

# The Cost of Juvenile Probation

## A Critical Look into Juvenile Supervision Fees

### THE ISSUE

More than 200,000 times a year, children are formally placed on probation through the juvenile court system.<sup>1</sup> Probation is by far the most common disposition for a child to receive and the trend is growing every year.<sup>2</sup> While intended to influence positive behavior change among youth, probation is shown to cause lasting harm to children when it is focused on surveillance and compliance rather than meaningful opportunities for growth.<sup>3</sup> Worsening this issue, many families are trapped in debt as a result of the costs associated with probation orders, causing tension between children and their families at a time when a child most needs the support of a family to succeed. In some courts across the country, children and their parents are required to pay a “supervision fee”—or a fee for probation itself. This fee is generally independent of program costs that may arise out of probation—such as counseling and drug testing—and is charged solely to pay for the probation department’s supervision over a child. In a juvenile justice system that disproportionately impacts low-income minority children, these supervision fees not only place a tremendous burden on children and families, but also exacerbate existing racial and economic disparities.<sup>4</sup>

### METHOD AND FINDINGS

The National Juvenile Defender Center (NJDC) conducted a national survey on the practice and enforcement of supervision fees assessed for a child’s time on juvenile probation. Juvenile defenders and juvenile probation officers from the 50 states and D.C. were interviewed by NJDC legal staff to uncover the prevalence and impact of supervision fee practices on children in delinquency court. Given the localized nature of juvenile justice systems and practices in many states, the findings in this brief represent the practices as reported and are not necessarily statewide. While the report refers to findings applying to a certain number of “states,” the proposition should be interpreted as applying to at least one jurisdiction in that state.

#### States that Assess a Supervision Fee

Twenty-one states have at least one jurisdiction that currently assesses a supervision fee for children on juvenile probation.<sup>5</sup> An additional eight states, though they do not assess a supervision

fee, charge children and/or families fees for services that may arise out of probation.<sup>6</sup> Only 20 states and D.C. confirmed a statewide practice against charging supervision fees for juvenile probation;<sup>7</sup> however, all of them charge other fees.<sup>8</sup> The practice of charging supervision fees in juvenile court derives from state statutes and local codes, as well as through routine practices that developed either in juvenile court or the probation department over time. Such practices were often reported to have developed independently of statutory authority, especially in states without a centralized juvenile justice system.

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#### Cost and Collection of Supervision Fees

Among the states that charge a supervision fee, seven states charge the fee to the child,<sup>9</sup> six states charge the parent,<sup>10</sup> and

eight states charge both the parent and the child, holding them jointly liable for the supervision fee.<sup>11</sup> The supervision fee is typically a monthly charge, assessed every month the child is on probation, though some states charge a flat fee regardless of how long the child is on probation. The initial length of probation is generally set at the judge's discretion and on average may range anywhere between four months to five years, depending on the offense and jurisdiction. As a result, the supervision fees themselves vary widely, with one state charging a flat fee of \$10, compared to other states charging a monthly fee that can add up to well above \$2,000 for the entire length of probation.<sup>12</sup>

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On average, supervision fees cost around \$50 per month for the length of the child's probation.<sup>13</sup> Once collected, the fees are typically either sent to a general fund or used to help pay for the probation department or the juvenile court system.<sup>14</sup>

When probation supervision fees go directly to the probation department or the court, it creates an adverse incentive to keep children on probation.<sup>15</sup> Paradoxically, while some states reported significant financial returns,<sup>16</sup> how those funds are used varies,<sup>17</sup> and it is not clear whether states are making a net profit given the significant costs of collection and enforcement.<sup>18</sup> Some probation officers viewed the fees as an accountability mechanism,<sup>19</sup> which is likely ineffective given that even the most compliant child cannot pay money they do not have. Many other probation

officers see little value in collecting these fees.<sup>20</sup> While courts and probation departments initially collect the fees out of a desire to generate revenue or teach children responsibility, the ultimate outcome is a burden on low-income youth and families that creates additional obstacles to long-term success. Furthermore, states that hold the parent and child jointly liable create financial stress that can exert unnecessary divisions within a family at the moment that family engagement is most crucial.

