

Fees, Costs, & Fines Checklist for Youth Defenders



Young people involved in the juvenile court system and their families should never be charged fees or other costs. The Gault Center urges policymakers to repeal policies, rules, and laws that permit such financial obligations. Until juvenile court-related financial obligations are eliminated, youth defenders must zealously advocate to mitigate their impact.

INTRODUCTION

Young people and their families are routinely assessed fees, fines, and other costs in delinquency matters. These financial assessments are often ordered without an ability-to-pay analysis by the court. A young person's inability to pay can lead to long-lasting consequences, increased recidivism, and youth and their families having to choose between paying fees or buying necessities.¹ This is especially true for Black, Latino/a, Native/Indigenous young people and youth from oppressed communities.²

In some jurisdictions, unpaid legal financial obligations (LFOs) may prevent youth from pursuing expungement,³ and an order to pay can be enforced through contempt proceedings.⁴ Failure to pay might also lead to a violation of probation.⁵ After a young person turns 18, the juvenile court may continue to exercise jurisdiction over them until payments are satisfied, or an adult court may issue a civil judgement against the youth. Unpaid amounts can be placed in collections, resulting in mounting debt that hinders youth in adulthood.⁶ Failure to pay may also lead to an adult charge for contempt of court, driver license suspension, and wage and tax rebate garnishment for the youth and, in some states, for their parent.⁷

1 U.S. DEP'T OF JUST., [DEAR COLLEAGUE LETTER ON LAW ENFORCEMENT FINES AND FEES](#) (2016).

2 NAT'L COUNCIL OF JUV. AND FAM. CT. JUDGES, [ENSURING YOUNG PEOPLE ARE NOT CRIMINALIZED FOR POVERTY: BAIL, FEES, FINES, COSTS, AND RESTITUTION IN JUVENILE COURT](#) (2018).

3 See NAT'L JUV. DEF. CTR., [ARIZONA BRINGING GAULT HOME: AN ASSESSMENT OF ACCESS TO AND QUALITY OF JUVENILE DEFENSE COUNSEL 50](#) (2018) [hereinafter, NJDC ARIZONA STATE ASSESSMENT].

4 See NAT'L JUV. DEF. CTR., [OVERDUE FOR JUSTICE: AN ASSESSMENT OF ACCESS TO AND QUALITY OF JUVENILE DEFENSE COUNSEL IN MICHIGAN 64](#) (2020) [hereinafter, NJDC MICHIGAN STATE ASSESSMENT].

5 See NJDC ARIZONA STATE ASSESSMENT, *supra* note 3, at 49; NAT'L JUV. DEF. CTR., [ADVANCING YOUTH JUSTICE: ASSESSMENT OF ACCESS TO AND QUALITY OF JUVENILE DEFENSE IN OREGON 66](#) (2020) [hereinafter, NJDC OREGON STATE ASSESSMENT].

6 NJDC ARIZONA STATE ASSESSMENT, *supra* note 3, at 51; NJDC OREGON STATE ASSESSMENT at 66.

7 See NAT'L JUV. DEF. CTR., [UNDERVALUED: AN ASSESSMENT OF ACCESS TO AND QUALITY OF COUNSEL IN NEW HAMPSHIRE 60](#) (2020) [hereinafter, NJDC NEW HAMPSHIRE STATE ASSESSMENT].

The U.S. Department of Justice has provided guidance to courts to safeguard the rights of people subject to financial penalties and, in doing so, specified recommendations for juvenile courts because of children's general inability to pay.⁸ Courts should presume that young people are unable to pay financial obligations and should eliminate all financial obligations in juvenile court.⁹ If courts are not willing (or not able) to forgo financial obligations, they should not punish a child for failure to pay. Instead, courts should consider the unique circumstances of each youth and determine alternatives to making payment.¹⁰

Children, by virtue of their status as minors, should be deemed unable to pay any fines, fees, and other costs regardless of financial circumstances. Until state policymakers create laws and rules that abide by this principle, youth defenders must work to reduce LFOs imposed on their clients. Many youth defenders may be unaware of the sheer number and amount of fines, fees, and costs assessed to their clients throughout their involvement in the juvenile legal system, and gathering this information may be critical to their client's release from court jurisdiction. Although financial assessments vary from state to state and across municipalities, there are commonalities across jurisdictions, including similar types of fees and costs, along with strategies to challenge assessments and reduce or eliminate fees.

