

## STOP FORCING ILLINOIS' POOR TO PAY EXCESSIVE COURT FINES, FEES, AND COSTS

Illinois imposes a panoply of fines, fees, and costs in connection with various proceedings and convictions in its criminal courts. These charges include, among others: probation oversight fees; “reimbursement” fees to police, prosecutors and public defenders; the costs associated with electronic monitoring bracelets; drug-testing costs; costs for participation in court-ordered programs; fees for document storage and records automation; DNA identification; payments to a medical costs fund for arrestees; emergency responder fees; medical testing costs; sheriff’s and state police fees; and court system fees.

These fines, fees, and costs support a system in which the poorest members of our society are subject to repeated court appearances and, potentially, additional jail time.<sup>1</sup> Once caught in the cycle (the imposition of fines, fees, and costs; being unable to pay; and that failure to pay resulting in additional fines, fees, and costs), it is very difficult for these defendants to emerge from the criminal justice system, regardless of their original crime of conviction. In addition, evidence suggests that the attempted imposition of fines, fees, and costs on the poor counterintuitively can result in a net economic loss for the government in terms of system-wide administrative costs (e.g., difficulties with collection, longer periods of court supervision requiring additional resources from the court and probation services, more people in jail for a longer time at the taxpayers’ expense) that outpace revenues actually collected from these fines, fees, and costs.<sup>2</sup>

It wasn’t always this way. On the contrary, the transfer of the costs of the criminal justice system to defendants is a relatively recent historic shift, based in part on the theory that court fines, fees, and costs could be a major revenue generator for states as well as private debt collection agencies, at the expense of one of the politically weakest and most reviled groups: criminal defendants.<sup>3</sup> According to one source, up to 85% of people leaving prison today owe some form of criminal justice debt, compared to 25% in 1991.<sup>4</sup>

Wide swaths of Illinois’ current statutory regime of criminal fines, fees, and costs—and the imposition of such fines, fees, and costs by Illinois judges—likely violate the Illinois Constitution. Article I, Section 11 of the Illinois Constitution, titled “Limitation of Penalties After Conviction,” provides that “[a]ll penalties shall be determined both according to the seriousness of the offense and *with the objective of restoring the offender to useful citizenship.*”<sup>5</sup> The rehabilitation clause— “with the objective of restoring the offender to useful citizenship”—has been interpreted by the Illinois Supreme Court as providing a limitation on penalties beyond the limits established by the Eighth Amendment of the U.S. Constitution. Thus, to the extent that any fine does not serve the purpose of rehabilitating the defendant (or if any fine has punitive, budgetary, or revenue-collecting aims), it would seem to be prohibited by the Illinois Constitution.

The current regime of fines, fees, and costs also violates the core principle of free access to justice as embodied in the Illinois Constitution’s Bill of Rights, in which the “Right to Remedy and Justice” provides that “[e]very person . . . shall obtain justice by law, *freely*, completely, and promptly.”<sup>6</sup> In accordance with this principle, under Illinois statute and Illinois Supreme Court rule, indigent *civil* litigants already have the right to litigate their claims in court without paying any fees or costs. This common-sense principle also should be extended to indigent criminal defendants, by means of implementing criminal analogues to the existing civil statute and Supreme Court rule. Illinois would not be the first state to do so—Washington and Texas, for example, have laws providing



for the waiver of burdensome fines, fees, and costs for indigent criminal defendants. Moreover, such statutory and rule reforms would be consistent with Illinois common law, which suggests that Illinois judges have certain inherent authority to waive costs for indigent defendants.<sup>7</sup> Illinois' judges *should* do so as a matter of both public policy and law, and indeed, *must* do so under certain circumstances, in accordance with applicable state and federal constitutional, statutory, and common law.

## I. The Nature and Extent of Fines, Fees, & Costs Imposed by Illinois Criminal Courts

Chicago Appleseed has identified approximately 90 different fines, fees, and costs imposed by Illinois criminal courts. Currently, there is no limit to the number of these fines, fees, and costs that can be stacked together and imposed on a single defendant for a single offense, nor is there any cap on the aggregate amount that can be charged to any one defendant, even if that defendant is below the poverty level. A catalogue of the fines, fees, and costs imposed by Illinois criminal courts is **Attachment A**.<sup>8</sup>

No consistent, cohesive system exists by which courts can determine which fines, fees, or costs should be combined and which should not. An arrestee, for the “privilege” of being prosecuted by the government, can be ordered to pay for a litany of individual aspects of the criminal justice system, including: court services, probation services, document storage, records automation (for prosecutors and public defenders), police operations, DNA identification, a medical costs fund for arrestees, drug lab analysis, emergency responder fees, electronic monitoring, medical testing, sheriff's fees, state police funds, and court system fees.

Several fines can reach amounts of \$25,000 or \$50,000; even routine misdemeanors can carry fines of \$2,500 or more. Controlled substance fines can rise to \$500,000, while the possession of drug “paraphernalia” alone (including a water pipe or bong) carries a minimum fine of \$750.

Recipients of the funds collected are greatly varied and often do not always have a clear connection to the stated reason for the charge being levied, particularly in relation to fines. For example, the fine for providing false information to the Secretary of State in relation to a vehicle title or registration is transmitted to the Illinois Military Family Relief Fund. Similarly, serious traffic violation fines are sent to a “Fire Prevention Fund” and a “Fire Truck Revolving Loan Fund,” both of which are managed by the state treasury.

The mandatory or discretionary nature of the financial obligations varies. A fine, fee, or cost can be mandatory or discretionary, both as to its amount as well as whether or not it is imposed at all. For example, judges have discretion to choose whether to impose fines related to deceptive acts and fraud, but if such a discretionary fine is imposed, the *amount* of the fine is a fixed mandatory sum. Neither the statutory scheme nor judicial policy provides any reasons or consistently applied principles why fines for certain offenses are mandatory (e.g., controlled substances) while fines for other offenses are discretionary (e.g., deceptive practices, domestic violence).