## Opportunities to Waive Supervision Fees

Most states do not have a judicial procedure in place to consider the child or family's ability to pay supervision fees, and only five states reported that such fees are often waived if the child is unable to pay.<sup>22</sup> In fact, only Montana reported having hearings to determine the family's ability to pay, which occur after disposition and without a right to counsel. In six states, there is no reported process in place for a child or parent to seek a waiver or reduction of fees, and adjustments were only made in extreme cases.<sup>23</sup> Some juvenile defenders explained that unless a child's parent had unexpectedly passed away or a child is "the most indigent of the indigent," judges will not waive or reduce supervision fees, subjecting children to a range of consequences for their failure to pay the fee.<sup>24</sup> In at least four states, the probation department has the discretion to adjust the supervision fee.<sup>25</sup> Typically, adjustments of this sort are made only upon request by the child or by completing a financial statement for the probation department's review. In eight states, attorneys report that judges routinely exercise discretion to waive or reduce the supervision fee, often prompted by either the juvenile defender or the

### DEEP DIVE: An Example of How Probation Fees Play Out in One State

In Illinois, the court is statutorily authorized to assess children up to \$50 per month for probation supervision,<sup>21</sup> although most are charged between \$12 and \$25, depending on the judge at disposition. Given that the average length of probation for a misdemeanor is 12 months and the average length for a felony is between 24 months and 5 years, probation can easily cost a child \$144 for a misdemeanor, \$288 for a felony, or upwards of \$1,500 for offenses like burglary that require five years of probation. These fees are rarely waived, and become due at the end of probation. If the family is unable to pay the fee at that point, the state's attorney can file for a violation of probation, and the court can potentially maintain jurisdiction over the case until the youth turns 21. If the fee is still outstanding at that point, the court can pursue civil judgment against both the child and their parent.

*"It's easy to pass fees onto this group because they don't have a voice. The general population will say 'you got yourself into the system, so you should pay,' but at some point, taxpayers have to realize the burden that these families face from these fees."*

— Juvenile Probation Officer in Illinois

probation department.<sup>26</sup> Depending on the state, the judge may adjust the fee at disposition or at the very end of probation. In all eight of these states, it was reported that the decision to adjust the supervision fee is made on a case-by-case basis and varies significantly by judge, without a set of uniform standards to guide decision-making on the waiver or reduction of the fee. Lastly, in three states, our investigation showed that an assessment office within the court or the collection department has the ability to waive or reduce the supervision fee.<sup>27</sup> It was reported that generally, the burden falls on the child or the parent to seek a fee waiver at the assessment office, either at the beginning of the case or once the fee is assessed. These determinations are commonly made without the presence of counsel and absent any set of formal guidelines to determine fee adjustments.

### Consequences of Failure to Pay Supervision Fees

In almost all of the states that assess a supervision fee, failure to pay the fee is associated with significant consequences that can lead to long-term harm. Many states impose a range of penalties, including civil judgment, extension of probation, violation of probation, and suspension of driving privileges. In one state, it was reported that the threat of detention is frequently used by the court to force children to pay their supervision fees.<sup>28</sup> In fact, in a number of instances, children were sent to detention as a result of a probation violation because they did not—or could not—pay their supervision fees.<sup>29</sup> At least thirteen states impose a civil judgment for the failure to pay supervision fees, meaning that the outstanding fee is treated as a civil debt, allowing for wage garnishment, tax withholding, and a credit score reduction. Among these states, five states pursue a civil judgment against only the parent,<sup>30</sup> four states pursue a civil judgment against the child,<sup>31</sup> and four states pursue a civil judgment against both the parent and the child, typically once the child turns 18 years old.<sup>32</sup> In expressing frustrations with supervision fees, one defender described a case in which a child completed all of the required probation conditions, with the exception of paying the supervision fee due to financial hardship.<sup>33</sup> Though probation was eventually closed, the outstanding fee was transferred into a civil judgment and the young person now faces credit issues, further perpetuating economic inequalities and creating barriers to long-term success.<sup>34</sup>

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At least five states extend the child's probation term if the supervision fee is unpaid, subjecting the child to an even greater accumulation of fees.<sup>35</sup> One juvenile probation officer noted, "Most kids [on probation] are living in poverty and are just unable to pay these fees. About nineteen out of seventy kids could be off probation but for these fees. . . . We are trying to get money from poor people by keeping them on probation."<sup>36</sup> Six states reported that they file a violation of probation based on the failure to pay supervision fees, both leaving a record of the violation and prolonging the length of probation, sometimes indefinitely, simply because of an inability to pay outstanding fees.<sup>37</sup> In one Georgia county that recently instituted a new policy to file probation violations for the failure to pay supervision fees, a juvenile probation officer stated, "We are scratching our heads a little with this new policy because there is no way out of these fees. So, if a child is unable to pay the fee, then the child will end up in the system perpetually."<sup>38</sup> This probation officer also explained that a typical caseload includes 95-97% of children receiving free lunch, emphasizing, "They don't have the means to come up with the fee. It is an added stressor on their lives."<sup>39</sup>