To zealously advocate for young people, it is important to understand the range of fines, fees, and costs that may be assessed. This evaluation will impact the overall advocacy strategy and inform the youth's eligibility for programs.

The following checklist provides strategies for defenders first to challenge fines, fees, and costs assessed against young people and their families and then to mitigate the imposition of these costs if challenges are not successful.

“Courts should presume that young people are unable to pay financial obligations and should eliminate all financial obligations in juvenile court.”

8 See generally U.S. DEP'T OF JUST., [ADVISORY FOR RECIPIENTS OF FINANCIAL ASSISTANCE FROM THE U.S. DEP'T OF JUST. ON LEVYING FINES AND FEES ON JUVENILES](#) (2017).

9 *Id.*

10 *Id.*

What Types of Fines, Fees, & Costs Can Be Assessed to Your Clients & Their Families?

Youth defender organizations, offices, and individuals should gather information about the fines, fees, and costs assessed in their jurisdictions. Because the fines, fees, costs, and penalties for nonpayment vary, knowing the potential financial assessments and advising clients about their potential financial obligations are essential aspects of effective youth defense. Below are categories of financial assessments and obligations young people may face in court and throughout their supervision:

- Administrative
- Appeals
- Appointment of Counsel
- Bail and Detention
- Child Support and Child Care
- Clothing Provided by the System
- Community Service
- Court Costs
- Crime Victim Fund
- Diversion
- DNA Services
- Experts
- Expungement
- Fines for Delinquency Adjudication
- In-Home Services
- Interpreter
- Investigators
- Laboratory Tests
- Medical and Dental Services
- Post-Disposition Hearings
- Probation Supervision
- Psychological Evaluations
- Restitution
- Sex Offender Registration
- Specialized Treatment Services (e.g., anger management, drug treatment, grief counseling)
- Transcripts and Records
- Transportation

CHALLENGING FINANCIAL ASSESSMENTS IN THE COURTROOM

To effectively contest financial assessments, youth defenders and advocates must consistently challenge the imposition of fees, costs, and fines and highlight the burdens they place on young people and their families. The following provides guidance on fighting these assessments throughout the judicial process.

Appointment of Counsel

“The right to counsel for children is meant to balance the scales of justice; to ensure that every child, no matter their circumstance, is cloaked within the protections of the Constitution. Charging fees for a publicly funded attorney—the very advocate through whom such protections become accessible—renders the right to counsel meaningless for children.”¹¹

Although the U.S. Supreme Court has held that children are entitled to free counsel,¹² in most states, a child may be charged several fees related to the appointment of counsel, including application fees, administrative assessments,¹³ and the costs of experts.¹⁴ These fees are charged in addition to the cost of legal services.¹⁵ In some states, children and families may not pay anything up front, but they are responsible for reimbursing the attorney’s fees to the government.¹⁶ A young person may be motivated to avoid this financial obligation by declining or waiving counsel.¹⁷ Conversely, a family’s decision to pay for counsel can create a conflict of interest for attorneys.¹⁸

Youth defenders should:

- Argue that assessing any costs for counsel violates Due Process by infringing on youth right to counsel.
- Advocate for a presumption of indigence for purposes of appointment of an attorney.
- Argue that the financial status of a young person’s family should not be tied to access to counsel.
- Argue that the court should not require youth or their adult caregiver to reimburse attorney fees.
- Advocate for a waiver of attorney fees.
- Argue that individual young people are presumptively unable to pay for an attorney.

11 NAT’L JUV. DEF. CTR., [ACCESS DENIED: A NATIONAL SNAPSHOT OF STATES’ FAILURE TO PROTECT CHILDREN’S RIGHT TO COUNSEL](#) 23 (2017). [hereinafter ACCESS DENIED].

12 *In re Gault*, 387 U.S. 1, 42 (1967).