Fees and costs for standard court services (e.g., fees and costs for the filing of complaints, document storage, probation services, and record keeping) make up the bulk of the financial obligations. Judges can impose discretionary charges for each day of a trial, lab analysis, fees on posted bonds, fees on forfeited bonds, and more. The majority of funds collected in connection with



these fees go to the Clerk of the Circuit Court, with other funds flowing to agencies such as the State's Attorney's Office, the Public Defender's Office, or the court itself.

## II. Forcing Indigent Defendants to Bear the Cost of the Criminal Justice System is Against Public Policy, Has Undesirable Consequences, and Disproportionately Affects Minority Communities

To assess the impact of fines, fees, and costs on individuals subjected to criminal proceedings in Cook County,<sup>9</sup> Chicago Appleseed conducted interviews with an array of public servants, legal practitioners, community members, and other individuals who have experienced first-hand how court fees, fines and costs affect criminal defendants, their families, and the community.<sup>10</sup> We found that the current system of fines, fees, and costs in Cook County has a number of negative public policy consequences.

### a. Administration of Fines, Fees, & Costs in the Court System

Interviewees expressed many concerns relating to the administration of fines, fees, and costs in courtrooms across Cook County. Specifically, interviewees highlighted issues of (1) judicial discretion and independence; (2) litigation of fines, fees, and costs; and (3) accounting for the reasons that particular fines, fees, and costs are imposed.

*Judicial Discretion and Independence* Many practitioners in the Cook County criminal court system observed that judicial practices relating to whether or not to impose fines, fees, and costs vary widely across different types of courtrooms and among individual judges in Cook County. Some judges simply are more inclined than others to waive fines, fees, and costs in any given case. This discretion extends to decisions about how often payments of fines, fees, and costs must be made and how often a criminal defendant must return to court to report on efforts to repay court-imposed financial obligations.

Relatedly, interviewees reported that in many circumstances, the Cook County court system can act in practice as a rubber stamp for court costs proposed by the Cook County State's Attorney's Office. A prosecuting attorney will state a total amount of fines, fees, and costs ad hoc, and the judicial staff will assign particular fines, fees, and costs to fit that total amount, seemingly without an articulated and reasoned analysis of which particular fees are appropriate in that case and why.

*Litigation of Fines, Fees and Costs.* A number of practitioners expressed concern with the amount of litigation in recent years, in trial and appellate courts, relating to the imposition of fines, fees, and costs against criminal defendants. Lawyers working both in private practice and for governmental agencies noted that all of the hours that judges, lawyers, the clerk's office, and others spend litigating over five, ten, or twenty dollars in fees adds up to a tremendous amount of taxpayer-funded government resources, far exceeding the fees collected, because many of the fees are never collected at all.

*Rationale for Imposed Fines, Fees and Costs.* Finally, interviewees highlighted that there is often poor or no judicial accounting of the reasons that particular fees are being imposed in a criminal case, as well as very little explanation given to the criminal defendant of why particular fees are owed.



Moreover, there is little oversight or interest in ensuring that fees are correctly imposed in any given case.

### **b. Problems with Collecting Court-Imposed Fines, Fees, & Costs**

Another common theme among interviewees involved difficulties with the collection or payment of fines, fees, and costs. Criminal defense attorneys working for government agencies were concerned that the expense of collecting court-imposed fines, fees, and costs from criminal defendants exceeds the amount of fines, fees, and costs that ultimately are collected.<sup>11</sup> Others discussed the fact that collection often is transferred quickly from governmental entities to private collection agencies, which then pursue criminal defendants' families to collect debts while criminal defendants are incarcerated.

Almost all interviewees who interact regularly with individuals faced with court-imposed fines, fees, and costs describe a situation in which criminal defendants grapple with these financial obligations and their corollary effects (described below) for years or even decades after the fines, fees, and costs are initially imposed. Practitioners noted that this problem is compounded by the fact that it is very difficult for an individual to reduce the amount of fines or fees owed after they are imposed by a court, regardless of that person's financial standing. Practitioners have heard from courts that fees cannot be reduced after they have been imposed.

### **c. The Detrimental Impacts of Fines, Fees, & Costs**

In addition to problems of administration and collection, interviewees describe both short- and long-term negative effects for criminal defendants faced with court-imposed fines, fees, and costs. In general, interviewees describe a system of court-imposed debt that is very difficult to escape.

In a subset of courtrooms in Cook County, judges will extend a period of probation indefinitely, waiting until all outstanding fines, fees, and costs are paid before finally releasing the individual from the criminal justice system. In other courtrooms, an inability to pay fines, fees or costs imposed by the court results in a sentence of service in the Sheriff's Work Alternative Program (SWAP), in which the individual who cannot pay engages in a number of hours of community service. Practitioners have seen clients assigned SWAP time in lieu of payment, where the client spends far more hours working for SWAP than would have been required to earn the amount owed at a minimum-wage job. Of course, a requirement that an individual engage in many hours of community service to pay a debt interferes with employment, education, and other obligations.

Interviewees also report that court-imposed fines, fees, and costs that remain on an individual's record for years often interfere with efforts to expunge or seal criminal records. This is the case even when other conditions of expungement or sealing have been met. By one practitioner's count, approximately 90% of individuals seeking expungement or sealing of their criminal records have that effort opposed by the Cook County State's Attorney's Office because of outstanding fines, fees, and costs. And the inability to expunge or seal criminal records in turn frequently leads to termination of employment and the inability to find new employment.

