



“Taxation by Citation” Needs to End in Florida

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Across the country, state and local governments use court fines and fees as a source of revenue to fund public services. Individuals may be charged fines and fees for any criminal or civil infraction, but outstanding court debts overwhelmingly stem from traffic citations. This

“taxation by citation” is not only a threat to individual liberty, but can also undermine public safety and result in fiscal instability.

While fines and fees are often discussed in tandem, their purposes and legal implications differ. Fines are imposed upon conviction and are primarily intended to

deter and punish crimes or municipal code violations. They are usually set in statute and vary depending on the severity of an offense. Fines are appropriate and beneficial when used as an intermediate form of punishment in place of incarceration.¹ However, fines are commonly used in addition to incarceration, rather than being an alternative.

Fees, on the other hand, are solely intended to raise revenue. They essentially shift the costs of the justice system away from taxpayers and onto defendants. These “user fees” are imposed by state and local governments to charge individuals for the cost of their constitutional right to due process. Various court fees add to—and often exceed—the initial fine charged for an offense. Common examples of fees include court-appointed attorney fees, supervision fees, administrative fees, jury fees, and drug testing fees. When individuals are unable to pay fees in a timely manner, they can face additional “poverty fees” in the form of late fees, collection fees, and payment plan fees.²

Typically, revenue derived from fines and fees is used to fund court operations, including salary and personnel costs. However, some governments rely on courts to generate revenue for other services as well. In some cases, the revenue is earmarked for a specific purpose related to traffic safety or law enforcement. In others, it goes to a government’s general fund or to purposes wholly unrelated to the justice system.

In the case of traffic tickets in Florida, most of the revenue generated stays with the local government that issued the citation. Some of the money is also distributed to the state for general revenue and a variety of

state trust funds and programs, including:

- Emergency Medical Services
- Brain and Spinal Cord Rehabilitation
- Florida Endowment for Vocational Rehabilitation
- Child Welfare Training
- Juvenile Justice
- Foster Care Citizen Review Panel
- State Criminal Justice Programs³

While funding for the state court system is constitutionally required to come from state revenues appropriated by general law, a large share of funding for the state’s clerks of courts is provided by filing fees, service charges, and court costs that are collected from individuals when they interact with the court system. Consequently, the clerks of courts in Florida get much of their revenue from traffic enforcement.

There are two main problems with using fines and fees for government revenue: (1) they impose disproportionate burdens on low-income individuals and (2) they are not a stable or reliable source of revenue.

Fines and Fees Disproportionately Harm Low-Income People

Because fines and fees are generally not scaled according to an individual’s income or ability to pay, they tend to disproportionately burden lower-income people. For lower-income individuals, even relatively small legal expenses can turn into insurmountable financial burdens. Approximately four in 10 American adults report that they could not cover an emergency expense of \$400 given their current financial situation.⁴

When people are unable to pay their court debts, the consequences can be severe. Failure to pay outstanding fines and fees can result in driver's license suspensions and even incarceration. Such penalties make it even more difficult for individuals to pay off their debts, reduce access to housing and employment, and create additional administrative costs for governments.

More than half of states suspend, revoke, or refuse to renew an individual's driver's license because of unpaid court debt from fines, fees, drug offenses, or other legal costs.⁵ A recent report found that nearly two million Floridians are unable to drive because of unpaid fines and fees.⁶ Considering that approximately 80 percent of Floridians drive themselves to work⁷ and many jobs require⁸ a driver's license, license suspension as a consequence for failure to pay fines and fees would appear to be counterproductive.

Without a license, indebted individuals are made even less able to pay off their court debts. For example, one study of New Jersey drivers found that 42 percent of people whose driver's licenses were suspended lost their job within six months of the suspension, and nearly half were unable to get new employment during the time their license was suspended.⁹ Of those who could find another job, 88 percent reported a decrease in income.¹⁰

According to the federal National Highway Traffic Safety Administration, at least 75 percent of individuals with suspended licenses continue to drive, risking being pulled over and facing additional fines, extended periods of suspension, or even mandatory incarceration.¹¹ And driving on

a suspended license isn't the only way that fines and fees can undermine public safety—a survey of 1,000 Alabama residents found that “one in five people whose only previous offenses were traffic violations admitted to committing more serious offenses, including felonies, to pay off their traffic tickets.”¹²

Many states also use the threat of parole or probation revocation or incarceration to incentivize payment of court debts.¹³ While incarcerated, individuals can rack up even more debt through “pay to stay fees” that essentially charge inmates for room and board during their incarceration. Nearly all states allow prisons and jails to charge these fees, which can be as high as \$140 a day.

