

H.1461 & S.1005 ELIMINATING FEES AND COSTS FOR KIDS IN MASSACHUSETTS

OVERVIEW

Over 8,800 applications for juvenile delinquency complaints were filed against youth in Massachusetts in fiscal year 2022. Under Massachusetts's current system, a single delinquency case can result in hundreds of dollars in fines, fees, restitution, and court costs, even for minor indiscretions. These charges undermine public safety and contribute to racial disparities in the legal system.

FEES AND COSTS ARE HARMFUL

FEES AND COSTS UNDERMINE PUBLIC SAFETY.

Research shows juvenile justice fees increase recidivism. One study found that the higher the financial obligation, the more likely a youth was to reoffend.[1] This is not surprising given that some youth are not old enough to work, and those who are old enough may have unique difficulty finding employment.

FEES AND COSTS EXACERBATE RACIAL AND ECONOMIC DISPARITIES.

Black and Brown youth are disproportionately arrested, detained, and placed in out-of-home facilities despite similar offending rates among youth of all races for most common juvenile offenses. One study found that Black and Brown youth in Allegheny County, Pennsylvania were more likely to owe costs or fees after case closing, even controlling for a host of other demographics and case characteristics.[2] This outstanding debt pushes young people deeper into the system solely because they can't pay.

STATE LAW SHOULD REFLECT COURT PRECEDENT AND PRINCIPLES OF FAIRNESS

The Massachusetts Supreme Judicial Court, in *Commonwealth v. Henry*,[3] held that judges are required “...to consider the defendant's ability to pay when setting the restitution amount”. The court’s reasoning was rooted in the potential consequences of the inability to pay, finding that “To allow a judge to impose a restitution amount that the defendant cannot afford to pay simply dooms the defendant to noncompliance. Such noncompliance may trigger a notice of probation violation even though a probationer cannot be found in violation for failing to pay a restitution amount that the probationer cannot reasonably afford to pay.” This principle – not subjecting someone to the risk of criminal sanctions simply for their financial status – should also be reflected in Massachusetts General Laws and should certainly be established for young people who are not old enough to work or who have difficulty finding employment due to their age.

THE CONSEQUENCES ARE EXTREME

When young people or their families cannot afford to pay fees and costs, they face serious consequences. Defenders in Massachusetts and across the country have reported that their youth clients had their cases kept open longer merely for unpaid payments, which resulted in missed school or work because they were attending payment-related court dates.

WANT TO LEARN MORE?

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ALTERNATIVES THAT WORK

MASSACHUSETTS WILL BE JOINING A MOVEMENT AROUND THE COUNTRY.

STATE REFORMS

CALIFORNIA

Eliminated almost all juvenile court fees. (2018)

COLORADO

Eliminated all juvenile fines and fees and discharged all old debt. (2021)

DELAWARE

Eliminated all juvenile fines and fees. (2022)

LOUISIANA

Eliminated all fees for children under 18 in both the juvenile and criminal justice systems. (2021)

MARYLAND

Eliminated all fines and fees and made previously imposed juvenile fees and fines unenforceable and noncollectable. (2020)

NEVADA

Eliminated most fines and all fees in the juvenile justice system. (2019)

NEW HAMPSHIRE

Eliminated costs of services and child support imposed on parents in justice system. (2020)

NEW JERSEY

Eliminated fees and fines and canceled all old debt. (2019 and 2021)

NEW MEXICO

Eliminated all juvenile fines and fees. (2021)

OREGON

Eliminated all juvenile fines and fees, and the collection of outstanding juvenile debt. (2021)

TEXAS

Eliminated many fees in the juvenile system, including fees for court-ordered treatment, out of home placements, diversion, and DNA testing. (2021)

VIRGINIA

Repealed a law requiring parents to pay for the cost of confining their child in custody. (2021)

WASHINGTON

Eliminated numerous juvenile diversion fees, court costs, appellate costs, adjudication fees, and certain fines. (2015, 2022)

[1] Alex R. Piquero & Wesley G. Jennings, Research Note, Justice System Imposed Financial Penalties Increase the Likelihood of Recidivism in a Sample of Adolescent Offenders, 15 Youth Violence & Juv. Just. 325 (2016).

[2] *Id.*; see also The Sentencing Project, Black Disparities in Youth Incarceration, <https://www.sentencingproject.org/publications/black-disparities-youth-incarceration/>.

[3] 55 N.E.3d 943 (Mass. 2016).