One county in Ohio reported the practice of suspending driving privileges and prohibiting record sealing until the outstanding fee is paid in full, hindering a child's successful reentry back into the community following system involvement. Only three states reported having no real consequence to either the child or the parent based on the failure to pay supervision fees, meaning that a civil judgment, probation violation, probation extension, or other action is not filed as a direct result of the unpaid fees.<sup>40</sup> However, even among these states, the assessment of the fees themselves may trigger tremendous stress, especially since the fees are typically assessed without an assurance that they lack consequences. As a result, children, especially those living in poverty, may feel a sense of hopelessness in light of the continued accrual of supervision fees and the unknown consequences of the fees. One study describes that financial stress can be more debilitating than sleep deprivation, because it can reduce "cognitive bandwidth," which often leads to greater impulsivity and carelessness.<sup>41</sup> A juvenile defender stated that children are "very concerned about paying . . . sometimes it seems they are more worried about this than any other aspect of the case."<sup>42</sup>

### Implications

Charging children and their families supervision fees hinders the goal of achieving positive youth development through

probation, because these fees distract and burden youth without influencing positive behavioral change or helping youth become productive members of the community.<sup>43</sup> Unfair fee practices may also affect the child's view on the legitimacy of the juvenile court system, which in turn affects the child's behavior and compliance.<sup>44</sup> Studies have shown that when a youth feels that procedures used by decision-makers are fair, that sense of procedural justice leads to a willingness to comply with requirements imposed by that system.<sup>45</sup> By charging supervision fees when there is no means to pay and imposing harsh consequences for any unpaid fees, a child is more likely to view the entire system as unfair, thereby reducing the likelihood that the child will comply with authorities in the juvenile court system.<sup>46</sup> As a result, these fees are contributing to worse outcomes while simultaneously trapping children in a cycle of debt and system involvement. A juvenile probation officer stated, "A lot of the families we work with are typically low-income, so the fees and fines put a burden on them, as well as our rehabilitative efforts . . . . We want youth to focus their time and energy on becoming productive citizens."<sup>47</sup> The terms of probation should align with the goals of achieving community safety and accountability by promoting positive youth development.<sup>48</sup> Any condition that does not contribute to youth success should not be ordered.

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Further, the practice of charging supervision fees without formal procedures in place to determine the child's ability to pay the fees may violate the child's constitutional due process rights.<sup>49</sup> It is well established that our Constitution does not allow "punishing a person for his poverty."<sup>50</sup> In addressing court fees and fines, the U.S. Department of Justice stated, "Due process requires . . . a meaningful opportunity for the defendant to be heard on the question of his or her financial circumstances."<sup>51</sup> All children are entitled to due process rights as held in *In re Gault*, when the

Court cautioned, "Departures from established principles of due process have frequently resulted not in enlightened procedure, but in arbitrariness."<sup>52</sup> Accordingly, it is vital that all children receive a fair assessment of their ability to pay supervision fees, among other fees and fines, when imposed. As an alternative, a presumption that children are unable to pay supervision fees by virtue of being a child will satisfy the constitutional mandates of due process and address the Court's caution of arbitrary results. In fact, the U.S. Department of Justice noted, "In some cases, it will be immediately apparent that a person is not and will not likely become able to pay a monetary fine."<sup>53</sup> Accordingly, the U.S. Department of Justice also stated, "Jurisdictions may benefit from creating statutory presumptions of indigency for certain classes of defendants."<sup>54</sup> A rebuttable presumption that all children are unable to pay the supervision fee will protect children against unfair fee practices, lessen the stressors of juvenile court, and help improve youth outcomes.

Charging fees to the family, rather than the child, is equally unjust if the child is the person sanctioned for failure to pay. Punishing the child for circumstances beyond the child's control serves no legitimate rehabilitative purpose.