In addition to these obstacles to employment, interviewees report that fines, fees, and costs often hinder a criminal defendant's financial recovery for a long period of time. Practitioners noted



that individuals who accumulate court-imposed debt can be forced into situations where they have to sacrifice other assets until their debt is repaid. Court-imposed fines, fees, and costs generally are not dischargeable in bankruptcy.

Interviewees also described individuals who turn to illegal activities in order to raise the funds to pay court-imposed fines, fees, and costs, accruing additional charges and criminal cases as a result. For example, the client of one interviewee who was facing probation contingent on the payment of fines, fees, and costs was arrested while on probation for panhandling. Relatedly, non-payment of fees in one case can often result in negative probation reports that would be detrimental to the judge's view of a criminal defendant in a subsequent criminal case.

#### **d. The Disproportionate Effect of Fines, Fees, & Costs on Minority Communities**

Finally, many of the interviewees noted the reality that the negative consequences of court-imposed fines, fees, and costs fall disproportionately on minority communities and clients in Cook County.<sup>12</sup> Illinois' regime of fines, fees, and costs likely undermines trust in government and the legitimacy of the judicial system in the eyes of the community, which can be left with the impression that the criminal justice system is more about collecting revenues than about protecting public safety.

These harms, though difficult to quantify, outweigh the limited funds actually collectible from the indigent through the imposition of fines, fees, and costs. Following the examples of states like Washington and Texas, Illinois should be a leader among the remaining states in stopping this lose-lose practice.

### **III. National Spotlight on Court Fines, Fees, & Costs**

The adverse impacts described by the interviewees in the previous section suggest that Cook County shares many of the same struggles relating to fines, fees, and costs that are currently plaguing municipalities across the United States. The negative consequences to individuals and communities of imposing fines, fees, and costs on the indigent has attracted national attention.

Approximately 75% of defendants charged with misdemeanors and 80% of felony-charged defendants are indigent and entitled to court-appointed counsel.<sup>13</sup> In total, at least 80% of incarcerated individuals are indigent.<sup>14</sup> It is estimated that nearly 40% of all crimes are directly attributable to poverty.<sup>15</sup> Imposing fines, fees and costs on this population is like kicking a man when he's down, or like throwing a match on tinder. Ferguson, Missouri, issued 32,975 arrest warrants on its 21,135 residents, mostly for non-violent driving violations, to raise funds from fines, fees and costs. Ferguson's court funding system is believed to be a source of the distrust of police and protests. **Attachment B** includes several sources from the national literature analyzing problems associated with court fines, fees, and costs in the United States.

### **IV. Forcing Indigent Defendants to Bear the Costs of the Criminal Justice System Violates the Law**

Illinois' judges are not required to impose fines, fees, and costs as a condition of probation or conditional discharge. Moreover, imposition of court costs and fees on indigents may violate the U.S.



and Illinois Constitutions. Finally, an inconsistency between Illinois civil and criminal law with respect to court fees exists, which may not withstand scrutiny.

#### **a. Illinois Judges Have Discretion to Waive Fines, Fees, & Costs**

Illinois law does not require trial courts to impose payment of fines, fees, and costs as a condition of probation or conditional discharge.<sup>16</sup> Rather, it is within the trial court's discretion to require payment of fines, fees, and costs as a condition of release.<sup>17</sup> Illinois law requires trial courts to impose numerous conditions on defendants sentenced to probation or conditional discharge.<sup>18</sup> The statute does not, however, require the conditions to include payment of fines, fees, and costs. Rather, the statute leaves payment of fines, fees, costs or restitution to "the proper discretion of the Court."<sup>19</sup>

Illinois law also is clear that a trial court is not required to make payment of the fines, fees, and costs a condition of probation or conditional discharge.<sup>20</sup> Even assuming that a judge must impose a particular mandatory fine as part of a criminal sentence, the judge is not required to include payment of that fine as a condition of probation or conditional discharge. This distinction is important and has real-world consequences for defendants, judges, probation officers, and court staff: if payment of fines, fees, and costs is not a condition of probation or conditional discharge, then the period of probation or conditional discharge cannot be extended based upon a failure to pay.<sup>21</sup> Indeed, even when payment is a required condition, it still is in the court's discretion whether to extend probation. Extension of probation or conditional discharge always is within the judge's discretion.<sup>22</sup>

The statutory guidance that imposition of fines, fees, and costs is discretionary stands in apparent conflict with the pre-printed sentencing orders used by the Circuit Court of Cook County and published by the Circuit Clerk of Cook County. These sentencing orders, form no. CCR N090 (3/06/07 rev.), state under the heading, "STANDARD CONDITIONS" the requirement to "[p]ay all fines, costs, fees, assessments, reimbursements and restitution (if applicable)." The sentencing order form leads both judges and litigants to believe that payment of fines, fees, and costs is a required condition of probation when in fact it is a discretionary condition entirely waivable by the trial judge.

Permitting indigent defendants to successfully complete the terms of their probation or conditional discharge without being held back by unpayable debts in the form of excessive fines, fees, and costs would allow those defendants the opportunity to put their past offenses behind them, to focus on successfully reintegrating into society, and to become productive members of the community.

#### **b. Federal Constitutional Violations**

In certain cases, Illinois' imposition of court fines, fees, and costs may violate the U.S. Constitution under one or more theories, including equal protection, due process, and the Excessive Fines Clause of the Eighth Amendment.

*Equal Protection:* Although laws that disproportionately burden the poor generally are subject only to rational basis review, not strict scrutiny, a constitutional challenge may be brought if court fees and costs are not rationally related to a legitimate State purpose. In the case of fines, fees and





costs, the administrative costs of trying to collect often exceed the collections themselves. Moreover, fees and costs unrelated to a defendant's specific crime may not be rationally related to the State purpose of funding those programs.