13 NJDC ARIZONA STATE ASSESSMENT, *supra* note 3, at 45; NJDC OREGON STATE ASSESSMENT at 61.

14 NJDC NEW HAMPSHIRE STATE ASSESSMENT, *supra* note 7, at 55, NJDC OREGON STATE ASSESSMENT *supra* note 5, at 61.

15 See Jessica Feierman et al, [The Price of Justice: The High Cost of “Free” Counsel for Youth in the Juvenile Justice System](#), JUV. LAW CTR. 3 (2018) (quoting a national report finding that, “In almost every state, youth or their families must pay for legal assistance even if they are determined to be indigent, either by reimbursing the cost, paying a flat fee, or paying an application or other administrative fee.”).

16 NJDC MICHIGAN STATE ASSESSMENT, *supra* note 4, at 64, 70-71; NJDC NEW HAMPSHIRE STATE ASSESSMENT, *supra* note 7, at 55.

17 ACCESS DENIED, *supra* note 11, at 11; NJDC ARIZONA STATE ASSESSMENT, *supra* note 3 at 49; NJDC MICHIGAN STATE ASSESSMENT, *supra* note 4, at 64-65; NJDC NEW HAMPSHIRE STATE ASSESSMENT, *supra* note 7, at 61.

18 ACCESS DENIED, *supra* note 11, at 11.

Bail & Detention

“The use of money bail in the criminal legal system—as one option of conditional release—was established for the sole purpose of ensuring the accused’s presence in court. However, when the bail amount is set at a figure higher than the amount reasonably calculated to fulfill this purpose, it is deemed excessive under the Eighth Amendment.”¹⁹

Courts have considerable discretion in setting bail amounts.²⁰ Some courts purposefully set bail amounts high to keep young people in detention for their “own good,”²¹ despite documented harms to young people’s mental health and long-term outcomes.²² Moreover, the use of money bail disproportionately impacts youth who face economic hardship and Black, Latino/a, and Native/Indigenous young people by tying their liberty to hundreds or thousands of dollars that are topped by bail bondsman fees.²³

Youth defenders should:

- Argue that any amount of monetary bail required to secure youth liberty is excessive under the Eighth Amendment.
- Argue that a young person be released on personal recognizance.
- Argue against the use of monetary bail and offer client-driven alternatives for release.

If a young person requests bail, youth defenders should:

- Ensure the court considers the young person’s ability to pay.
- Argue against any additional conditions of release directly related to court appearance or failure to appear.

Court Costs & Court-Ordered Services

“The imposition of court costs—the collection of which may be unlawful where they are geared toward raising revenue rather than addressing public safety—can cast doubt on the impartiality of the tribunal and erode trust between local governments and their constituents.”²⁴

Some young people are assessed administrative fees, like docketing fees and fees to support the court’s law library, as soon as their case is filed.²⁵ Courts also charge youth for the cost of court-ordered “services and programs” like diversion, counseling, and much more.²⁶ This can even include forensic testing related to treatment.²⁷

19 NAT’L JUV. DEF. CTR., [A RIGHT TO LIBERTY: REFORMING JUVENILE BAIL 3](#) (2019).

20 *Id.* at 10.

21 *Id.*

22 *Id.*

23 *Id.*

24 NAT’L COUNCIL OF JUV. AND FAM. CT. JUDGES, *supra* note 2, at 3 (internal citations omitted).

25 NAT’L JUV. DEF. CTR., [LIMITED JUSTICE: AN ASSESSMENT OF ACCESS TO AND QUALITY OF JUVENILE DEFENSE COUNSEL IN KANSAS](#) at 63 (2020) [hereafter, NJDC KANSAS STATE ASSESSMENT].

26 NJDC NEW HAMPSHIRE STATE ASSESSMENT, *supra* note 7, at 56-57; NJDC MICHIGAN STATE ASSESSMENT, *supra* note 4, at 70; NJDC KANSAS STATE ASSESSMENT, *supra* note 25, at 64.

27 NJDC OREGON STATE ASSESSMENT, *supra* note 5, at 65.

Youth defenders should:

- Argue that court personnel have a financial interest that creates a direct conflict of interest in their assessment of court costs.
- Argue that charging youth and families administrative fees is, in essence, a “user fee” levied against people who have not voluntarily chosen to participate in the court process and who are constitutionally presumed to be innocent.²⁸
- Argue that assessing youth with the costs of court-ordered programs and services runs afoul of the goals of juvenile court.
- Request that the court “forgive” your client’s debt, based on their status as a minor.
- Argue that a young person’s participation in treatment will offset the cost of forensic testing.

