

FACT SHEET

Criminal justice debt: A modern-day debtors' prison

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It is unconstitutional to jail a person in the United States just because he or she owes money. But Alabama has no process for courts to determine if a defendant can afford to pay fees and fines. And despite a prohibition on “debtors’ prisons,” thousands of Alabamians are in danger of going to jail or are driven further into poverty because they can’t afford to pay costs attached to the criminal justice system. These costs include:

- Bail bonds and related fees to avoid incarceration before trial.
- Fines and docket fees in criminal cases.
- Drug testing and extra fees surrounding drug-related convictions.
- Fees charged for every day spent in jail.
- Fees for use of the court system.
- Probation or parole supervision fees.
- Fees when assigned a public defender.
- Fees to enter a diversion or community corrections program.
- Court costs and other fees for speeding tickets and other driving citations.
- Fees to reinstate revoked driver’s licenses.
- Higher insurance costs when a certificate is required upon license reinstatement.
- Interest and penalties for late payments.
- Fees for paying fees in installments.

What is the scope of this issue?

Criminal justice debt can add up. A 2014 survey by TASC, Jefferson County’s community corrections program, found 90% of participants owed court debt that averaged \$7,885. Court costs, fines and fees for a conviction for possession of 1 ounce of marijuana in Shelby County could total at least \$2,611, the Public Affairs Research Council of Alabama (PARCA)

estimated in a 2014 study. Probation fees in the case could add an extra \$960, and driver’s license restoration would add another \$300.

These obligations often lead to incarceration and higher debt. In much of Alabama, someone who falls behind in court or probation payments can be incarcerated for failing to make required payments. TASC’s survey of community corrections participants found 18% had been jailed for failure to pay fees or fines. PARCA found 59% of attorneys surveyed had at least one client who had been jailed because of debt. A person who fails to make timely payment on court debt faces late charges and collections charges of as much as 30% in addition to the original debt.

People hit hardest by criminal justice debt are likely to be young and have low incomes. Four out of five people charged with crimes are indigent. TASC’s survey of community corrections participants found respondents had a median annual income of only \$8,000. Nearly 30% of those surveyed had no income at all.

Who gets hurt by these debts?

Criminal justice debt acts as a particularly harsh tool of oppression against people of color. Many of the worst abuses of the practice in Alabama have occurred in places with large black and Latino populations.

These debts also divide communities. While some Alabamians with a past felony conviction can get their voting rights restored, they first must complete their sentence, including payment of all court-ordered fees and fines. Inability to pay can result in denial of voting rights and weaker ties to

community institutions. Mounting debt also can prompt cynicism about a system seen as preying on people in poverty.

Criminal justice debt hurts individuals and their families. Sixty percent of people surveyed by TASC said they had to choose between paying fees and fines or for necessities like utilities, groceries and housing. These debts also harm children and other family members. Forty percent of people surveyed by TASC had children in the home who suffered from parents' inability to pay for necessities.

These financial obligations can make it much harder for people convicted of a crime to get back on their feet. Credit ratings can be ruined when a missed payment is reported to a credit bureau. More than half of people surveyed by TASC lacked a car, a license or auto insurance. And people facing jail because of debt can fall into the trap of predatory lending.

Why are there so many fees?

Alabama has come to rely heavily on criminal justice debt to fund courts and other services.

One reason criminal justice debt is so severe in Alabama is the state's failure to fund its court system adequately. State revenues declined sharply during the Great Recession and still have not fully rebounded. Largely unwilling to increase taxes, the Legislature instead has cobbled together budgets overly dependent on one-time money and user fees. General Fund support for the Unified Judicial System fell from \$125 million in 2003 to \$88 million in 2018, adjusted for inflation. Court fees replaced much of that lost revenue.

Circuit clerks collected \$154.8 million in fees and fines in 2013, PARCA reports. Municipal courts collected an unknown additional amount. More than half the fees went to court operations. Another 47% supported other entities, including jails, sheriffs, local governments, law libraries, district attorneys and court clerks. Courts struggle to collect much of what is owed. Fewer than half the fees and fines ordered are actually collected.

Local legislation has allowed counties and cities to impose their own fees and fines.

Alabama's constitution limits local taxing authority and gives much of that power to the Legislature,

which is often more willing to pass user fees than local taxes. The Legislature has passed more than 400 local court fees since 1977, PARCA found. Most fund court operations, but some support government activities unrelated to courts. These acts have resulted in an arbitrary patchwork of court costs in different localities.

How can we solve the problem?

Alabama's criminal justice debt problem has a host of potential solutions. One big step would be to overhaul the state tax system to fund courts adequately. This would end overreliance on fees that hold many struggling Alabamians back and that often never can be collected.

Short of that systemic change, the Legislature could implement many other helpful reforms. These would range from improvements in court procedure to elimination of some fees. Here are a few meaningful changes Alabama could make:

- Require courts to consider a defendant's ability to pay fees and fines and standardize a process for that determination.
- Create a cap and a sliding scale for fees and fines, based on ability to pay.
- Consider all financial obligations in ability-to-pay determinations.
- Eliminate cash bail for most misdemeanors.
- Forgive payment of fees upon acquittal or dropping of charges.
- Require reasonable and fair payment plans based on ability to pay.
- Prohibit incarceration for failure to pay a criminal justice debt.
- Determine the degree of and remedy racial disparities in criminal justice debt.
- Allow and encourage courts to use reasonable alternatives to monetary sanctions, such as community service or treatment programs.
- End driver's license revocations and suspensions for offenses unrelated to driving, such as drug crimes or missed court dates.
- Reduce or eliminate fees for reinstatement of a suspended or revoked driver's license.

People deserve a chance to participate in society without painful, unreasonable fines and fees dragging them down. Alabama's criminal justice system needs system-wide reform to give thousands of people that fair chance.