Finally, charging supervision fees disproportionately affects low income families of color. While this survey did not explicitly seek to address racial and ethnic disparities in the assessment of supervision fees, youth of color are at a higher exposure for these fees simply because of the existing and widely documented racial and ethnic disparities in the juvenile justice system.<sup>55</sup> For example, a March 2016 report from Alameda County, California found that African American youth served probation conditions about twice as long as those of white youth, making their families liable for twice the amount of administrative fees, including probation supervision fees.<sup>56</sup> Additionally, the discretionary nature of determinations to grant fee waivers presents another opportunity for implicit bias to widen existing racial and ethnic disparities.<sup>57</sup> Further inquiry and data collection across jurisdictions and states is necessary to determine the extent to which supervision fees are exacerbating these disparities.

## WORKING INNOVATIONS

Advocates in the juvenile justice system are working together to reform the practice of imposing supervision fees in several jurisdictions. Efforts have been made to align probation with the goal of achieving positive youth development; preserve the role of probation officers as agents who influence behavior change, as opposed to bill collectors; and protect the rights of children who are unable to pay fees in juvenile court. Strategies such as policy advocacy, litigation, and direct revisions to internal policies within probation departments are being successfully employed to achieve reform.

### Alameda County, California

In July 2016, Alameda County ended the practice of collecting juvenile probation fees, among other fees in juvenile court, in response to advocacy efforts led by the U.C. Berkeley School of Law Policy Advocacy Clinic and the East Bay Community Law Center.<sup>58</sup> Previously, Alameda County charged families a range of fees in the juvenile court system, including \$90 a month for probation supervision, which typically totaled around \$1,530 based on an average length of probation of 17 months.<sup>59</sup> Advocacy efforts leading up to this victory included the release of a policy report titled *High Pain, No Gain: How Juvenile Administrative Fees Harm Low-Income Families in Alameda County, California*, which highlights the disproportionate impact of fees arising out of juvenile court on racial minorities, harmful effects of such fees on children and families, and the low financial gain that the County received from the assessment of these fees.<sup>60</sup> Following this repeal, which is the first of its kind in California, more than 2,000 families facing outstanding debt received immediate relief, and children and families entering the juvenile court system are now shielded from these debts moving forward.<sup>61</sup> On January 26, 2017, S.B. 190 was introduced in the California Senate, which, if passed, will end the assessment and collection of all administrative fees in California's juvenile system.<sup>62</sup>

### Marion County, Indiana

In 2015, the juvenile court began to move away from charging supervision fees against children for court-ordered probation.<sup>63</sup> This change in practice resulted from litigation efforts by juvenile defenders who provided the court with firsthand stories of the financial stress the fees caused children and families. Though the juvenile court in Marion County does not hold a separate hearing on the child's ability to pay fees, juvenile defenders began a practice of explaining the financial circumstances of the child whenever a supervision fee was assessed, thereby pushing for a fee waiver and preserving the record for appeal. Additionally, the juvenile court had set up a fee review court with the original intention of enforcing payments; however, through this system, the court gained a better understanding of the impact of supervision fees on children and their families. Parents, in a number of instances, explained that they had to make a choice between paying the fee for their child or paying rent. After hearing countless stories about financial hardships exacerbated by these fees, the juvenile court ended the practice of routinely charging children for probation supervision. Though supervision fees may still be assessed in rare cases, they are no longer automatically assessed and there are greater opportunities for waiver at the end of probation.

### Umatilla County, Oregon

Umatilla County currently charges a flat fee of \$200 for probation. The supervision fee is administered and collected directly by the probation department, giving the probation department the discretion to waive or reduce the fees as necessary. All children on probation, regardless of their ability to pay the fee, are given the opportunity to complete community service, receiving \$50 a day, to pay off the supervision fee, in addition to other court fees and fines. If the fee remains unpaid at the end of probation, the child will be given an opportunity to ask the chief probation officer to waive the fee, which is always granted if the child has demonstrated positive behavior change throughout probation. Civil judgments, probation violations, or probation extensions are not pursued based on unpaid supervision fees. One juvenile probation officer stated, "Our focus is on community safety. Our experience is that if the children are not criminalizing the neighborhood, then keeping them in court for fees will only further criminalize them and put them in the system deeper."<sup>64</sup> Umatilla County previously attempted to assess monthly supervision fees but quickly ended the practice, noting "we would have just become bill collectors," given the amount of work involved in monitoring, administering, and collecting the fees.<sup>65</sup>

## RECOMMENDATIONS FOR REFORM

The practice of charging supervision fees for juvenile probation is inconsistent with the goals of juvenile court, worsens racial and economic disparities in the juvenile court system, and creates a tremendous burden on children and families. One juvenile probation officer noted, “These supervision fees absolutely affect the lives of clients. It adds more trauma and stress to their situation.”<sup>66</sup> Children should not be charged for their time on probation. In order to work towards eliminating the assessment of supervision fees, the National Juvenile Defender Center recommends:

