



# FINES & FEES: The Problem and Some Principles

Nat'l Association of Administrative Law Judges

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Lisa Foster

[lfoster@finesandfeesjusticecenter.org](mailto:lfoster@finesandfeesjusticecenter.org)

<https://www.finesandfeesjusticecenter.org>



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## Investigation of the Ferguson Police Department



United States Department of Justice  
Civil Rights Division

March 4, 2015

# Ferguson

23% of the City's revenue came from fines and fees

Fine for...

Jaywalking- \$302

Disturbing the peace- \$427

Allowing high grass or weeds to grow on your lawn- \$531

Aggressive Enforcement -

21,000 residents – 23,000 warrants

# Definitions

**FINES:** Monetary sanction imposed as punishment for violating the law – either criminal or civil.

**FEES:** Costs, assessments, surcharges imposed to access services or fund the justice system or other government services.

# California

## Red Light ticket

Base Fine

\$100

Penalty Assessment and Surcharge

\$310\*

Court Operations Assessment

\$ 40

Criminal Conviction Assessment

35

\$

Emergency Medical Air Transportation Penalty

\$ 4

Night Court Fee

\$ 1

# New York Surcharges

Felony: \$300 surcharge +  
\$25 victim assistance fee +  
\$50 DNA databank fee = **\$375**

Misdemeanor: \$175 surcharge +  
\$25 victim assistance fee  
\$50 DNA databank fee =

Violation: \$95 surcharge +  
\$25 victim assistance fee = **\$120**



# RACIAL DISPARITIES IN TRAFFIC STOPS

***“Racial disparities in traffic stops are large, ubiquitous across the nation, and troubling.” - U.S. DOJ***

**Nationwide - Black drivers are 20% more likely to be pulled over than white drivers.**

**Once stopped, Black drivers are 20% more likely and Latinx drivers 30% more likely to get a ticket instead of a warning, and they are more likely to receive multiple tickets.**

**Once stopped non-White drivers are more likely to be arrested.**

**Once arrested non-White drivers are more likely to be convicted.**

# Consequences for Nonpayment

## It Costs More

- Traffic fines often double
- Interest accrues
- Collection costs imposed

## Prolonged Justice Involvement

## Civil Judgments

## Private Probation

- Additional, often monthly, fees

## Loss of Voting Rights

## Drivers License Suspensions

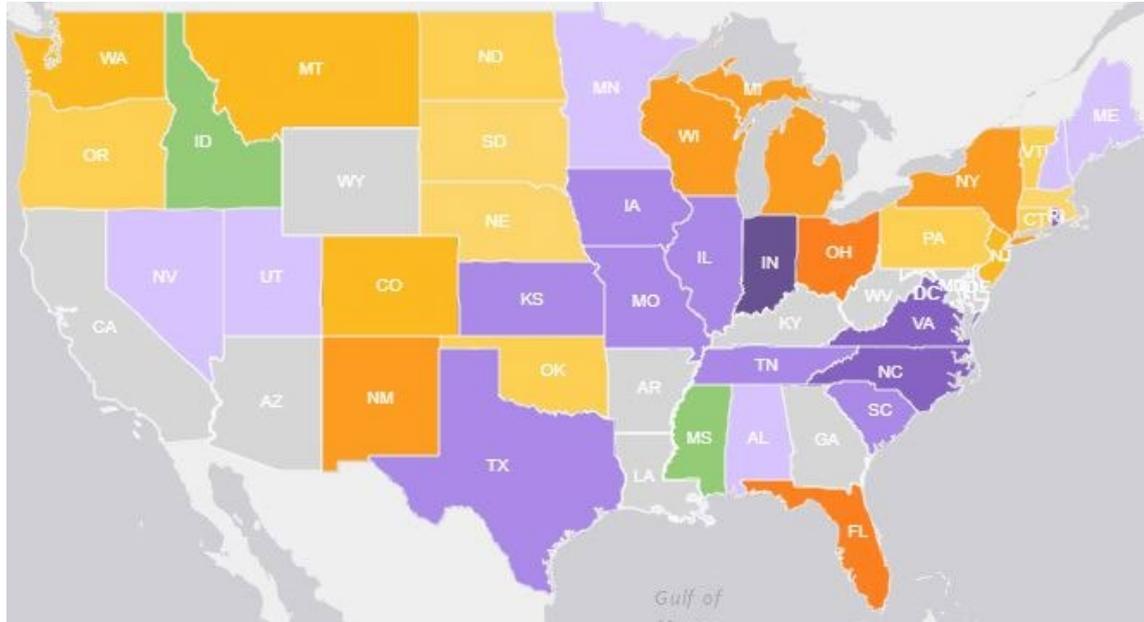
## Debtor's Prisons

- Arrest warrants
- Incarceration



# Driver's License Suspension

Millions of people around the country cannot legally drive, not because they are bad drivers, but because their licenses have been suspended or revoked due to unpaid debt. As of 2019, **over 11 million licenses are suspended.**



(As yellow color gets darker, numbers increase)

# Driver's License Suspension: State Reform

2017 - California

2018 - District of Columbia and Idaho

2019 - Mississippi, Montana, Texas

2020 - West Virginia, Maryland, Oregon, Hawaii, Virginia,  
New York

2021 - Illinois, Michigan, Arizona, Washington, Arkansas,  
Colorado, Utah, Minnesota, Nevada

# Taking Extreme Measures to Pay

## UNDER PRESSURE

How fines and fees hurt people, undermine public safety, and drive Alabama's racial wealth divide



2018 Alabama Appleseed Survey (1,000+ responses):

- More than 8 in 10 **gave up necessities** like rent, food, medical bills, and child support
- About 45 percent of those surveyed had **lost their licenses** because they were unable to pay their court debt.
- 38% of respondents admitted to **committing at least one crime** to pay off their court debt.
- Nearly half said they had been **jailed for failure to pay** court debt.