Probation Supervision

“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.”²⁹

In some states, children and their families are charged probation supervision fees.³⁰ The court may also extend the length of probation if a young person does not pay court assessments or restitution.³¹ Young people may incur probation and supervision fees monthly or in a one-time charge.³²

Youth defenders should:

- Argue that probation fees assessed against youth violate the Eighth Amendment Excessive Fines Clause due to youth inability to pay.
- Become familiar with the cost of various probation services and argue against these costs at disposition and review hearings.
- Argue that the costs and financial burden placed on the client and their family are a disincentive to participate in court-ordered programming.³³
- Argue against the collection of fines and fees during COVID-19 or other personal periods of inability to pay.
- As a last alternative, argue for a payment schedule or plan that considers the ability to pay.

If the youth defender is unable to have costs waived, they must ensure their youth client understands these costs when discussing probation service options.

28 NJDC KANSAS STATE ASSESSMENT, *supra* note 25, at 62.

29 NAT’L JUV. DEF. CTR., [THE COST OF JUVENILE PROBATION: A CRITICAL LOOK INTO JUVENILE SUPERVISION FEES](#) 6 (2017).

30 NJDC ARIZONA STATE ASSESSMENT, *supra* note 3, at 49; NJDC KANSAS STATE ASSESSMENT, *supra* note 25, at 64.

31 NJDC ARIZONA STATE ASSESSMENT, *supra* note 3, at 49.

32 NJDC OREGON STATE ASSESSMENT, *supra* note 5, at 65.

33 *Id.* at 62.

Fines & Restitution

*"[U]nmanageable restitution costs have long-term implications. In order to have records expunged, the law requires all monetary sanctions be paid. . . . [L]ack of clarity and understanding about the restitution requirements can lead to long-term detrimental consequences for youth because unpaid restitution can impede employment, education, military service, financial independence, and a range of issues necessary for youth success into adulthood."*³⁴

Juvenile courts may impose offense-specific fines and/or restitution to young people and their families.³⁵ Restitution obligations can remain long after the young person's case has been terminated.³⁶

Youth defenders should:

- Challenge the justification for restitution amounts.
- Request that the court limit restitution to the actual loss of an identified victim.
- Argue that their client does not have the ability to pay and identify client-based alternatives, such as community service, that will satisfy the debt.³⁷
- Advocate for courts to waive fines and restitution whenever applicable law allows.³⁸
- Request a hearing on the youth's and/or family's ability to pay.

Mitigating Financial Assessment

Despite zealous advocacy, a young person may be assessed fees, costs, and fines. Youth defenders should advocate to mitigate the financial burden, as unpaid legal financial obligations can lead to a range of long-term, negative consequences.

If youth and/or their families are assessed LFOs, defenders should:

- Request that the court consider the young person's status as youth and their (in)ability to pay.
- Advise clients and families of the required documentation to establish their inability to pay and ask them to bring those items to court.
- Contest ability-to-pay findings that are unfavorable to the young person.
- Raise clients' financial hardship with the court.
- Advocate for payment plans.
- Identify ethnic, racial, and geographical disparities and argue they exist in how LFOs are assessed across the state and should therefore be eliminated.
- Inform clients of any sanctions that may be imposed for failure to pay court fees.
- Argue the futility of collections.

34 NAT'L JUV. DEF. CTR., [DELAWARE: AN ASSESSMENT OF ACCESS TO AND QUALITY OF REPRESENTATION IN JUVENILE DELINQUENCY PROCEEDINGS](#) 36 (2017).

35 NJDC MICHIGAN STATE ASSESSMENT, *supra* note 4, at 70; NJDC NEW HAMPSHIRE STATE ASSESSMENT, *supra* note 7, at 60; NJDC KANSAS STATE ASSESSMENT, *supra* note 25, at 65.

36 NJDC KANSAS STATE ASSESSMENT, *supra* note 25, at 65.

37 *Id.*

38 *Id.*

For more information on fees, costs, and fines, please contact:

The Gault Center <https://defendyouthrights.org>

Fines and Fees Justice Center <https://finesandfeesjusticecenter.org>

Debt Free Justice Campaign <https://debtfreejustice.org/>



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