At least one commentator believes that the Constitution declares "a universal principle—the principle that discrimination, even when not affirmative, on the basis of indigence [is] a violation of the fourteenth amendment,"<sup>23</sup> based on the cases finding that inability to pay case filing or appeal fees cannot be a bar to the court under the Equal Protection Clause.

*Procedural Due Process:* To bring a procedural due process claim under the Fourteenth Amendment, a plaintiff must show that he or she "was deprived of a protected interest" without a constitutionally adequate process.<sup>24</sup> Put differently, the state may not deprive an individual of property without adequate procedural safeguards against an incorrect deprivation.<sup>25</sup> The Supreme Court's opinion in *Mathews v. Eldridge* articulated a three-part balancing test to determine whether there is a procedural due process violation.<sup>26</sup> Under that test, courts balance the following three factors: (1) the plaintiff's interest in the property at issue; (2) the risk of erroneous deprivation under the current procedure, and the likely value of any additional safeguards; and (3) the government's interest, including the fiscal and administrative costs that would accompany the improved procedural requirements under contemplation. These factors may weigh against the imposition of the court fees in many cases, at the very least in the absence of notice and a pre-deprivation hearing on the propriety of imposing such costs.<sup>27</sup> Additionally, where fees and costs are unrelated to the offense of conviction (as is the case with certain fees and costs in Illinois), the criminal proceeding itself may not qualify as a sufficient pre-deprivation hearing.

*Excessive Fines Clause of the Eighth Amendment:* The Eighth Amendment, which applies to the states through the Fourteenth Amendment, prohibits "excessive" punishments,<sup>28</sup> including "excessive fines."<sup>29</sup> The Excessive Fines Clause "limit[s] the ability of the sovereign to use its prosecutorial power, including the power to collect fines, for improper ends."<sup>30</sup> Accordingly, the Excessive Fines Clause might apply to governmental efforts to improperly raise revenues through fines, payments, or forfeitures.<sup>31</sup> In determining whether an imposed fine violates the Eighth Amendment, "the touchstone of the constitutional inquiry . . . is the principle of proportionality: the amount of the forfeiture must bear some relationship to the gravity of the offense that it is designed to punish."<sup>32</sup> An Eighth Amendment violation for an "excessive" fine will thus be found where the fine is grossly disproportional to the gravity of the underlying offense. In making this determination, courts examine several factors, including: (1) the degree of the defendant's culpability; (2) the relationship between the penalty and the harm to the victim; and (3) the punishments imposed in similar cases for comparable misconduct.<sup>33</sup>

### c. Violations Under the Illinois Constitution and Illinois Law

The imposition of financial obligations on indigent defendants under Illinois' regime of fines, fees, and costs also may violate several provisions of the Illinois Constitution and Illinois law:

- *Article I, Section 11: Criminal penalties must be proportional and rehabilitative rather than punitive.*
  - "All penalties shall be determined both according to the seriousness of the offense and with the objective of restoring the offender to useful citizenship."<sup>34</sup>



- The rehabilitation clause— “with the objective of restoring the offender to useful citizenship”—has been interpreted by the Illinois Supreme Court as providing a limitation on penalties beyond the limits established by the Eighth Amendment of the U.S. Constitution.<sup>35</sup>
- *Article I, Section 12: The Right to Free Access to Justice.*
  - Illinois has a long history of guaranteeing free access to justice for indigent defendants.
  - Illinois’ first Constitution provided that every person in Illinois “ought to obtain right and justice freely, and without being obliged to purchase it.”<sup>36</sup> Subsequent constitutions included similar provisions.<sup>37</sup>
  - This principle of free justice continues under the current Illinois Constitution, whose Bill of Rights includes the “Right to Remedy and Justice,” stating that “[e]very person shall . . . obtain justice by law, *freely*, completely, and promptly.”<sup>38</sup>
- *There must be a relationship between the charged offense and the use of the collected funds.*
  - Under Illinois law, “if a fee is charged in connection with a criminal prosecution, there must be some relationship between the offense charged and the use to which the funds generated by the fee are put.”<sup>39</sup>
  - If the government has failed to establish such a relationship between the proposed fee and the ultimate use of the funds, the court should not impose such a fee.

#### d. Comparison Between Civil and Criminal Systems in Illinois

Under an Illinois statute and its corresponding Illinois Supreme Court Rule, indigent *civil* litigants are not required to pay court fees, costs, or charges. Illinois’ current failure to apply an equivalent policy to indigent *criminal* defendants creates an impermissible inconsistency between the civil and criminal justice systems in Illinois. Indeed, the imposition of fines, fees, and costs on indigent criminal defendants in many cases is a violation of existing Illinois law.<sup>40</sup>

Illinois Supreme Court Rule 298(b) permits an indigent litigant to request and obtain the right “to sue or defend without payment of fees, costs, or charges.” This fee-waiver rule for civil trials is evidence of the Illinois Supreme Court’s commitment to “promote, facilitate, and enhance equal access to justice . . . for all people, particularly the poor and vulnerable.”<sup>41</sup> There currently is no Illinois Supreme Court rule like Rule 298(b) for criminal trials, but the principles and logic it expresses should be extended to criminal matters.

Illinois Supreme Court Rule 298 applies to applications for “[w]aiver of Court fees in a civil action.” Rule 298(b) states that “[t]he court’s ruling on an Application for Waiver of Court Fees shall be made according to standards set forth in 735 ILCS 5/5-105.” That statute addresses costs under the Illinois Code of Civil Procedure, and specifically covers “[l]eave to sue or defend as an indigent person.”<sup>42</sup> It provides that “a court, on finding that the applicant is an indigent person, shall grant the applicant leave to sue or defend the action without payment of the fees, costs, and charges of the action.”<sup>43</sup> Under Rule 298(a)(2), litigants seeking to avail themselves of this waiver rule use a standardized form titled “Application for Waiver of Court Fees,” which was adopted by the Illinois Supreme Court Access to Justice Commission and which all Illinois courts are required to accept.





