

# BEWARE THE FINE PRINT:

## THE COSTS OF FINES AND FEES IN NEBRASKA JUVENILE COURT

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In the United States, justice is frequently depicted as blind – promoting safety and fair outcomes without regard to wealth, race, or social class. In light of this ideal, our youth justice system in Nebraska promotes community safety, healing, and rehabilitation no matter the family’s income – and yet, too frequently in Nebraska, system-involved youth and their families suffer from the discriminatory and harmful practice of court debt. Court-imposed costs, like fees and fines, create arbitrary barriers to justice and are particularly harmful to impoverished youth and families. This issue brief will highlight where and how those costs are imposed, how they challenge system-involved youth and families, and recommendations for systemic change.

### WHAT ARE COURT-IMPOSED COSTS?

Court-imposed costs consist of fees, judgment amounts, and restitution. **Fees** are usually charged at a flat rate and are independent of the reason a youth is in court or the outcome of a court proceeding, e.g., court automation or docket fees. **Judgment** amounts, on the other hand, are costs assessed as part of the case judgment, which is dependent upon the case and may be used as punishment or to further assess administrative costs, e.g., a city or state fine, or a lab test cost. **Restitution** is assessed for the monetary harm caused by a delinquent act.

**TABLE 1. COURT-IMPOSED COSTS ON NEBRASKA FAMILIES (2019-2022)<sup>1</sup>**

Fees & Fines	\$329,150
Restitution	\$347,223
Additional Judgment Amounts	\$84,104
Total Costs	\$760,477

In all, there are over twenty categories of fees and judgment amounts that youth can be charged as they navigate the juvenile legal system in Nebraska. Court fees include annual report fees, appellate court filing fees, court automation fees, dispute resolution fees, filing fees, indigent defense fees, Judge’s Retirement Fund fees, legal aid and services fees, Nebraska Supreme Court Education fees, and offender assessment screening fees. Various judgment costs include bond forfeiture costs, breath test costs, community service fees, drug testing fees, general judgment costs, offender assessment screening costs, attorney, city, and county reimbursement fees, sheriff fees, and transfer costs.

Removing the amount paid for restitution, the courts imposed **\$413,255 in costs to youth and families from 2019-2022.**

**TABLE 2. COURT-IMPOSED COSTS ON NEBRASKA FAMILIES BROKEN DOWN (2019-2022)<sup>1</sup>**

Automation Fee	\$40,405
Judge Retirement Fund Related Fees	\$71,042
Filing Fees	\$72,744
Indigent Defense Fee	\$17,811
Legal Aid/Services Fund	\$25,336
Petition	\$19,880
Sheriff Related Services Fees	\$29,147
All Other Fines & Judgement Costs	\$136,890
Total Costs (not including restitution)	\$413,255

Apart from operation fees, courts in Nebraska often charge youth a fee for the judge’s retirement fund, sheriff fees, and attorney costs. Indeed, courts charge youth to support the salaries and retirement funds of various state actors. From 2019-2022, courts charged youth \$71,042 for the Judges Retirement Fund, \$29,147 in Sheriff Related Service Fees, and \$13,627 in reimbursement fees for attorneys. After removing restitution, these fees make up more than 25% of all court-imposed costs.

Some Nebraska courts have also charged youth for community service. From 2019-2022, a Community Service Fee accounted for over a thousand dollars charged to youth and their families. While this cost accounts for a small percentage of total costs assessed, the impact on youth and their families remains.

1. Unless otherwise noted, all information pertaining to amounts charged and paid was provided by the Nebraska Administrative Office of the Courts and Probation.