The evidence is overwhelming: even relatively small fines and fees can send low-income individuals spiraling. Failure to pay an initial penalty for a minor traffic infraction can result in license suspensions, incarceration, and even more debt. This has negative consequences for public safety, family ties, and the economy.

Fines and Fees Are Not a Reliable Source of Revenue

While some governments are heavily financially dependent on fines and fees, there are several reasons to believe that they are not reliable sources of revenue. For example, fines and fees revenue can vary considerably, depending on the frequency of violations, enforcement, and the ability of governments to collect assessed fines and fees.

In Florida, statewide fines and fees revenue has declined significantly over recent years—a fiscal issue that has been

exacerbated by the COVID-19 pandemic. Courthouses were shuttered during the early months of the pandemic, leading to a substantial backlog of cases and disrupted revenue flows. Over that same period, lockdowns and stay-at-home orders kept drivers off the road, reducing the number of traffic violations overall.

In the fiscal year ending in September 2020, clerks of courts collected \$377.4 million in fines and fees compared to \$432 million in the year prior. Revenues in both years represent a dramatic decline from the \$539 million collected in 2009.

Declining fines and fees revenue is creating budget holes for the state. According to Sen. Jeff Brandes, the shortfall could be as large as \$50 million in general revenues.¹⁴ The problem is already causing trouble for organizations and programs that depend on fines and fees revenue—those include Epilepsy Florida, Mothers Against Drunk Driving, and Miami-Dade & The Florida Keys Crime Stoppers. Epilepsy Florida, for example, pulls in \$5 from every seatbelt infraction in the state. In 2020, that translated to just \$240,000 compared to a whopping \$1.1 million in 2014.¹⁵

Aside from the variability in violations and case processing, governments are notoriously bad at collecting outstanding debts. A recent report from the Brennan Center for Justice found that only 36 percent of the fines and fees assessed in Florida between 2012 and 2018 were actually collected, resulting in over \$1.13 billion in cumulative unpaid fines and fees.¹⁶ The same report found that high costs of collection make fines and fees a highly inefficient way to generate revenue. For example, counties in

Texas and New Mexico spend more than 41 cents for every dollar of revenue raised from fines and fees on in-court hearings and jail costs. One New Mexico county, Bernalillo County, actually loses money—spending approximately \$1.17 for every dollar collected.

Options for Reform

There are several reforms that would reduce the negative impacts of fines and fees in Florida. Ideally, the state's court system would be fully funded through general revenues and user fees would be totally eliminated. However, the Florida Constitution requires the clerks of courts to be funded through fees. This constitutional constraint represents a significant barrier to reform, but it is one worth working to overcome. Generally speaking, no program or agency should be specifically funded by fines and fees revenue. Instead, court revenue should be sent into the general fund to avoid poor incentive structures within the justice system.

Judges also have little discretion when it comes to charging fees because most are required by statute. Here, the legislature has some agency to reduce or eliminate fees that do not directly fund the clerks of courts.

In the case of fines, the legislature has more immediate opportunity to engage in reform. In general, reforms should focus on developing standardized tools to determine each individual's ability to pay and scale fines accordingly. Establishing standard practices would ensure that individuals are treated equally under the law. Scaling fines according to an individual's ability to pay would also reduce the administrative

costs associated with pursuing uncollectable debts. The system of “day fines” or “income-based fines” used in many European countries provides an interesting model.¹⁷ Essentially, income-based fines scale fines according to an individual’s income. As a result, fines have the same relative impact on each individual, regardless of income. Research shows that income-based fines can actually increase the amount of revenue generated by fines.¹⁸

Other—perhaps milder—reform options include eliminating fines and fees in juvenile cases and ceasing driver’s license suspensions as a consequence for failure to pay. Such reforms would focus on the most vulnerable populations and avoid one of the most detrimental outcomes associated with court debt.

Finally, the state of Florida should collect and publish more reliable and comprehensive data on fines and fees collection. At a minimum, this would include:

- The amount of fines and fees levied annually;
- The revenue generated by fines and fees;
- How fines and fees revenue is allocated; and
- The costs associated with collection.

Conclusion

The primary responsibilities of the legal system are to promote public safety and to provide for justice. Pressure to raise revenue, at best, undermines—and at worst, directly conflicts with—those responsibilities.

When incentives are misaligned, police departments and court systems become more concerned with “taxation by citation” than carrying out their core functions. Such conflicts of interest also serve to undermine the legitimacy of the justice system among the public.

The use of fines and fees can have devastating consequences for low-income people and results in fiscal instability for governments. Florida lawmakers would be wise to avoid these problems by pursuing reforms that reduce state and local dependence on fines and fees revenue.

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