This procedure for waiving fees for civil litigants makes sense: indigent litigants without the ability to pay such fees should not be required to pay for justice. As previously described, this principle of free access to justice consistently has been enshrined in Illinois law since the state's first Constitution in 1818.<sup>44</sup> There is no compelling reason why indigent criminal defendants should have to "pay to play" for their day in court in the criminal justice system. The protections currently afforded to indigent civil litigants also should be extended to indigent criminal defendants.

## V. Change is Needed: Recommended Reforms

Unfortunately, due in part to the lack of clarity in Illinois' regime of fines, fees, and costs, courts have failed to exercise their discretion to waive fees and costs for indigent defendants, despite their authority to do so and the public policy, equitable, and ethical reasons to do so.<sup>45</sup> To remedy this problem, this report supports the following recommendations.

### a. Judicial Waiver of Fines, Fees, and Costs for Indigent Defendants

Illinois law does not require judges to require payment of fines, fees, and costs by defendants as a condition of probation. Imposition of such fees is left to "the proper discretion of the Court."<sup>46</sup> Payment of the probation fee ostensibly is a required condition of probation, but this also can be waived if the court determines that the defendant is unable to pay the fee.<sup>47</sup> All judges should be made aware of their statutory and inherent authority to waive fines, fees, and costs, including the probation fee, as conditions of probation for indigent defendants. Judges should be informed that the existing pre-printed sentencing order in use is misleading in that it indicates that payment of fines, fees, and costs is a required condition of probation, when in fact judges have the authority to waive payment of all such fees as a condition of probation.

Judges in Cook County have been given no guidance about how to determine whether a defendant can pay court fees and costs. Such guidance is necessary and feasible. For example, defendants could be presumed indigent for purposes of fees and costs if they receive public assistance, live in public housing, or earn less than 250% of the federal poverty guidelines (the same threshold that has been adopted in Illinois for determining indigency for purposes of the Sixth Amendment right to defense counsel). Given the criteria used for the appointment of counsel, it would be administratively efficient and just to simply waive fees and costs for all defendants who qualified for appointed counsel. This evaluation should be made no later than the time that such fines, fees, and costs would otherwise be imposed.<sup>48</sup>



**b. Common-sense Legislation and Rulemaking: Extend the Civil Rules to the Criminal Context**

At a minimum, the existing protections currently granted to indigent civil litigants in Illinois with respect to payment of court fines, fees, costs, and charges should be extended to criminal defendants. To comply with the mandates of the U.S. Constitution, Illinois Constitution, and Illinois case law, Illinois trial judges should immediately exercise their discretion to waive such fines, fees, and costs as conditions of probation for indigent defendants. Concurrently, the Illinois legislature should clarify this principle by statute, and the Illinois Supreme Court should issue an appropriate rule codifying the concept.

The Illinois legislature should add a simple statutory provision in the Code of Criminal Procedure to provide that courts shall waive fines, fees, and costs for indigent defendants. Such a provision could largely mirror the existing procedure for civil litigants, as described above and as set out in the Code of Civil Procedure at 735 ILCS 5/5-105.<sup>49</sup> The amended statute could provide that “a criminal court shall have the affirmative duty to make a determination as to a defendant’s indigency, and upon a finding that the defendant is an indigent person, shall waive payment of all fines, fees, costs, and charges.”<sup>50</sup> Similar to the equivalent civil statute, a person should be considered to be “indigent” if he or she meets at least one of several criteria, including (among other things) if the person: (a) receives public aid under a public benefits program (such as food stamps or children and family assistance); (b) has available income at 250% or less of the current poverty level; (c) is unable to pay the fines, fees or costs, or such charges would result in substantial hardship to the person or their family; or (d) is eligible to receive free legal counsel for their criminal defense by a public defender, criminal legal services provider, court-appointed counsel, or court-sponsored pro bono program. Administratively and procedurally, the remaining procedures largely could mirror those established in the equivalent civil procedure statute, 735 ILCS 5/5-105. For other members of the working poor and other individuals of modest means who do not qualify for the preceding criteria, a sliding scale should be established, so that such individuals are not overburdened with excessive fines, fees, and costs relative to their respective income levels.

Additionally, the Illinois Supreme Court should issue a rule clarifying that indigent criminal defendants shall not be required to pay court fines, fees, and costs, and establishing Illinois judicial procedures for determining indigency. This new rule largely should track the equivalent rule of civil procedure, Illinois Supreme Court Rule 298.<sup>51</sup> Under such a procedure, the court should have an independent duty to conduct an indigency determination *sua sponte*. To aid in this process, a criminal defendant could submit a short, simple form showing his or her basis for indigency, according to the same criteria described above. This form should be similar in format and substance to the equivalent civil fee-waiver form provided by the Supreme Court.<sup>52</sup> The trial court shall rule in a timely manner on the matter based on information contained in the application, unless the court, in its discretion, requires the defendant to personally appear to explain or clarify the application. If the court finds that the defendant is an indigent person, the court shall enter an order providing that the defendant shall not be required to pay any fines, fees or costs.