In addition to the above-described court-imposed costs, diversion fees similarly impact youth and their families. Pretrial diversion programs are offered to youth as an alternative to formal delinquency proceedings, and if completed successfully, can result in dismissal or non-filing of a youth's case. Many diversion programs throughout the state require families to pay fees ranging anywhere from \$50 to \$300, depending on the county and offense. In a 2020 survey, 86.4% of responding Nebraska counties indicated that they charged a fee for diversion. While some counties in Nebraska waive these fees for youth unable to pay, others do not.<sup>2</sup>

Over the last decade, some courts and counties have reduced the imposition of court costs or diversion fees on youth and their families while others continue to charge youth at high rates. Despite this downward trend, many counties throughout Nebraska still assess thousands of dollars in court fees every year and require youth and families to pay diversion fees that they often cannot afford.

## HOW ARE COURT-IMPOSED COSTS IMPACTING NEBRASKA YOUTH AND THEIR FAMILIES?

Court-imposed costs injure and impair youth, families, and the policies and goals of the youth legal system. Court costs set youth up for failure, create emotional and financial stress on families and their communities, and inhibit court administrative processes while generating little revenue.

### Impact on Youth

The question is not whether court costs harm youth, but to what extent. Court costs punish youth for simply being too young to get a job, inhibit rehabilitation efforts, and harm their ability to focus on education and extra-curricular activities.

For failure to pay court costs, youth can be kept on probation, unsuccessfully discharged, unable to expunge their record, held in contempt of court, or issued an even larger fine for unpaid court costs.<sup>3</sup> Courts often assess costs without a recognition that many youth are too young to work. In effect, these youth remain system-involved for longer because they cannot pay these fees without a job, consequently leading to higher recidivism rates.<sup>4</sup> In fact, one study<sup>5</sup> found that

compared to youth without court costs, youth charged with court costs are **23%** more likely to recidivate.

This is particularly true for Nebraskan youth. In one instance, a Nebraskan youth and member of the Oglala tribe explained, "My aunt couldn't afford to pay the extra court cost and I wasn't old enough to have a job. I stole and broke the law in other ways to keep up with my court [cost] responsibilities." Another Nebraska youth admitted to shoplifting to be able to pay fines, and one youth explained how she got mixed up in the wrong crowd trying to figure out how to pay off their court debt and stay out of jail. These court costs are not just

financial weights, rather, they impose restrictions on youth's ability to escape the cycle of incarceration and hinder the public safety goals of the juvenile legal system.

Diversion fees similarly have a significant impact on youth outcomes. For youth unable to participate in diversion because of the cost, diversion fees serve as a "gatekeeping mechanism,"<sup>6</sup> funneling low-income youth into the formal court system while allowing better-resourced youth the opportunity to participate in positive community-based programming. As a result, impoverished youth develop a juvenile record while those with more resources can have their case dismissed or charges dropped more swiftly. The impact on low-income youth is compounded by the negative effects that come with formal system processing, e.g., higher recidivism rates and longer system involvement.

These costs also impact a youth's emotional and psychological well-being. A study focused on the impact of monetary sanctions found that "put[ting] undo pressure and strain on individuals who are too poor to pay" leads to feelings of "perpetual stress and frustration."<sup>7</sup> This perpetual stress and frustration only increases for youth who are charged court costs but are not old enough or able to get a job. As a public defender in Sarpy County, Dennis Marks understands how court costs emotionally and psychologically impact Nebraska youth, explaining, "The requirement to pay costs and fees that are not waived creates an emotional roller coaster for the youth. Hunger, anxiety, anger, self-esteem, situational depression, and humiliation are often the aftermath of fees and costs not waived. The spiral can continue to social withdrawal, lack of appetite and feelings of guilt." Even for those youth who can get a job, other responsibilities like going to school or participating in extracurricular activities are sacrificed for employment in low-wage positions. In effect, this causes an unforgiving tradeoff – more court involvement for less academic engagement. Indeed, court costs "are setting children up for failure."<sup>8</sup>

Voices for Children spoke to twelve young Nebraskans who have experienced financial difficulty through court-imposed costs in the past few years. System-impacted youth commonly expressed feelings of guilt and shame as they felt they caused more financial harm to their families. Instead of worrying about their grades and other positive areas of their life, as teens, they stressed about money because of their court debts. One young Nebraskan said "Our household was surviving on my mother's small disability check. I felt so guilty about the mistakes I made and the additional financial burden I felt I caused with the court costs. It was hard to focus on school because every day I was scared that the state would remove my siblings and I because my mom could not afford to take care of us.