- Legislatures should eliminate the use of supervision fees for juvenile probation, or at the very least, implement a rebuttable presumption that all children lack the ability to pay supervision fees;
- Juvenile court jurisdictions should end the practice of charging children and families probation supervision fees on a statewide level;
- Juvenile defenders should actively oppose the imposition of juvenile supervision fees, litigate each child’s ability to pay the supervision fees, and push for waiver of these fees based on their incompatibility with the goal of juvenile probation in all instances;
- Juvenile probation departments should waive supervision fees, or recommend waiver of the fees before the juvenile court;
- Bar associations and other professional organizations should issue official statements against the unfair practices of charging children for probation supervision.

## CONCLUSION

Juvenile probation can play an important role in influencing positive behavior change among youth. Yet, charging children for probation supervision not only goes against the aim of achieving positive youth development, but also hinders successful reentry into the community, as it leaves youth with debt and prolongs system involvement. Further, these supervision fees exacerbate the existing racial and economic disparities in the juvenile court system by trapping youth with no path out. The additional stressor of the supervision fees, especially when assessed without a determination of the child’s ability to pay, will likely affect the child’s trust in the fairness of the system, reducing the child’s compliance with orders and conditions and leading to worse outcomes. Accordingly, it is essential to uphold the goal of achieving positive youth development in juvenile probation by ending the practice of imposing supervision fees on children and their families.

## ENDNOTES

1. SARAH HOCKENBERRY & CHARLES PUZZANCHERA, NAT’L CTR. FOR JUV. JUST., JUVENILE COURT STATISTICS 2013 49 (2015).

2. *Id.* at 50.

3. NAT’L JUVENILE DEFENDER CTR., PROMOTING POSITIVE DEVELOPMENT: THE CRITICAL NEED TO REFORM YOUTH PROBATION ORDERS (2016) [hereinafter PROMOTING POSITIVE DEVELOPMENT]; Dick Mendel, *Case Now Strong for Ending Probation’s Place as Default Disposition in Juvenile Justice*, JUV. JUST. INFO. EXCHANGE (Apr. 14, 2016), <http://jjie.org/case-now-strong-for-ending-probations-place-as-default-disposition-in-juvenile-justice/227322/>.

4. See Tamar R. Birkhead, *Delinquent by Reason of Poverty*, 38 WASH. U. J. L. & POL’Y 53 (2012); HOCKENBERRY & PUZZANCHERA, *supra* note 1, at 22; BERKELEY LAW POLICY ADVOCACY CLINIC, HIGH PAIN, NO GAIN: HOW JUVENILE ADMINISTRATIVE FEES HARM LOW-INCOME FAMILIES IN ALAMEDA COUNTY, CALIFORNIA (2016) [hereinafter HIGH PAIN, NO GAIN].

5. The twenty-one states that have at least one jurisdiction that currently assesses a supervision fee for juvenile probation are: Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Illinois, Indiana, Kansas, Louisiana, Michigan, Montana, Ohio, Oklahoma, Oregon, Tennessee, Texas, Wisconsin, and Wyoming. Because this survey samples one jurisdiction within each state and practice varies between jurisdictions within a state, further inquiry would be necessary to identify precisely how many jurisdictions in each of the twenty-one states assess supervision fees. Six of these twenty-one states, Arkansas, Colorado, Montana, Oregon, Wisconsin, and Wyoming, have statewide systems, meaning that other jurisdictions in that state may similarly assess a supervision fee for children on probation, particularly for Arkansas, Montana, Wisconsin, and Wyoming, where there is statutory authority to assess these fees. Five out of twenty-two districts charge supervision fees in Montana. Additionally, respondents confirmed that multiple jurisdictions in Alabama, California, Idaho, and Louisiana assess fees.

6. The eight states that have at least one jurisdiction that does not assess a supervision fee, but separately charges for services on probation are: Alaska, Maine, Mississippi, Nevada, New Hampshire, North Carolina, North Dakota, and Vermont.