# Fines and Fees in Administrative Courts - Principles

- Excessive Fines Clause - *Timbs v. Illinois*
  - Fines must be proportionate to the offense and the individual's economic circumstances
- Punishment for Nonpayment - *Bearden v. Georgia*
  - Person cannot be incarcerated for nonpayment of fines and fees without a court finding that nonpayment was willful - person had the ability to pay.

# ABA Ten Guidelines on Court Fines and Fees

## **ADOPTED**

AMERICAN BAR ASSOCIATION

WORKING GROUP ON BUILDING PUBLIC TRUST  
IN THE AMERICAN JUSTICE SYSTEM

SECTION ON CIVIL RIGHTS AND SOCIAL JUSTICE

STANDING COMMITTEE ON LEGAL AID AND INDIGENT DEFENDANTS

CRIMINAL JUSTICE SECTION

SECTION ON STATE AND LOCAL GOVERNMENT LAW

COMMISSION ON YOUTH AT RISK

MASSACHUSETTS BAR ASSOCIATION

KING COUNTY BAR ASSOCIATION

WASHINGTON STATE BAR ASSOCIATION

REPORT TO THE HOUSE OF DELEGATES

## **RESOLUTION**

- 1 RESOLVED, That the American Bar Association adopts the *ABA Ten Guidelines on*
- 2 *Court Fines and Fees*, black letter and commentary, dated August 2018; and
- 3
- 4 FURTHER RESOLVED, That the American Bar Association urges all federal, state,
- 5 local, territorial, and tribal legislative, judicial and other governmental bodies to apply the
- 6 *ABA Ten Guidelines on Court Fines and Fees*.



# Ability to Pay - Making Fines Proportionate

## Ability To Pay Assessments Should:

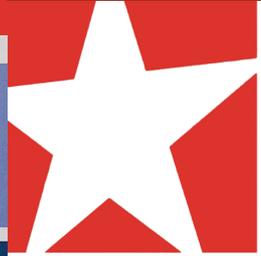
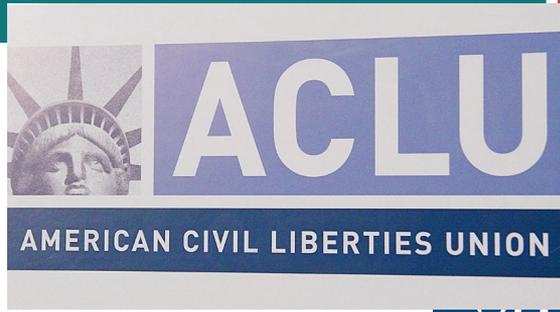
- Happen **before fines and fees are imposed**
- Consider **presumptions of indigence** in which case *all fees should be waived* and the *lowest fine* allowable by law assessed
- Calculate a **person's income and family size** to determine reductions and waivers
- Substantially reduce fines and fees that **disproportionately harm** low income communities

The image shows a screenshot of a web-based form titled "LFO Calculator (State of Washington)". The form is divided into sections by a progress indicator at the top with four steps, the first of which is active. The main section is "Case Settings" with a sub-heading "INSTRUCTIONS". It contains three input areas: 1) A checkbox for "Hearing is for post conviction relief" which is unchecked. Below it are two dropdown menus: "Select Court Level" (currently showing "Court of Limited Jurisdiction") and "Select your occupation" (with the placeholder text "Please identify your occupation"). 2) A checkbox for "Case involves domestic violence" which is unchecked. Below it is a text input field for "Type a Crime or RCW". At the bottom of the form is a blue "NEXT" button.

“Most states provide *no guidance at all* as to what facts may demonstrate ability or inability to pay.”

- 2016 NCLC publication

# Fines and Fees Reform is Not Partisan



# Reducing Fines/Criminalization

## Eliminating Automated Enforcement

- Buffalo - replaced automated enforcement with speed bumps and improved road design

## Marijuana Legalization

## Decriminalize Offenses; End the use of warrants for non-payment/non-appearance

- Nevada - decriminalized traffic violations and ended use of warrants when individual can't pay fines and fees

## Eliminate Fines for homelessness, jaywalking, or other low level offenses disproportionately levied against people of color and poor communities



Source: Robert Kirkham/News file photo

# Juvenile Fee Elimination

## 8+ states have eliminated some or all juvenile fees including 5 states in 2021

- New Mexico HB 183 - eliminated fines and admin fees from the juvenile justice system
- Nevada AB 439 - abolished wide variety of fees associated with juvenile courts
- Colorado HB 21-1315 - eliminates a number of costs and fees charged to juveniles and their families; discharged outstanding juvenile fee debt



# Clearinghouse - finesandfeesjusticecenter.org



ABOUT CLEARINGHOUSE CAMPAIGNS NEWS CONTACT

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## The Clearinghouse

FFJC's online Clearinghouse is a library of information about efforts to reform fines and fees in the legal system. The "recommended" designation signifies content we believe either constitutes or facilitates meaningful reform.

texas



Copy search parameters

9 results

Sort by Relevance Date



FILTERS

COURT AND AGENCY RULE CHANGES, MEDIA

### Texas prison system reduces cost of phone calls by 77 percent

During the summer of 2018, the Texas Board of Criminal Justice voted to reduce the price of phone calls made from Texas prisons. Previously, incarcerated people paid an average of \$0.26 per minute to call their loved ones; now the rate is \$0.06 per minute, and the time limit for calls was increased from 20 to 30 minutes.

Corrections Fees | Texas  
August 15, 2018

CONTENT TYPE



TOPICS



JURISDICTIONS

