FINES AND FEES

BY THE INSTITUTE FOR JUSTICE

Courts routinely order individuals to pay fines and fees beyond their means. Then, offenders are imprisoned because they could not afford to pay, regardless of their good-faith efforts to do so. The Supreme Court has held this to be unconstitutional in many cases, but that protection often goes unenforced for want of state-level codification. Now more than ever, it is crucial to ensure that nobody is imprisoned for having too little money.

WHAT CAN STATE LEGISLATORS DO?

The Institute for Justice (IJ) is a national public interest, civil liberties law firm. We advocate for legislative reforms that help people of modest means to find alternatives to unpaid fines and fees.

We offer the "Reconsidered Fines and Fees Hearing Act" (RFFHA) – state legislation that compels courts to reconsider a person's efforts to pay before ordering imprisonment. It also incentivizes people to make good-faith efforts and benefits the state by increasing payments and reducing prison populations.

HOW DOES RFFHA WORK?

RFFHA distinguishes between fines and fees and provides different protections for each.

Fees are civil financial obligations, such as court costs. They are not meant to be punitive. So RFFHA prohibits imprisonment for nonpayment of fees.

Fines are criminal financial obligations, such as speeding tickets. Fines may be punitive, but the Supreme Court has set limits on when their nonpayment may lead to imprisonment. RFFHA codifies those limits. When a person fails to pay a fine, the court must consider the person's ability to pay and good-faith efforts to do so. When the person was unable to pay despite good-faith efforts, the court may order imprisonment only if no alternative punishment is adequate.

RFFHA also helps courts to make these determinations. It suggests many factors to consider in evaluating a person's ability and good-faith efforts to pay. This will help ensure that imprisonment is reserved for people who willfully refused to pay, not for those who had too little money despite their best efforts

WHAT ARE RFFHA'S BENEFITS? IT IS:

- Just: Ensures consideration of a person's good-faith efforts to pay.
- Tested: Uses language applied by courts for decades.
- Effective: Incentivizes people to make good-faith efforts to pay.
- Flexible: Allows courts to order imprisonment when it is truly necessary.
- Narrow: Retains the court's full range of alternatives to imprisonment.
- Fair: Treats rich and poor alike.
- Efficient: Helps courts effectively reevaluate a person's ability to pay.

[View the Reconsidered Fines and Fees Hearing Act by clicking here.](#)



**FOR MORE INFORMATION ABOUT
OUR FREE LEGISLATIVE SERVICE:**
www.2021initiative.com

THE INSTITUTE FOR JUSTICE CAN HELP

The 2021 Initiative, a project of IJ, is a free legislative service that partners lawmakers with our lawyers, researchers, and advocates to identify and develop responsive and tailored legislation that will work for your state as you recover from 2020. We can help you implement RFFHA and other reforms in your state.

For questions or to get started, e-mail Christina Walsh, director of the 2021 Initiative, at cwalsh@ij.org.