7. The twenty states that confirmed a statewide practice against the assessment of supervision fees are: Delaware, D.C., Hawaii, Kentucky, Maine, Massachusetts, Mississippi, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Rhode Island, South Carolina, South Dakota, Utah, Vermont, Virginia, and Washington.
8. The eleven states that have at least one jurisdiction that charges subsidiary costs or fees related to probation or detention are Hawaii, Maine, Mississippi, New Hampshire, New Jersey, New York, North Dakota, Vermont, Utah, Virginia, and Washington. The remaining nine states charge a combination of care, court, diversion, evaluation, expungement, probation, and restitution fees and fines. *Fees Established by State Law*, JUVENILE L. CTR., <http://debtorsprison.jlc.org/#1/map> (last visited Dec. 20, 2016).
9. The seven states that have at least one jurisdiction that charges only the child the supervision fee are: Colorado, Illinois, Indiana, Kansas, Michigan, Ohio, and Oregon. However, both Illinois and Kansas have a parent responsibility statute that obligates the parent to pay for the child's debt.
10. The six states that have at least one jurisdiction that charges only the parent the supervision fee are: Alabama, Arizona, Florida, Louisiana, Tennessee, and Wisconsin.
11. The eight states that have at least one jurisdiction that holds both the child and the parent jointly liable for the supervision fee are: Arkansas, California, Georgia, Idaho, Montana, Oklahoma, Texas, and Wyoming.
12. A county in Montana charges a flat fee for juvenile probation that varies anywhere between \$10 to \$25. In contrast, a county in Colorado charges \$198 a month and a county in Georgia charges a flat fee of \$150 in addition to a monthly fee of \$25 for probation. Average total cost of probation for one family was reported as follows: Alabama (\$65), Arizona (\$600), Arkansas (\$20 per month, average not reported), California (\$207 per month, average not reported), Colorado (\$180), Florida (\$365), Georgia (\$150 fee plus \$25 per month, average not reported), Idaho (\$270), Illinois (\$216-\$450 for a misdemeanor, \$432-\$900 for a felony), Indiana (\$45 for informal adjustment, \$100 fee plus \$10-\$25 per month for probation, average not reported), Kansas (\$60-\$120), Louisiana (\$120-\$240), Michigan (\$360-\$600), Montana (\$10-\$25), Ohio (\$75), Oklahoma (\$60-\$120), Oregon (\$200), Tennessee (\$175), Texas (\$180-\$360), Wisconsin (\$300-\$1,296), Wyoming (\$25 per month, average not reported).
13. This number was calculated based on the monthly supervision fees that were reported to NJDC as part of the 50-state survey.
14. *See, e.g.*, ARK. CODE ANN. § 16-13-326(c) (2011) (specifying that supervision fees can be used "at the discretion of the juvenile division, including without limitation . . . (3) Volunteer probation programs"); CAL. WELF. & INST. CODE § 903(c) (West 2010) (specifying that fees are intended to "protect the fiscal integrity of the county"); GA. CODE ANN. § 15-11-37 (2014) (specifying that supervision fees may be used to "expand the provision of . . . ancillary services"); IDAHO CODE § 20-524(1) (2012) (probation fees "will cover in whole or in part the support and treatment of the juvenile or juvenile offender"); KAN. STAT. ANN. § 21-6607(C)(3)(b) (West 2014) ("Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund, a sum equal to 41.67% of such remittance, and to the correctional supervision fund, a sum equal to 58.33% of such remittance."); LA. CHILD. CODE ANN. art. 901.1 (2012) ("The supervision fee imposed . . . shall be payable to the department or other supervising agency to defray the costs of supervision."); MASS. GEN. LAWS ANN. ch. 276 § 87A (West 2016) (probation fees are deposited to the General Fund); YOUTH COURT AT-A-GLANCE, MONT. JUDICIAL BRANCH at 8 (2014), [http://courts.mt.gov/portals/113/dcourt/yth\\_court/docs/reportcard\\_2014.pdf](http://courts.mt.gov/portals/113/dcourt/yth_court/docs/reportcard_2014.pdf) ("Fees [are] used to offset cost of drug testing, workers' compensation, and other services."); TEX. FAM. CODE ANN. § 54.061(c) (West 2015) ("The court shall deposit the fees received under this section in the county treasury to the credit of a special fund that may be used only for juvenile probation or community-based juvenile corrections services or facilities in which a juvenile may be required to live while under court supervision."); GUIDE TO SERVICE FEE FOR DELINQUENCY SUPERVISION, DANE CTY. DEP'T OF HUMAN SERV. (Wisconsin) ("The . . . fee will offset a small portion of the cost to the department for providing community based support . . . while the youth is under juvenile court supervision."). Anecdotally, in Illinois, fees are deposited to a general fund which can be used for juvenile and adult probation services and equipment but not salaries of probation officers, and in Michigan, many courts depend on these fees for their livelihood.
