

Fair Funding for Courts Act

Model Legislation

June 14, 2023

1. Findings: The justice system is a core government function. It should be funded fully from general revenue and not from fees assessed on individuals who come into contact with the system. Fees are hidden taxes imposed only on people in the justice system.

Fees have been assessed at every point in an individual's involvement with the justice system, from pre-trial to post-conviction. They can include pretrial or bond fees; counsel fees; diversion fees; conviction fees for prosecution, a public defender, DNA testing, court security, judges' retirement funds, or court operations; probation or parole supervision fees; in custody fees; and interest or collection fees assessed to individuals attempting to make payments on their court-ordered financial obligations. Even people who are not convicted or have their cases dismissed may be required to pay fees. [[Modify this paragraph based on your state's practices]]

The justice system should not be used to raise revenue for these or other government services and programs. The legislature finds that:

- (a) Collecting fees is expensive and resource-intensive and can yield less revenue than the cost of collections.
 - (b) Imposing fees can have devastating consequences on individuals, their families, and their communities, particularly in low-income communities and communities of color. When faced with court debt, many forgo basic necessities in an attempt to pay down their fees. Those least able to pay are forced to pay more, keeping them from achieving economic security and stability.
 - (c) Instead of protecting public safety or contributing to rehabilitation, the use of fees correlates with higher rates of recidivism. For adults and juveniles alike, the assessment of fees has been linked to an increased likelihood of reoffending, particularly financially motivated offenses to pay off court debt. Reliance on fees also fosters mistrust between communities and law enforcement, further deteriorating public safety. Further, increased reliance on fee revenue correlates with increased rates of unsolved violent and property crimes.
2. Purpose: To address the ineffective practice of assessing and collecting justice system fees, to increase public safety, and to strengthen our most vulnerable communities and their relationship with law enforcement, this bill does the following:
 - (a) Ends the imposition of justice system fees.
 - (b) Cancels outstanding justice system fee debt.
 - (c) Reapportions funds to the court systems.

3. Definitions: For the purposes of this chapter, the words defined in this section have the meaning given.
 - (a) “Fees” are nonpunitive financial obligations assessed by a court or an administrative agency above and beyond a fine. Fees are costs, assessments, and surcharges imposed to access services or fund the justice system and other government services. These fees can be imposed at booking, arrest, in court, during incarceration, during probation or supervision, and may include late fees, interest, and other service charges.
 - (b) “Governmental entity” means any entity authorized to impose or collect fines, fees, or costs as defined by this section.
 - (c) “Office of the State Court Administrator” is the government agency established to accomplish the effective organization and supervision of courts in this State.
4. The following fees are repealed. Neither state courts, local courts, nor any governmental entities may impose these penalties as of the effective date of this section.
 - (a) § _____
 - (b) § _____

The fees owed to the courts of this state or any governmental entities that are repealed pursuant to § 4(a)–(b) are no longer enforceable or collectable by any government entity, or any other public or private parties, as of the effective date of this section. The court or agency responsible for the collection of the fee prior to its repeal shall notify each person who owes fees repealed by this legislation of the amount of debt that has been forgiven in their case and the remaining amount that is still owed. Notice shall be mailed to the last known address available to the court and the address on file with the Department of Motor Vehicles, if any. Only one notice should be sent if the addresses are the same. The court or agency shall also post on its website an announcement with instructions for people to determine the new amount owed.

5. (Optional) Total appropriation. The sum of [[\$ amount]] is appropriated [[annually]] to the Office of the State Court Administrator for the maintenance of courts. The appropriation is from the general fund and shall be distributed to courts by the Office of the State Court Administrator.
6. Data collection. The Office of the State Court Administrator shall collect and publish a report one year after the effective date of this Act that provides the total amount of debt forgiven related to each type of fee repealed by this Act, disaggregated by county, court, charge level, charge, length of time since fee was imposed, as well as demographic information about the person against whom the fee was levied, including race/ethnicity, gender and ZIP code of residence.
7. This section is effective 30 days after it is signed into law.



Contact Information

MR. ALASDAIR WHITNEY
LEGISLATIVE COUNSEL
INSTITUTE FOR JUSTICE

awhitney@ij.org

www.ij.org