**c. Illinois Easily Could Model Criminal Procedures in Other Jurisdictions that Provide Relief to Indigent Defendants**



Two states, Washington and Texas, have laws protecting indigent defendants from imposition of burdensome fines, fees, and costs. Washington's law provides:

The court shall not order a defendant to pay costs unless the defendant is or will be able to pay them. In determining the amount and method of payment of costs, the court shall take account of the financial resources of the defendant and the nature of the burden that payment of costs will impose.<sup>[53]</sup>

This law recently has been interpreted by the Washington State Supreme Court as requiring Washington judges to make an individualized inquiry into the ability of a criminal defendant to pay his or her legal financial obligations.<sup>54</sup> The Washington Supreme Court in two consolidated cases found that the trial courts erred in imposing costs on defendants because the judges did not *sua sponte* consider either defendant's ability to pay. In its review, the Washington Supreme Court noted that the burden imposed on poor defendants by uncollectable court fees and fines has been chronicled on both a national and state level. The court held that the trial court has a statutory obligation to make an individualized inquiry into a defendant's current and future ability to pay before the court imposes fines, fees, and costs under the Washington law quoted above.

Texas has enacted a law similar to Washington's:

A court may waive payment of a fine or cost imposed on a defendant who defaults in payment if the court determines that: (1) the defendant is indigent; and (2) each alternative method of discharging the fine or cost under Article 43.09 would impose an undue hardship on the defendant.<sup>[55]</sup>

With a civil statute in place and guidance from these two jurisdictions, Illinois has sufficient guidance to formulate a criminal statute and rule that would provide the necessary relief to indigent criminal defendants.

#### **d. Simplify Illinois Regime of Fines, Fees, & Costs**

In addition to the other problems identified in this report, Illinois' current regime of fines, fees, and costs lacks coherency, uniformity, and consistency. Most fines, fees, and costs were created individually by piecemeal legislation over the years, leading to a system that is unwieldy, overly complex, and difficult for courts and public servants to administer. There currently are at least 90 different unique fines, fees, and costs in Illinois, many of which are mislabeled and miscategorized. The sheer number of these charges should be reduced by statute, which could set out a comprehensive, streamlined, and coherent unified list of charges, grouped into the correct categories of fines, fees, and costs.<sup>56</sup>

Simplifying Illinois' statutory fines, fees, and costs regime and the accompanying court form will make the sentencing and collection processes more streamlined and efficient for all stakeholders and public servants, including prosecutors, judges, probation officers, and court staff. A simpler, shorter, and better organized regime (with three accurate categories) would provide judges with clearer legislative instruction regarding the total fines, fees, and costs to be imposed on each defendant. The revenues collected still could be allocated to the various sub-groups and agencies currently named on the form as recipients, on a reasonable basis.



### e. Administrative Solutions, Including Judicial Training

As mentioned, judges have been given no guidance on whether and when to exercise their inherent discretion to waive fines, fees, and costs as conditions of probation for indigent defendants. Chicago Appleseed will be pleased to develop and present judicial training materials explaining judges' inherent authority to waive fines, fees, and costs as conditions of probation, and that such discretion to waive should be applied (at a minimum) whenever the defendant has income less than 250% of the federal poverty guidelines, or if certain other independently sufficient qualifying criteria are met.

The existing pre-printed sentencing orders used in Cook County should be modified to clarify that judges have authority to waive all fees, including the probation fee, on a finding of indigency.

## VI. Conclusion

Imposing fines, fees, and costs on indigent and poor defendants amounts to a regressive tax on those least able to pay. It destroys lives and communities, and contributes to the over-incarceration of the poor. It is neither right nor just to shunt the costs of administering our courts onto those least able to shoulder that burden.

Moreover, such a system violates the U.S. Constitution, the Illinois Constitution, Illinois case law, and the core Illinois legal principle—consistent for nearly 200 years—that indigent litigants should not have to pay for their right to have their day in court. Indeed, under the Bill of Rights in the Illinois Constitution, “[e]very person . . . shall obtain justice by law, *freely*, completely, and promptly.”<sup>57</sup> Currently, Illinois judges already have the authority, power, and responsibility to waive fines, fees, and costs as conditions of probation for indigent defendants.<sup>58</sup> They immediately should begin exercising their discretion to do so. Concurrently, and for the same reasons, the Illinois Legislature and the Illinois Supreme Court should enact a statute and accompanying rule clarifying that fines, fees, and costs shall not be imposed on indigent criminal defendants.



## ATTACHMENT B

## LITERATURE REVIEW

1. Shaila Dewan, *Court by Court, Lawyers Fight Policies That Fall Heavily on the Poor*, NEW YORK TIMES (Oct. 23, 2015).
2. Shaila Dewan, *When Bail Is Out of Defendant's Reach, Other Costs Mount*, NEW YORK TIMES (June 10, 2015).
3. Jeffrey Toobin, *The Milwaukee Experiment*, THE NEW YORKER (May 11, 2015), available at <http://www.newyorker.com/magazine/2015/05/11/the-milwaukee-experiment>.
4. Joseph Shapiro, *In Ferguson, Court Fines And Fees Fuel Anger* (Aug. 25, 2014), available at <http://www.npr.org/2014/08/25/343143937/in-ferguson-court-fines-and-fees-fuel-anger>.
5. Sarah Stillman, *Get Out of Jail, Inc.*, THE NEW YORKER (June 23, 2014), at 48.
6. Joseph Shapiro, *As Court Fees Rise, The Poor Are Paying The Price* (May 19, 2014), available at <http://www.npr.org/2014/05/19/312158516/increasing-court-fees-punish-the-poor>.
7. American Civil Liberties Union of Ohio, *The Outskirts of Hope: How Ohio's Debtors' Prisons Are Ruining Lives and Costing Communities* (April 2013).
8. Brennan Center for Justice, *Criminal Justice Debt: A Toolkit for Action*, 2012 (action materials for implementing reform based on the 15-state survey).
9. State of Illinois Comptroller, *Fee Imposition Report*, 2011.
10. Brennan Center for Justice, *Criminal Justice Debt: A Barrier to Reentry*, 2010 (survey of practices in 15 states (including Illinois), common problems and proposed reforms).
11. Ronald F. Wright & Wayne A. Logan, *The Political Economy of Up-Front Fees for Indigent Criminal Defense*, LEGAL STUDIES RESEARCH PAPER SERIES, William Mitchell College of Law (Research Paper No. 27), Wake Forest University (Research Paper No. 05-19), available at <http://ssrn.com/abstract=805426>.