15. *See, e.g.*, Lorelei Laird, *Abolish Private, For-Profit Probation that Puts Offenders Deep in Debt*, ABA HOUSE URGES, A.B.A. JOURNAL (Aug. 8, 2016) (noting that the American Bar Association condemns private probation companies funded by probation fees for the specific reason that this practice incentivizes keeping low-income people in a "cycle of debt" for as long as possible).
16. *See, e.g.*, Telephone Interview with Juvenile Probation Officer in Texas (May 24, 2016) (noting that the probation department had collected \$180,000 from supervision fees in 2015).
17. *See, e.g.*, Telephone Interview with Juvenile Probation Officer in Florida (Mar. 31, 2016) (noting that it is unclear where or how probation supervision fees are used once collected by the court clerk); Telephone Interview with Juvenile Probation Officer in Georgia (Mar. 22, 2016) (noting that since implementation of a policy to collect supervision fees in every case, the probation department has collected approximately \$58,000 over one year to go towards new programs, but also noting that these new programs have not yet been created).
18. *See* HIGH PAIN, NO GAIN, *supra* note 4.
19. *See also* Telephone Interview with Juvenile Probation Officer in Louisiana (July 18, 2016) (reporting that the practice of assessing supervision fees is to give children "a vested interest in the process" and noting that there are a number of families delinquent in their payments and that the fees do not make a difference in the probation department's finances); Telephone Interview with Juvenile Probation Officer in Montana (May 24, 2016) (reporting that supervision fees are "part of holding the child accountable").
20. *See* Telephone Interview with Juvenile Probation Officer in California (Apr. 27, 2016) (noting that probation fees have no bearing on offender accountability or victim restoration, and are just "burdensome"); Telephone Interview with Juvenile Probation Officer in Florida (Mar. 31, 2016) (disagreeing with the practice of keeping children on probation because of an inability to pay); Telephone Interview with Juvenile Probation Officers in Illinois (June 30, 2016) (noting that officers do not see a benefit from these fees; they are simply another barrier that they have to work through with children and their families); Telephone Interview with Juvenile Probation Officer in Oklahoma (May 13, 2016) (noting that families would be better off keeping the money they use to pay for supervision fees).
21. 705 ILL. COMP. STAT. ANN. 405 / 5-715(5) (West 2017).
22. The five states that have at least one jurisdiction that reported that fee waivers were typically granted were Arkansas, Colorado, Florida (where cost of care is often waived, but other fees will be assessed regardless of ability to pay), Indiana, and Louisiana. Six states have at least one jurisdiction that reported that fees were never or very rarely waived, despite the youth's ability to pay. Those six states were Alabama, Georgia, Illinois, Ohio, Oregon, and Texas. Four states have at least one jurisdiction that reported that fees are assessed with regularity: California, Idaho, Kansas, and Montana. The remaining six states reported that fees are waived, but did not state a frequency with which waiver or adjustment is granted.
23. The six states that have at least one jurisdiction that has no process in place to waive or reduce fees are: Alabama, Georgia, Ohio, Oklahoma, Tennessee, and Texas.
24. Telephone Interview with Juvenile Defender in Georgia (Mar. 29, 2016); Telephone Interview with Juvenile Defender in Oklahoma (May 3, 2016).
25. The four states that have at least one jurisdiction where waivers or reductions are made by the probation department are: Oklahoma, Oregon, Wisconsin, and Wyoming.
26. The eight states that have at least one jurisdiction where waivers or reductions are made at the judge's discretion are: Arkansas, Colorado, Florida, Idaho, Illinois, Kansas, Louisiana, and Montana.
27. The three states that have at least one jurisdiction where waivers or reductions are made by assessment offices within the court or the collection department are: Arizona, California, and Michigan.
28. Telephone Interview with Juvenile Defender in Kansas (Apr. 15, 2016).
29. *Id.*
30. The five states that have at least one jurisdiction that pursues a civil judgment against the parent are: Arizona, Idaho, Louisiana, Tennessee, and Wisconsin.
31. The four states that have at least one jurisdiction that pursues a civil judgment against the child are: Colorado, Illinois, Indiana, and Kansas.
32. The four states that have at least one jurisdiction that pursues a civil judgment against both the child and the parent are: Alabama, California, Oklahoma, and Wyoming.
33. Telephone Interview with Juvenile Defender in Kansas (Apr. 15, 2016).
34. *Id.*
35. The five states that have at least one jurisdiction that extends the child's probation term for unpaid supervision fees are: Florida, Illinois, Kansas, Michigan, and Montana. The average length of extension varies, but at least two states have jurisdictions where there is an option to extend probation until a youth is 21 if fees are left unpaid.
36. Telephone Interview with Juvenile Probation Officer in Florida (Mar. 31, 2016) (regarding caseloads in his office).

