

FACT SHEET

Criminal justice debt: A modern-day debtors' prison

*By Carol Gundlach, policy analyst
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It is illegal to jail a person in the United States simply because he or she owes money. But Alabama has no set 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 at risk 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.
- Fees for probation or parole supervision.
- 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.
- Additional costs collected by private agencies that collect court debt.
- Interest and penalties for late payments.

How does this hurt Alabama?

Criminal justice debt can add up. A survey by TASC, Jefferson County’s community corrections program, found that 90 percent 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 study of court costs. Probation fees in the case could add an extra \$960, and driver’s license restoration would add another \$300.

Criminal justice debt can 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 that 18 percent had been jailed for failure to pay fees or fines. PARCA found 59 percent of attorneys surveyed had at least one client who had been incarcerated for failure to pay criminal justice debt. A person who fails to make timely payment on court debt faces late charges and collections charges of as much as 30 percent in addition to the original debt.

Those hit hardest by criminal justice debt are likely to be young and have very low incomes. Eighty percent of people charged with crimes are indigent, the U.S. Department of Justice estimates. TASC’s survey of community corrections participants found respondents had a median annual income of only \$8,000. Nearly 30 percent of those surveyed had zero income.

Criminal justice debt hurts individuals and their families. Sixty percent of those surveyed by TASC said they had to choose between paying fees and fines or for necessities like utilities, groceries and housing. Criminal justice debt also can hurt children and other family members. Forty percent of those surveyed by TASC had children in the home who also suffered from parents’ inability to pay for necessities. Even if a child lives elsewhere, criminal justice debt can make it more difficult to pay child support.

Criminal justice debt can make it much harder for someone convicted of a crime to get back on his or her feet. Credit ratings can be ruined when a missed payment is reported to a credit bureau. Transportation to work may be unaffordable: More than half of those surveyed by TASC didn't have a car, license or auto insurance. And people facing incarceration because of debt can fall into the trap of predatory lending.

Criminal justice debt hurts communities.

While some ex-felons 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 low-income people.

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 has failed 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 \$72 million in 2017, 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, with an unknown amount collected in municipal courts. About 53 percent of the fees supported court operations, while 47 percent went to other entities, including jails, sheriffs, local governments, law libraries, district attorneys and court clerks. Courts struggle to collect much of what is owed: PARCA found less than half of 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 places much of that power with 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 a hodgepodge of different 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 an overhaul of the state tax system to reduce courts' reliance on revenue from fees and fines. Short of that, the Legislature could consider many reforms to address criminal justice debt, ranging from improvements in court procedure to elimination of some fees. These changes include:

- Requiring courts to determine whether a defendant has the ability to pay fees and fines and establishing a standardized process for that determination.
- Requiring a cap or sliding scale for fees and fines, based on ability to pay.
- Considering all court-ordered obligations in ability-to-pay determinations.
- Eliminating or restricting cash bail in misdemeanor cases.
- Forgiving payment of fees upon acquittal or dropping of all charges.
- Requiring reasonable and fair payment plans, based on ability to pay.
- Prohibiting additional interest, penalties or other fees for people unable to pay the full amount due under a payment plan.
- Prohibiting incarceration for failure to pay a criminal justice debt.
- Allowing judges to remit fines and costs for defendants with financial hardship.
- Allowing or encouraging courts to use fair and reasonable alternatives to monetary sanctions, such as community service or treatment programs.
- Ending driver's license revocations and suspensions for offenses unrelated to motor vehicle operation such as drug crimes or missed court dates.
- Ending Alabama's requirement for a special certificate to reinstate a revoked driver's license.