



HB 2073 Proponent Testimony – In-Person Oral

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**House Corrections and Juvenile Justice
Thursday, January 26, 2023 at 1:30 PM**

Committee Chair and Members of the Committee,

My name is Aileen Berquist and I am the Policy Director for the American Civil Liberties Union of Kansas. We are a nonpartisan, non-profit organization that works to preserve and strengthen the civil rights and liberties of every person in Kansas. Thank you for the opportunity to present testimony today.

The criminal legal system in our state imposes thousands of dollars of debt on youth—debt that has no positive impact on recidivism rates or public safety but has enormous negative impact on Kansas youth and their families. These costs come in the form of fines—wealth-based punishment—and fees—costs imposed specifically to fund the criminal legal system. This debt follows youth well into adulthood, impacting their future success and stability and, in some cases, pulling them further into the criminal legal system. HB 2073 would eliminate fines and fees in the juvenile justice system and discharge any outstanding fines and fees. The ACLU of Kansas strongly supports the swift passage of HB 2073 to give relief to Kansas kids and families and ensure that no future children are punished for their poverty or burdened with funding our court systems.

Criminal Legal Debt Undermines the Stated Purpose of the Juvenile Justice System

The assessment of fines and fees on youth runs directly opposed to the stated goals of the Kansas Juvenile Act, which are “to promote public safety, hold juvenile offenders accountable for their behavior and improve their ability to live more productively and responsibly in the community.”¹

Fines and Fees Do Not Increase Public Safety. There is no research to show that fines and fees are a deterrent to children or adults offending or in any way increase overall public safety. Instead, research has shown that fines and fees may increase the likelihood that a young person reoffends.² Fines and fees of this type therefore actually make our communities *less* safe. Additionally, criminal legal debt can lead to missed school or work due to additional court dates, extended terms of probation, loss of driving

¹ K.S.A. 8-2301

² <https://debtorsprison.jlc.org/documents/JLC-Debtors-Prison-criminology-study.pdf>

privileges, and even incarceration. All of these things negatively impact a child's ability to reintegrate successfully and run counter to the stated goals of the juvenile system.

- **Children Should Not Pay for Government Functions.** Fees incurred during interaction with the system include everything from the cost of recurring drug and alcohol testing, renting ankle-monitors, court-appointed attorneys, and their own incarceration. In short, the state is requiring children, many too young to hold a job, to pay for the basic functions of the system.
- **Wealth-based Punishment is a Poverty Tax.** Fines are typically imposed without regard to their utility or an individual's ability to pay. This creates a deeply unequal system where people of means are able to “break the law without meaningful financial consequence”³ while low-income offenders are caught in a cycle of debt, incarceration, interest rates, falling credit scores, and poverty. In short, wealth-based punishment is only punishing those least likely to afford it. This is both fundamentally unfair and a rejection of the principles of liberty embedded in American law and our shared values.
- **Children of Color are Disproportionately Impacted.** People of color are disproportionately arrested, incarcerated, and charged fines and fees in the United States.⁴ That means that for no reason other than the color of their skin, youth of color are being saddled with more debt than their white peers. Eliminating fines and fees will not fix a broken system, but it will be one step toward giving youth of color a fighting chance in our criminal legal system.

These reasons and others have led to broad support of fines and fees elimination among the public and within the criminal legal system. A poll funded by the End Justice Fees Campaign, a collaboration of the Fines and Fees Justice Center, Americans for Prosperity, and the national ACLU found that 62% of voters support fines and fees elimination.⁵ Additionally, a broad base of judges, district attorneys, probation officials, youth correctional officers, and law enforcement leaders have called for fines and fees elimination.

Finally, as has been stated elsewhere, including Appendix A of this testimony, the fiscal impact of fines and fees elimination is minimal for the state, but the impact on individuals is staggering. We strongly encourage the swift movement of this bill out of committee so that justice can truly be served for children and their families.