37. The six states that have at least one jurisdiction that files a probation violation for unpaid supervision fees are: Colorado, Georgia, Idaho, Illinois, Kansas, and Montana.
38. Telephone Interview with Juvenile Probation Officer in Georgia (Mar. 31, 2016).
39. *Id.*
40. The three states that have at least one jurisdiction that has no real consequence for unpaid supervision fees are: Arkansas, Oregon, and Texas.
41. Ronald P. Corbett, Jr., *The Burdens of Leniency: The Changing Face of Probation*, 99 MINN. L. REV. 1697, 1724 (2015).
42. Email Interview with Juvenile Defender in Massachusetts (Mar. 21, 2016) (noting this before Massachusetts ended the practice of charging probation supervision fees to children).
43. See PROMOTING POSITIVE DEVELOPMENT, *supra* note 3.
44. See generally RICHARD J. BONNIE ET AL., REFORMING JUVENILE JUSTICE: A DEVELOPMENTAL APPROACH 192 (National Research Council of the National Academies, 2013).
45. Tamar R. Birkhead, *Toward a Theory of Procedural Justice for Juveniles*, 57 BUFF. L. REV. 1447, 1471, 1476-83 (2009).
46. See generally BONNIE ET AL., *supra* note 44.
47. Telephone Interview with Juvenile Probation Officer in California (Apr. 27, 2016).
48. See PROMOTING POSITIVE DEVELOPMENT, *supra* note 3.
49. See Dear Colleague Letter from Principal Deputy Assistant Attorney General, Civil Rights Div., Vanita Gupta, and Director, Office of Access to Justice, Lisa Foster (Mar. 14, 2016) [hereinafter Dear Colleague Letter].
50. See *Bearden v. Georgia*, 461 U.S. 660, 671 (1983).
51. Dear Colleague Letter, *supra* note 49, at 4.
52. *In re Gault*, 387 U.S. 1, 18-19 (1967).
53. Dear Colleague Letter, *supra* note 49, at 4.
54. *Id.*
55. See, e.g., JOSHUA ROVNER, DISPROPORTIONATE MINORITY CONTACT IN THE JUVENILE JUSTICE SYSTEM, THE SENTENCING PROJECT (2014) [hereinafter DISPROPORTIONATE MINORITY CONTACT].
56. HIGH PAIN, NO GAIN, *supra* note 4, at 8-9. Following this report, Alameda County stopped charging probation supervision fees. See *infra* note 58 and accompanying text.
57. See, e.g., DISPROPORTIONATE MINORITY CONTACT, *supra* note 55 (documenting the existence of disparate racial outcomes at every stage of a juvenile delinquency proceeding); JOSHUA ROVNER, RACIAL DISPARITIES IN YOUTH COMMITMENTS AND ARRESTS, THE SENTENCING PROJECT (2016) (finding that youth of color are arrested and committed to juvenile facilities at disparate rates compared to white youth); Mark Soler, *Reducing Racial and Ethnic Disparities in the Juvenile Justice System*, in TRENDS IN STATE COURTS 2014: JUVENILE JUSTICE AND ELDER ISSUES, NAT'L CTR. FOR STATE COURTS (2014) (citing studies demonstrating the pervasive effects of implicit bias on judges and in the juvenile justice system).
58. ALAMEDA, CAL., ORDINANCE 2016-35 (July 12, 2016).
59. HIGH PAIN, NO GAIN, *supra* note 4, at 8.
60. See generally *id.*
61. Press Release, East Bay Community Law Center, Alameda County Halts Juvenile Probation Fees (Apr. 7, 2016), <http://ebclc.org/in-the-news/alameda-county-halts-juvenile-probation-fees/>.
62. S.B. 190, 2017-2018 Reg. Sess. (Ca. 2017).
63. Telephone Interview with Juvenile Defender in Illinois (June 3, 2016).
64. Telephone Interview with Juvenile Probation Officer in Oregon (June 8, 2016).
65. *Id.*
66. Telephone Interview with Juvenile Probation Officer in Oklahoma (May 31, 2016).



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