

Fines, Fees, and Bail Practices News: Apr. 12, 2017

California/National [US: California Bail System Penalizes the Poor](#) Human Rights Watch

California pressures poor people who cannot pay bail to plead guilty in order to be released from jail, Human Rights Watch said in a report released today. The system of money bail and pretrial detention also results in the unnecessary jailing of innocent people and undermines justice for all.

The 120-page report, “[‘Not in it for Justice’: How California’s Pretrial Detention and Bail System Unfairly Punishes Poor People](#),” details how approximately 63 percent of prisoners in California county jails in recent years were not sentenced, with many being held awaiting trial because they could not afford bail. In the six counties analyzed in detail, between 20 and 30 percent of detained prisoners were able to post bail, with the vast majority of those paying non-refundable fees to bail bondsmen. Human Rights Watch found that tens of thousands of Californians were held in jail for days, weeks, and months without ever being convicted of any crime. From 2011 through 2015, police arrested and jailed 1,451,441 people for felonies, nearly half a million of whom spent time in jail though they were ultimately found not guilty, their cases were dismissed, or the evidence was so weak that the prosecutor never filed charges.

Illinois [Illinois Considers Overhaul of Criminal Court Fees](#) Peoria Public Radio

The Illinois General Assembly is considering an overhaul of criminal court fees. Defendants have been made to pay for an increasing array of programs in recent decades — from police training to prescription drug disposal. Democratic Representative Elaine Nekritz, from Northbrook, is co-sponsoring bipartisan legislation to simplify and reduce the fees.

“Can we make sure that there’s a straight line — connect the dots — between the nature of the crime and the nature of the fee.”

The legislation would also standardize fees across the state. Nekritz says today, neighboring counties can impose dramatically different fees for the same offense.

Louisiana [Study shows effect of bail, fines and fees on low-income New Orleans residents](#)
WDSU New Orleans

A Vera Institute for Justice in New Orleans study presented to the City Council Criminal Justice Committee Wednesday found some practices of the Orleans Parish criminal justice system to be unconstitutional, ineffective and a burden on the city’s budget.

Study leaders said the cost of bail and associated fees, coupled with court costs, is an unfair burden that affects the poorest members of the community the most.

“We’re not talking here about accountability for crime,” said Jon Wool, director of the Vera Institute. “People in the pretrial process are not guilty of any crimes. For long periods of time, they’re not even formally charged with a crime by the prosecutor. And on

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the back end, while fines have a valid accountability purpose and certainly restitution does, the fees that are imposed are simply revenue generators for the agency's benefit.”

Maryland [Bill to resurrect bail in Maryland will not advance in the House](#) Washington Post

A bill that would have resurrected the bail system in Maryland will not get a vote in the House of Delegates, a top aide to House Speaker Michael E. Busch said late Thursday, after Democratic leaders concluded it would not have enough support to pass.

Alexandra Hughes, Busch's chief of staff, said the speaker made the decision after Democratic members polled their caucus to see how members would vote.

Allowing the bill to die in the House effectively leaves in place a recent Court of Appeals rules change that greatly limits the use of bail and instructs judges to use the “least onerous” conditions when setting bail for a defendant who is not considered a danger or a flight risk.

Massachusetts [Bill offered by Baker would put an end to 'fine time'](#) Boston Globe

Criminal defendants who cannot afford to pay court-imposed fines could have an alternative to spending time in jail: community service.

The alternative to the controversial practice known as “fine time” is contained in legislation proposed Tuesday by Governor Charlie Baker and Lieutenant Governor Karyn Polito. Currently, defendants who are unable to pay off court fees, fines, and assessments can be ordered to serve jail time, “earning” \$30 a day until the debt is resolved. The practice has been criticized for mostly affecting low-income people of color.

Under the proposal, a defendant would instead be able to complete community service hours in proportion to the debt owed, an option legislators say would create a fairer system.

Baker said that the bill would result in fewer people being incarcerated because they cannot pay a fine, while ensuring that fees are paid in “a more timely fashion.”

Mississippi [Criminal Justice Reform Bill May Become Law Soon](#) Mississippi Public Broadcasting

The measure gets rid of debtors prisons, whereby communities put people in jail who can't afford to pay misdemeanor fines like traffic tickets. HB1033 gives judges latitude in determining one's ability to pay and working to pay off debts. House Democrat Kabir Karriem co-authored the criminal justice reform bill. He says a 12-member sentencing disparity task force would study and report on sentencing statewide.

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"Cause if you're in North Mississippi and you do a crime. Your time maybe totally different than what you might get in South Mississippi depending on what judge you go before," said Karriem.

HB1033 also ensures inmates are eligible for parole under the same guidelines. The bill has bi-partisan support. A spokesperson for the governor's office says between now and April 20, the governor will review the bill and make a decision.

Missouri [Missouri Supreme Court rules parolees' ability to pay court costs must be considered](#)
Jurist

The Supreme Court of Missouri ruled Tuesday a parole revocation was improper because the court failed to consider reasons why an indigent defendant failed to pay court cost. The case dealt with a man named William Fleming who was unable to repay \$4,236.50 in three years as required by the court in conjunction with his probation. After missing numerous payments, the lower court revoked his probation even though his probation officer requested an alternative plan without costs. Fleming argued it was a violation of his due process rights to revoke his bond for failing to pay when he complied with the terms of his probation except for repaying the court costs.