### Disproportionate Impact

Across the country, juvenile system-involved youth and families are disproportionately Black, Brown, and/or low-income, and in effect, are disproportionately taking on the burden of court debt.<sup>9</sup> Data shows that Black youth and other youth of color are more likely than white youth to be arrested, referred to court, petitioned, and placed out of home after adjudication.<sup>10</sup> These youth and their families disproportionately shoulder the weight of court-imposed costs and are negatively impacted as a consequence.<sup>11</sup> These trends occur in Nebraska where, to give one example, Black youth make up 6.2% of the

2. Information provided by the Nebraska Crime Commission, *Juvenile Programs & Interventions*.

3. Jessica Feierman, *Debtors' Prison for Kids? The High Cost of Fines and Fees in the Juvenile Justice System*, 7, *Juvenile Law Center*, (2016).

4. *Id.*

5. Alex R. Piquero, Michael T. Baglivio, & Kevin T. Wolff, *A Statewide Analysis of the Impact of Restitution and Fees on Juvenile Recidivism in Florida Across Race and Ethnicity*, 19, *John Jay College of Criminal Justice*, (2023).

6. *Supra* note 3, at 12.

7. *Supra* note 5, at 4.

8. Miriam A. Krinsky, Joey O. Hasting, & Mary A. Scali, *Juvenile Court Fees and Costs Are Invisible Shackles That Tether Children to a Broken System*, *The Imprint*, (Aug. 14, 2023), <https://imprintnews.org/opinion/juvenile-court-fees-and-costs-are-invisible-shackles/243627>.

9. Office of Juvenile Justice and Delinquency Prevention, *Racial and Ethnic Disparity in Juvenile Justice Processing, Literature Review: A product of the Model Programs Guide*, (Mar., 2022), <https://ojjdp.ojp.gov/model-programs-guide/literature-reviews/racial-and-ethnic-disparity>.

10. *Id.*

11. Aravind Boddupalli & Elaine Maag, *How Fines and Fees Impact Families: Can Policies Like the Child Tax Credit Help?*, *American Bar Association, Human Rights Magazine*, Vol. 48, (Apr. 12, 2023), [https://www.americanbar.org/groups/crsj/publications/human\\_rights\\_magazine\\_home/economic-issues-in-criminal-justice/how-fines-and-fees-impact-families/#:~:text=Monthly%20deposits%20of%20CTC%20benefits,reducing%20debt%20with%20involuntary%20payments.](https://www.americanbar.org/groups/crsj/publications/human_rights_magazine_home/economic-issues-in-criminal-justice/how-fines-and-fees-impact-families/#:~:text=Monthly%20deposits%20of%20CTC%20benefits,reducing%20debt%20with%20involuntary%20payments.)

youth population, but account for 15.5% of new juvenile court filings in 2022.<sup>12</sup> Statewide Nebraska youth of color and those of unknown race/ethnicity are charged just over half (52%) of all court-imposed fees and fines despite composing around a third (34%) of the total youth population.<sup>13</sup>

Court-imposed costs are particularly pronounced for families in rural Nebraska counties, where disparities in charging court costs are evident. The data reveals significant disparities in the imposition of court costs across different counties. From 2019-2022, the largest county in Nebraska, Douglas County, charged youth and families \$7,440 in court fees (excluding judgment costs and restitution). However, during that same period, the courts in much smaller counties were found to charge more than three times as much as Douglas County in court fees. For instance, in Dodge County, youth are nine times more likely to face such charges compared to their counterparts in Douglas County. Similarly, Adams County, Scottsbluff County, and Sarpy County all charged youth more than three times more in court fees than Douglas County.