³ <https://lawreview.uchicago.edu/publication/constitutionality-income-based-fines>

⁴ https://www.usccr.gov/files/pubs/2017/Statutory_Enforcement_Report2017.pdf
<https://www.sentencingproject.org/app/uploads/2022/08/Racial-Disparities-in-Youth-Commitments-and-Arrests.pdf>

⁵ <https://finesandfeesjusticecenter.org/2022/10/06/national-campaign-to-eliminate-justice-system-fees-launches-today/>

Additional Resources

Judicial Support: National Council of Juvenile and Family Court Judges, *Resolution Addressing Fines, Fees, and Costs in Juvenile Courts*
https://www.ncjfcj.org/wp-content/uploads/2019/10/ExXIII_FinesFeesCosts_Resolution.pdf

District Attorney Support: Fair and Just Prosecution, *Fines, Fees, and Poverty Penalty*
https://fairandjustprosecution.org/wp-content/uploads/2017/11/FJPBrief_Fines.Fees_.pdf

Probation and Parole Official Support: American Probation and Parole Association, *Use of Monetary Judgements for Justice Involved Individuals*
https://www.appa-net.org/eweb/Dynamicpage.aspx?webcode=IB_Resolution&wps_key=d7b47532-7ae7-4464-b8bb-d667fb2f3d10

Youth Correctional Leader Support: Youth Correctional Leaders for Justice, *Statement on Abolishing Youth Fines and Fees*
<https://yclj.org/fines-and-fees>

Law Enforcement Support: Law Enforcement Leaders to Reduce Crime and Incarceration, *Ensuring Justice and Public Safety*
https://lawenforcementleaders.org/wp-content/uploads/2020/04/2020_04_LEL_Policy_Report_Final.pdf

Appendix A – Fiscal analysis of juvenile fines and fees elimination

Appendix B – Sign on letter from national conservative organizations

Fiscal Impact of Eliminating Juvenile Fines and Fees in Kansas

This document outlines the fiscal impact of eliminating fines and fees imposed in juvenile court. This common-sense approach would have minimal if any fiscal impact and would significantly improve outcomes for Kansas children and families.

A. Background: Eliminating Fines and Fees Promotes the Aims of the Kansas Juvenile Act

The Kansas Juvenile Act sets forth these key goals: “to promote public safety, hold juvenile offenders accountable for their behavior and improve their ability to live more productively and responsibly in the community.”¹ **Eliminating juvenile fines and fees will assist the state in meeting these goals.** Research shows that juvenile fees and fines are ineffective and counterproductive. Research shows fees and fines cause *increased* recidivism rates, as well as increased stress and disruption for families just when young people need the most support.² It is not surprising, then, that both law enforcement and judicial organizations recommend eliminating all fees and fines in juvenile court.³

In contrast, other provisions of Kansas law provide judges with a wide array of options to meet the goals of the justice system, including, but not limited to, community-based programming, community service, treatment programs, educational programs, mediation, drug evaluations, and even completing intervention programs in lieu of prosecution.⁴

B. Fiscal Impact: Juvenile fees and fines in Kansas provide negligible revenue to the state and counties, while doing substantial harm to children and families.

Over the past six months, our coalition has worked directly with the Office of Judicial Administration to collect all known fiscal data on Kansas juvenile fees and fines. This comprehensive court data shows that Kansas revenue from juvenile fees and fines is relatively low and declining each year—most recently reaching just under \$540,000 in 2020. This does not account for the cost of collections, or the costs caused by increased recidivism rates.

1. The revenue from juvenile fees and fines is low.

In Kansas, **total reported court revenue from juvenile fees and fines** was \$605,091.16 in 2019

¹ K.S.A. § 8-2301.

² Alex R. Piquero & Wesley G. Jennings, “Justice System–Imposed Financial Penalties Increase the Likelihood of Recidivism in a Sample of Adolescent Offenders,” 15 YOUTH VIOL. & JUV. JUST. 325 (2016); ALABAMA APPLESEED, UNDER PRESSURE: HOW FINES AND FEES HURT PEOPLE, UNDERMINE PUBLIC SAFETY, AND DRIVE ALABAMA’S RACIAL WEALTH DIVIDE (2018), <https://www.alabamaappleseed.org/wp-content/uploads/2018/10/AA1240-FinesandFees-10-10-FINAL.pdf>.