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<sup>1</sup> See, e.g., Who Pays? The True Cost of Incarceration of Families, report of the Ella Baker Center for Human Rights, Forward Together and Research Action Design (Sept. 2015), at 11 (hereinafter, the "Ella Baker Report"), citing Holzer, Harry J. et al., "The Economic Costs of Childhood Poverty in the United States," *Journal of Children & Poverty*, 14.1 (Mar. 2008): 41–61; see also Bridget McCormack, *Economic Incarceration*, 25 Windsor Y.B. Access Just. 223, 226–28 (2007); Lauren-Brooke Eisen, *Paying for Your Time: How Charging Inmates Fees Behind Bars May Violate the Excessive Fines Clause*. New York, NY: Brennan Center for Justice, July 31, 2014 (internet: July 22, 2015).



- <sup>2</sup> See West, 101 CAL. L. REV. at 527 (quoting Municipal Court Judge Joseph Landry, “[We’re] spending dollars to collect pennies is what we’re doing.”).
- <sup>3</sup> Ella Baker Report, *supra* n. 1, at 15, citing Alexes Harris, Heather Evans, and Katherine Beckett. “Drawing Blood from Stones: Legal Debt and Social Inequality in the Contemporary United States.” *American Journal of Sociology* 115.6 (2010).
- <sup>4</sup> Ella Baker Report, *supra* n. 1, at 15, citing Harris, Alexes. “The Cruel Poverty of Monetary Sanctions.” 4 Mar. 2014. Web. 30 Jul. 2015. < <http://thesocietypages.org/papers/monetarysanctions/>>; Joseph Shapiro, “As Court Fees Rise, The Poor Are Paying The Price” (May 19, 2014), available at <http://www.npr.org/2014/05/19/312158516/increasing-court-fees-punish-the-poor>.
- <sup>5</sup> ILL. CONST. art. I, § 11 (1970) (emphasis added).
- <sup>6</sup> ILL. CONST. art. I, § 12 (1970) (emphasis added).
- <sup>7</sup> 730 ILCS 5/5-6-3(a); *Payton v. County of Carroll*, 473 F.3d 845, 849 (7th Cir. 2007), citing *People ex rel. Conn v. Randolph*, 219 N.E.2d 337, 340 (Ill. 1966) (dealing with the inherent power to order reimbursement of costs advanced by attorneys for indigent litigants); *People v. Wilson*, 453 N.E.2d 949, 952–54 (Ill. App. Ct. 1983) (requiring the payment of certain litigation costs for an indigent defendant as a matter of inherent power); *People v. Rhode*, 580 N.E.2d 612, 614–15 (Ill. App. Ct. 1991) (awarding fees to pay for the services of an investigator to assist an indigent defendant).
- <sup>8</sup> The chart details the authorizing statute of each charge, the amount charged, whether it is mandatory or discretionary, the intended recipient of the funds, and the category of the charge (i.e., whether the charge is a fine, fee, cost, or some combination thereof). As a general matter, a fine is punitive in nature and imposed as part of a sentence, a fee is a charge for specific labor or services, and a cost is a charge taxed by the court of all defendants (even if that cost is nominally called a fee, such as a filing fee, jury fee, courthouse fee, or court reporter fee).

Following the relevant order form assessing these charges in court, the chart is divided into three groups: (1) fines that can be offset by a \$5 per day pre-sentence incarceration credit; (2) fines that cannot be offset by such credit; and (3) fees and costs that cannot be offset by such credit. Despite being nominally called “fines” under the court’s order form, many of the charges under groups (1) and (2) are not truly fines, but are instead fees or costs.

- <sup>9</sup> Chicago Appleseed focused its field research on Cook County; many of the findings of this report, however, also have relevance throughout Illinois.
- <sup>10</sup> Chicago Appleseed interviewed government employees, private attorneys, bar association leaders, public defenders, individuals advocating for and providing direct legal services to criminal defendants and the community, members of advocacy organizations, clinicians and academics, and community members themselves, among others. Interviewees were asked questions on a number of topics, including their experiences with the process by which fines, fees, and costs are imposed or waived in Cook County courtrooms; administrative costs related to imposing and collecting fines, fees, and costs; and the effects of fines, fees, and costs on individuals engaged with the criminal justice system in Cook County.

Interviews were conducted confidentially, to ensure that interviewees could speak freely about their experiences. The information related during those interviews is set out herein without editorializing or commentary by the authors of this report. The views expressed in the main text of this section are those of the interviewees.

- <sup>11</sup> This view comports with other research. For example, the Ella Baker Report indicates that failure to pay court-imposed fines, fees, and costs can lead to re-incarceration at a cost averaging \$29,141 per year. Ella Baker Report, *supra* n. 1, at 15, citing Evans, “The Debt Penalty: Exposing the Financial Barriers to Offender Reintegration.” 1; The National Association of State Budget Officers, *State Spending for Corrections: Long-Term Trends and Recent Criminal Justice Policy Reforms*. The State of Illinois Comptroller’s report (April 2012) revealed that \$76 million in criminal surcharge fees were collected in Illinois in 2011. The report does not state Illinois’ costs of collecting those fees. However, the report cites the 2009 study by the Sargent Shriver National Center on Poverty Law, “Debt Arising from Illinois’ Criminal Justice System.”





of the Ad Hoc Accumulation of Financial Obligations,” and observed that, in Illinois, “[e]ach individual surcharge seems modest, but in aggregate they can add a severe financial burden to convicted criminals beyond traditional penalties and restitution charges.”