**Impact on Families**

Often, because youth cannot get jobs and lack earning potential, their families are forced to pay their court costs. Putting aside the implications of punishing parents and guardians for crimes they did not commit, the impact of these costs on families is significant.<sup>14</sup> For example, in another state, when a grandmother was unable to pay for her grandchild’s court costs, she was told the only way to avoid payment was to hand over custody of her grandchild to the state.<sup>15</sup> Court costs paid by guardians can also result in inability to pay for essentials like groceries and rent.<sup>16</sup> Court debt can impact a family’s ability to get credit or otherwise qualify for loan.<sup>17</sup> And, parents and guardians have fewer resources for supporting and educating their children.<sup>18</sup> Even when families have extra income, they are spending it to pay off court debt rather than putting it into a savings account

or investing it back into their local communities. Indeed, the harms of these court costs are not limited to the family, rather, they have compounding effects throughout – especially minority and low-income – communities.

In interviews, Nebraska families spoke to us about their experiences handling court-imposed costs, sharing how hard it was to cover the additional expenses. Their stories confirmed what the data and research outline. At the time of juvenile court involvement, these families were living under the poverty line and were enrolled in state aid programs to keep their families afloat such as SNAP, housing assistance, and Medicaid. Their children were often unable to work, leaving the burden of the court costs on parents who were already struggling financially. Families spoke of even minimal costs requiring them to make trade-offs in the household budget, having to decide what they can cut from their basic needs to cover the costs. Frequently, this included not paying utility bills or cutting back on their already tight grocery budget.

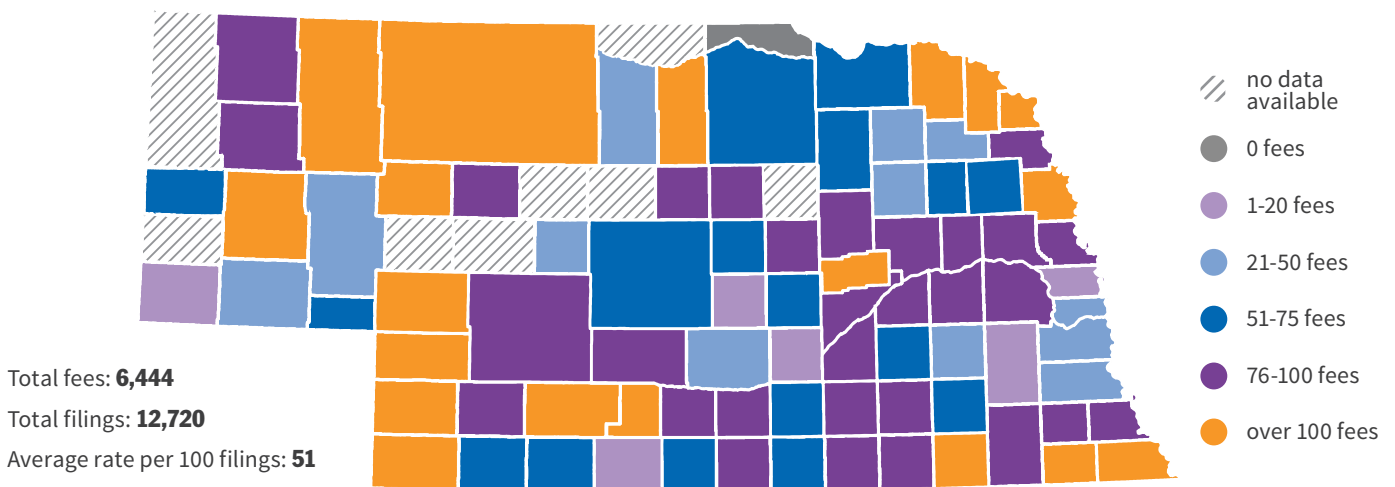
As one young Nebraskan stated,

**“We already depended on state programs to keep the roof over our head and scrape together enough food to feed our family. Court costs made it hard to trust that the system cared about my well-being. The fees were too much for us and it honestly just felt hopeless and like I was stuck in this cycle forever.”**

- Isaac, Scottsbluff County

**FIGURE 1. RATIO OF FEES TO FILINGS BY COUNTY (2019-2022)**

This map shows the number of fees levied **per 100 juvenile case filings** in each county between the years 2019-2022.