³ Law Enforcement Leaders to Reduce Crime and Incarceration, Juvenile Justice Reform Principals (Apr. 2021), http://lawenforcementleaders.org/wp-content/uploads/2021/04/2021.4.27_LEL-Juvenile-Justice-Reform-Brief.pdf; National Council of Juvenile and Family Court Judges, Resolution Addressing Fines, Fees, and Costs in Juvenile Courts (2018), <https://www.ncjfcj.org/wp-content/uploads/2019/08/resolution-addressing-fines-fees-and-costs-in-juvenile-courts.pdf>.

⁴ K.S.A. §§ 38-2301; 38-2346.

and \$539,228.45 in 2020.⁵ This figure has steadily decreased by almost 50% since 2016 and will likely continue to do so.⁶ In 2020, 18 judicial district courts did not report any revenue collected from juvenile fees and fines. In addition, fees and fines were not collected evenly across judicial districts: some fees were collected in only a single district court while others were collected in 80 or more out of 110.⁷ This aligns with data from other states: for example, Louisiana reported a fiscal impact of less than \$500,000 when it eliminated all juvenile fees and fines in 2021.⁸

In 2020, the most recent full year for which data is available, the **largest reported revenue categories for juvenile fees and fines** were the attorney fee county reimbursement (\$138,633.46); clerk fee (state) (\$36,636.00); juvenile supervision fee (felony and misdemeanor) (\$32,636.38); JBS (judicial branch surcharge) (\$32,093.39); juvenile fines (\$26,999.91); and Kansas Bureau of Investigation lab fee (\$24,724.96). All other categories totaled less than \$10,000 annually in all reporting counties combined.⁹

2. The cost of collecting juvenile fees and fines is high.

a. Recidivism costs

Fees and fines come with the long-term cost of increased recidivism. A 2016 criminology study of more than 1000 cases found that youth who owed costs and fees had higher recidivism rates than those who did not, even when controlling for age, race, gender, and type of offense—and the more they owed, the larger the increase.¹⁰ A 2018 study also found that court costs and fees drive people to commit further offenses to gain money and pay off this debt.¹¹

b. Administrative costs

According to the Office of Judicial Administration, Kansas courts do not track the cost of collecting fees and fines in a centralized manner. In states that have tracked this information, **the cost of collections can outweigh any revenue from juvenile fees and fines.** For example, Oregon spent \$866,000 in 2019 to collect only \$864,000 in youth custody fees, and Colorado spent 75 cents for every dollar it collected in juvenile fees.¹² Untracked costs in Kansas are likely

⁵ Victim restitution is not included in these numbers because it is not affected by reforms proposed by the Debt Free Justice Kansas campaign. This data was provided by the Kansas Office of Judicial Administration. Of the 110 judicial district courts, between 92 and 99 reported collecting any fees and fines each year between 2016 and 2021.

⁶ The available 2021 data continues this trend.

⁷ Johnson County uses a different data-tracking system and its fine-and-fee categories do not match up to those in other courts. In addition, it is not clear whether any non-court entities track juvenile fees and fines.

⁸ Louisiana Legislative Fiscal Office, Fiscal Note: HB 556 (May 18, 2020), <https://legiscan.com/LA/supplement/HB556/id/122106>.

⁹ Johnson County is not included in this analysis because it uses different categories to track fees and fines.

¹⁰ Alex R. Piquero & Wesley G. Jennings, “Justice System–Imposed Financial Penalties Increase the Likelihood of Recidivism in a Sample of Adolescent Offenders,” 15 YOUTH VIOL. & JUV. JUST. 325 (2016).