Missouri [State ex rel. William Fleming, Relator, vs. The Missouri Board of Probation and Parole, Respondent](#). Supreme Court of Missouri

[Overview/Summary](#)

A man who alleges he was financially unable to pay court costs as ordered as a condition of his probation sought this Court's writ of habeas corpus after the circuit court revoked his probation and sent him to prison. In a 4-2 decision written by Chief Justice Patricia Breckenridge, the Supreme Court of Missouri orders relief. Under the order releasing him on parole, the man was restrained of his liberty for purposes of seeking habeas relief. The circuit court improperly revoked the man's probation because it failed to inquire into the reasons for his failure to pay, did not make findings that he was able to pay but willfully refused to do so or that he failed to make bona fide efforts to acquire the resources to pay, and failed to consider alternatives to imprisonment. He is entitled to be discharged from his sentence of imprisonment and subsequent parole and to be restored to his status as a probationer.

New Mexico [New Mexico Supreme Court to Hear Bond Amendment Arguments](#) Associated Press

The New Mexico Supreme Court will consider two cases this month that involve the state's rules for granting bail.

The cases are very different, but both ask what evidence prosecutors must provide to justify keeping an accused person in jail without bond, The Santa Fe New Mexican (<http://bit.ly/2oQiSG9>) reported. A state constitutional amendment passed in November

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gives judges the authority to keep a defendant in jail without the option of posting bond, but only if prosecutors present "clear and convincing evidence" that the person is dangerous.

New York [To Help Close Rikers, City Bets on a Growing Alternative to Bail](#) WNYC

Proponents see supervised release as an important form of criminal justice reform, and a way to help the city reduce the population of Rikers. It was first used in Manhattan and Queens. Last April, the city expanded supervised release to the other boroughs with \$17.8 million from the Manhattan District Attorney's office.

Through the end of February, 91 percent of all participants in supervised release citywide did not miss a single court appearance, according to city data. That includes Richard. By comparison, the city said about 87 percent of those who do post bail or who are released without any conditions return to court. And the rearrest rate for both groups was comparable, about 17 percent.

Tennessee [Task force weighs in on poor defendants in criminal justice system](#) Times Free Press (Chattanooga)

[Criminal Court Clerk Vince Dean] also oversees court costs, which many defendants want to pay but cannot because they're poor, homeless, disabled or incarcerated, the report said. It pointed to a 2012 law in Tennessee's General Assembly that allowed local clerks to revoke someone's driver's license if they hadn't paid criminal costs in more than a year.

"Court clerks in Tennessee are now commonly using this statute as a collection tool," the report said. "Since 2011, 191,089 persons have had their driver's licenses revoked [which] is a criminal offense. Accordingly, an arrest for driving on a suspended or revoked license triggers a criminal prosecution and the accused's right to counsel."

Hamilton County District Attorney General Neal Pinkston said prosecutors then have to spend time and energy on those cases — which are minor in the grand scheme of murders, assaults and burglaries.

Tennessee [Liberty & Justice for All: Providing Right to Counsel Services in Tennessee](#)
Tennessee Supreme Court, Indigent Representation Task Force

Related Issues Requiring Additional Attention:

2. Incarceration for Failure to Pay Fines and Fees

Because criminalizing the non-payment of fines, fees, and costs triggers the right to counsel, adds significantly to the courts' caseload, requires attention by the prosecutors and public defenders, and places persons who lack the resources to pay "into a negative cycle of debt," the Task Force recommends either that driving on a revoked license be

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treated as a civil matter or that additional resources be provided to the courts, prosecutors, and public defenders to process these cases more efficiently and fairly.

4. Pretrial Release

The Task Force recommends the creation of a separate task force to study the standards and procedures for making pre-trial release decisions and the fairness and efficacy of the commercial bail bond system. In addition, the Task Force also recommends that the study include examination of pretrial release programs in other jurisdictions, particularly the reforms adopted by Kentucky and Maryland, which have substantially reduced the incarceration rates and the associated costs. The Task Force also recommends establishing pilot projects to evaluate the efficacy in Tennessee of the pre-trial release reforms that have proved successful in other states.

Texas [Should Texas kill the controversial driver responsibility program?](#) Fort Worth Star-Telegram

The program was created, some say, to make Texans better drivers.

Through this law, the state assigns points to Class C traffic violations and adds surcharges once a driver accumulates six or more points in a three-year period. Points stay on a driver's record for three years.

A regular moving violation, for instance, adds two points to a driver's record. A traffic violation that leads to an accident adds three points, according to the Texas Department of Public Safety.

Normally drivers pay a \$100 surcharge for the first six points and another \$25 for each point above that. The surcharge is due every year the driver has six or more points.

...

Drivers are notified by mail about the surcharge and they have 30 days to pay or have their license suspended.

Virginia [Amended Court Fines Bill Clears Reconvened Session](#) WCVE (Newport News)

Lawmakers agreed to a number of amended bills Wednesday (4/5).

One of them means new rules for those with fines and court costs in the Commonwealth. Richmond City Republican Delegate Manoli Loupassi says he was happy to pass the amended bill HB 2386 - which aims to provide relief for those with looming court-related debt in the form of payment plan options. "I think it was a good public policy. I think it's a good idea to try to get people licensed - if they're going to be driving - get'em licensed and y'know, give'em the ability to go to work lawfully," said Loupassi.

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Delegate Loupassi says one of the approved amendments lowered the cost of down payments for fines which total in excess of \$500 dollars. The measure's approval comes just weeks after a judge threw out a federal lawsuit against Virginia regarding the current fines and fees laws that provide for license suspension when debtors don't pay.

Virginia [Motion Filed to Bring Back Lawsuit Against DMV](#) NBC 29 News (Charlottesville)

A new motion has been filed to resurrect a lawsuit over a Virginia law that suspends people's driver's licenses if they fail to pay court fees.

The motion filed Monday, April 10, asks the U.S. District Court to vacate its dismissal.

In February, a federal judge threw out the lawsuit saying his court does not have jurisdiction over the matter.