Source: Calculations based on data obtained from Nebraska Administrative Office of Courts & Probation; Nebraska Judicial Branch Juvenile Justice System Statistical Annual Report (2019, 2020, 2021, 2022).

12. Nebraska Juvenile Justice System, Statistical Annual Report 2022; U.S. Census Bureau, Population Division, Annual State Resident Population Estimates for 6 Race Groups (5 Race Alone Groups and Two or More races) by Age, Sex, and Hispanic Origin: April 1, 2020 to July 1, 2022.

13. Data obtained from Nebraska Administrative Office of Courts & Probation; U.S. Census Bureau, Population Division, Annual State Resident Population Estimates for 6 Race Groups (5 Race Alone Groups and Two or More races) by Age, Sex, and Hispanic Origin: April 1, 2020 to July 1, 2022.

14. Supra note 3, at 3-4, 6-8.

15. Id. at 7.

16. Id. at 12.

17. Id. at 23.

18. Id.



## Impact on the System Itself

If harm to youth, their families, or their communities is not enough – court costs also undermine the goals of the juvenile legal system itself. At a foundational level, court costs undermine the goals of rehabilitation and public safety in the juvenile legal system simply by causing longer system involvement and higher recidivism rates. However, court costs also impact the public’s perception of the court’s impartiality and trustworthiness. When the judicial system levies fees against vulnerable populations that have a direct impact on the salaries, retirement, or operations of the judicial system and its decision-makers, it can cast doubt on the fairness of the system, eroding public trust between court systems and their constituents. Young Nebraskans interviewed expressed a feeling of confusion and cynicism at seeing fees like the Judges Retirement Fund tagged on their “bill” for court involvement.

Courts must also consider the costs placed on the system when a youth has longer court involvement solely because they have not paid their fees. For example, longer probation supervision, status hearings, ability to pay hearings, and other compounding costs on the system from increased system involvement puts unnecessary strain on the judicial system’s limited resources. This impact is especially true in cases of prohibitive diversion fees, where youth turned away from diversion put strain on the judicial system simply for an inability to pay. In effect, any revenue collected from youth and families must be discounted by the costs and labor of future system involvement.

## WHAT SHOULD BE DONE?

Altogether, the growing recognition of the harm of juvenile court fees to youth, families, and the court system itself has led to their elimination in other states and in local jurisdictions.

States and localities across the country are taking action to end the imposition of court costs in the juvenile court system. To date, Delaware, Illinois, Maryland, Montana, New Jersey, New Mexico, New York, Oregon, and Washington have completely eliminated juvenile court fees.<sup>19</sup> California, Colorado, Indiana, Louisiana, Michigan, Nevada, North Dakota, and Texas have substantially eliminated these fees and, another four states – New Hampshire, Oklahoma, Utah, and Virginia – have partially eliminated court fees in their youth legal systems.<sup>20</sup> Even in states that have not undertaken statewide reform, localities in those states have taken steps to eliminate court-imposed costs.<sup>21</sup> For instance, Shelby County Juvenile Court in Tennessee eliminated discretionary youth court costs in 2019.<sup>22</sup>

National organizations like the National Council of Juvenile and Family Court Judges have similarly urged juvenile and family courts to stop assessing costs.<sup>23</sup> The American Legislative Exchange Council has encouraged states to eliminate court costs for youth and their parents, publishing “model” legislation for states to consider adopting.<sup>24</sup>