¹¹ ALABAMA APPLESEED, UNDER PRESSURE: HOW FINES AND FEES HURT PEOPLE, UNDERMINE PUBLIC SAFETY, AND DRIVE ALABAMA’S RACIAL WEALTH DIVIDE (2018), <https://www.alabamaappleseed.org/wp-content/uploads/2018/10/AA1240-FinesandFees-10-10-FINAL.pdf>.

¹² Data on file with the Debt Free Justice campaign; see also JEFFREY SELBIN ET AL., HIGH PAIN, NO GAIN: HOW JUVENILE ADMINISTRATIVE FEES HARM LOW-INCOME FAMILIES IN ALAMEDA COUNTY, CALIFORNIA (2016), https://lawcat.berkeley.edu/record/1127714/files/High_Pain_No_Gain.pdf.

to include:

- Judge, attorney, bailiff, stenographer, clerk, and other court staff time for court dates when cases are extended solely for payment of fees and fines
- Probation officer staff time when probation is extended solely for payment of fees and fines
- Cost of executing an arrest warrant, including police officer time and paperwork (plus cost to public safety of focusing on these types of warrants)
- Cost of placement or detention for nonpayment
- Administrative staff time to track and collect juvenile fees and fines
- Hiring private collections agencies to conduct collections
- Impact on economy of imposing civil judgments, which give youth less access to apartment rentals, jobs, and student loans and may result in greater reliance on state assistance

3. Collecting juvenile fees and fines is inefficient.

Available court data does not allow for accurately calculating the collection rate for the state or the amount of time invested in attempting to collect fees and fines. Between 37 and 40 of Kansas' judicial districts per year do not track outstanding debt in any way.¹³ In fact, many counties reported collections, but no outstanding amounts due, for the same category of fees and fines.¹⁴ Moreover, the courts do not link collections amounts or amounts due to the year a fee or fine was imposed or otherwise track amounts imposed versus collected. This suggests that **a significant portion of the collected fees and fines may have been imposed years before they ever reach court coffers**, with costs of collection extending over a long period of time.

¹³ Data courtesy of the Kansas Office of Judicial Administration.

¹⁴ *Id.*



Conservative, Center-Right, and Libertarian Organizations Support Ending Fees and Fines for Youth

September 20, 2021

We are organizations and advocates that share in a desire for a free and open society that limits government interference and supports individual liberties. We are calling for an end to the assessment and collection of fees and fines for young people in the justice system and their families.

Fees – costs imposed on youth and their families for a young person’s involvement in the justice system – operate in part as a regressive tax on vulnerable communities. These fees include charges for diversionary programs, probation supervision, parent training programs, miscellaneous court costs, and more. Fines – monetary penalties imposed on youth and their families for a certain behavior – can range widely in scope from penalties for status offenses like truancy to more substantial delinquency fines. Both fines and fees often come with harsh consequences for nonpayment, exacerbating their impact on youth and families.

Studies show that fees and fines create additional barriers for youth and families, often trapping them in cycles of debt and court involvement. Further, fees and fines are linked to higher recidivism rates and lower levels of positive social spending, undermining community safety and youth rehabilitation.

Research consistently shows that jurisdictions generate little to no *net* revenue from fees and fines, which they collect at low rates with high costs. Still, relying on system-involved youth and families to generate *potential* government revenue creates a perverse incentive to entangle youth in the system. Ending fees and fines for youth would reduce the financial and bureaucratic burden on the agencies administering these programs, and localities could see long-term fiscal savings.

Conservative and free-market voices have played a key role in ending fees and fines for young people and their families in every region of the country. See the latest states to pass legislation [here](#). A wide variety of stakeholders—including [judges](#), [district attorneys](#), [probation officials](#), [youth correctional officers](#), and [law enforcement leaders](#)—have also called for the reduction or elimination of fees and fines for youth.

We are hopeful that states will continue to stand as leaders on this common-sense juvenile justice reform with widespread bipartisan support. We urge lawmakers to act on behalf of our communities and the youth and families impacted by our justice system by eliminating all fees and fines imposed on young people.