Meanwhile, the federal government is recommending change as well. The DOJ published letters in both 2017 and 2023, emphasizing that court-imposed costs were extremely burdensome for many system-involved youth and their families.<sup>25</sup> In its Dear Colleague letter, the DOJ emphasized that there are “practical realities that weigh against imposing fines and fees against youth.”<sup>26</sup> The letters directs courts to both presume indigency and an inability to pay for system-involved youth.<sup>27</sup> In fact, the 2023 letter reasoned that “children subjected to unaffordable fines and fees often suffer escalating negative consequences from the justice system that may follow them into adulthood.”<sup>28</sup> Congress is also encouraging states to look at their juvenile court costs – the Eliminating Debtor’s Prison for Kids Act was introduced in 2023.<sup>29</sup> Should this bill pass, it would grant funds to provide mental and behavioral health services and diversion programs to at-risk youth in states that had eliminated most court costs for youth.<sup>30</sup>

With or without federal action, Nebraska has the opportunity to immediately provide significant relief to youth and families through the elimination of court-imposed costs.

## TO THAT END, WE RECOMMEND:

- **Eliminate statutory fees and fines for youth in juvenile delinquency proceedings:** Administrative costs such as filing fees and dollars toward the judicial retirement fund are codified in Nebraska statute. Individual courts or local jurisdictions can choose to waive payment of these costs but removing them from state statute would promote a unified approach statewide, eliminating “justice by geography” and particularly harm to rural Nebraskans.
- **Ensure that diversion offramps are not blocked by program fees:** When low-risk youth first encounter the juvenile justice system, county-based diversion programs have been shown to improve youth and safety outcomes. Ensuring that these programs are offered without mandatory associated fees will allow eligible youth to participate without regard to their family income.
- **Untether record sealing from old unpaid fines and fees:** For young Nebraskans whose cases have already closed but were not successfully sealed because of old costs they were unable to pay, providing this clarification in statute would allow them to petition a court to have their record sealed. This will enable young people who met the other terms of their probation, but were unable to pay costs, to pursue a clean slate and move into productive adulthood, free from the lingering effect of a juvenile record.

19. Debt Free Justice Campaign, <https://debtfreejustice.org/our-impact>, (last visited Oct. 27, 2023).

20. *Id.*

21. *Id.*

22. Katherine Burgess & Sarah Macaraeg, *Shelby County to stop billing, waive debt for families of juvenile detainees in Memphis*, Commercial Appeal, (Aug. 26, 2019).

23. National Council of Juvenile and Family Court Judges, *Resolution Addressing Fines, Fees, and Costs in Juvenile Court*, (Mar. 17, 2018), <https://www.ncjfcj.org/wp-content/uploads/2019/08/resolution-addressing-fines-fees-and-costs-in-juvenile-courts.pdf>.

24. American Legislative Exchange Council, *Model Policy: Elimination of Youth Justice Fines and Fees Act*, (Jul. 27, 2023), <https://alec.org/model-policy/elimination-of-youth-justice-fines-and-fees-act/>.

25. Civ. R. Div., *US Dep’t Just., Dear Colleague Letter to Courts Regarding Fines and Fees*, (Apr. 20, 2023); Civ. R. Div., *U.S. Dep’t. of Just., Advisory for Recipient of Financial Assistance from the U.S. Department of Justice on Levying Fines and Fees on Juveniles* (Jan., 2017).

26. Civ. R. Div., *US Dep’t Just., Dear Colleague Letter to Courts Regarding Fines and Fees*, (Apr. 20, 2023) at 5.

27. *Id.* at 7.

28. *Id.* at 2.

29. *Eliminating Debtor’s Prison for Kids Act*, S. 2448, 118th Cong. (2023), <https://www.congress.gov/118/bills/s2448/BILLS-118s2448is.pdf>.

30. *Id.*