- <sup>12</sup> Many of the individuals whose interviewed informed this section work for organizations who stand ready to participate actively in legislative, rulemaking, and judicial reform and training solutions to the problems associated with court-imposed fines, fees, and costs in Cook County.
- <sup>13</sup> McCormack, *supra* n. 1, at 228, citing U.S. Bureau of Justice Statistics (80% of felony-charged defendants are represented by assigned counsel).
- <sup>14</sup> Ella Baker Report, *supra* n. 1, at 11, Eisen, Lauren-Brooke. *Paying for Your Time: How Charging Inmates Fees Behind Bars May Violate the Excessive Fines Clause*. New York, NY: Brennan Center for Justice. 31 Jul. 2014. Web. 22 Jul. 2015.
- <sup>15</sup> Ella Baker Report, *supra* n. 1, at 9, citing Holzer, Harry J. et al. “The Economic Costs of Childhood Poverty in the United States.” *Journal of Children & Poverty* 14.1 (Mar. 2008): 41–61.
- <sup>16</sup> 730 ILCS 5/5-6-3(a). Probation is a “sentence or disposition of conditional and revocable release under the supervision of a probation officer.” 730 ILCS 5/5-118. Conditional discharge is a “sentence or disposition of conditional and revocable release without probationary supervision but under such conditions as may be imposed by the court.” 730 ILCS 5/5-1-14. Illinois law authorizes trial courts to sentence individuals convicted of eligible offenses to a period of probation or a term of conditional discharge. 730 ILCS 5/5-4.5-15. In fact, probation is the presumptive sentence for eligible offenses. 730 ILCS 5/5-6-1(a).
- <sup>17</sup> 730 ILCS 5/5/6-3(b).
- <sup>18</sup> 730 ILCS 5/5-6-3(a).
- <sup>19</sup> 730 ILCS 5/5-6-3(b)(2), (b)(8). Payment of the probation fee is a required condition of probation unless the court determines that the defendant is unable to pay the fee. 730 ILCS 5/5-6-3(i).
- <sup>20</sup> 730 ILCS 5/5-6-3(b).
- <sup>21</sup> 730 ILCS 5/5-6-2(e).
- <sup>22</sup> *Id.*
- <sup>23</sup> Alan R. Sachs, *Indigent Court Costs and Bail: Charge Them to Equal Protection*, 27 MARYLAND L. REV. 154, 158 (1967).
- <sup>24</sup> *See Logan v. Zimmerman Brush Co.*, 455 U.S. 422, 428 (1982).
- <sup>25</sup> *See, e.g., Mathews v. Eldridge*, 424 U.S. 319, 334–35 (1976).
- <sup>26</sup> *See id.*
- <sup>27</sup> *Payton v. County of Carroll*, 473 F.3d 845, 851 (7th Cir. 2007) (speculating, in dicta, that inability to pay a \$33 administrative fee on top of \$5,300 in bail, resulting in two more hours in jail than would have been spent if no fee was imposed, could theoretically affect a detainee’s liberty interest).
- <sup>28</sup> *Furman v. Georgia*, 408 U.S. 238, 332 (1972) (Marshall, J. concurring); (“The entire thrust of the Eighth Amendment is, in short, against ‘that which is excessive.’”); *see also id.* at 331 (“[A] penalty may be cruel and unusual because it is excessive and serves no valid legislative purpose.”); *United States v. Sato*, 814 F.2d 449, 452 (7th Cir. 1987) (“We might envision the extremely rare case wherein the fine imposed might be excessive and unconstitutional solely in terms of the defendant’s resources.”).
- <sup>29</sup> U.S. CONST. amend. VIII (“Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.”).
- <sup>30</sup> *Browning-Ferris Indus. v. Kelco Disposal*, 492 U.S. 257, 267 (1989).
- <sup>31</sup> *See, e.g., id.* at 267; *id.* at 272 (stating that the Excessive Fines Clause’s historical antecedents were intended, in part, to limit “tyrannical extortions” by the sovereign for purposes of, among other things, “raising revenue in unfair ways”); *id.* at 275 (finding no Excessive Fines Clause violation when the government of



Vermont had not used the courts “to extract large payments or forfeitures for the purpose of raising revenue”).

- <sup>32</sup> *United States v. Bajakajian*, 524 U.S. 321, 334 (1998); *United States v. Malewicka*, 664 F.3d 1099, 1103 (7th Cir. 2011).
- <sup>33</sup> *Malewicka*, 664 F.3d at 1104; *see also Cooper Indus. v. Leatherman Tool Group, Inc.*, 532 U.S. 424, 435 (2001) (naming the relevant criteria as “the degree of the defendant’s reprehensibility or culpability; the relationship between the penalty and the harm to the victim caused by the defendant’s actions; and the sanctions imposed in other cases for comparable misconduct” (internal citations omitted)); *Bajakajian*, 524 U.S. at 338, 339 & n.14 (considering whether the defendant “fit[s] into the class of persons for whom the statute was principally designed”; whether other penalties authorized by the legislature or Sentencing Commission have any bearing on the defendant’s culpability, including relative to other potential violators of the same statutes; and the degree of harm caused by the defendant); *Sepúlveda-Hernández*, 752 F.3d at 36; *United States v. Heldeman*, 402 F.3d 220, 223 (1st Cir. 2005).
- <sup>34</sup> ILL. CONST. art. I, § 11 (1970).
- <sup>35</sup> *Illinois v. Clemons*, 968 N.E.2d 1046, 1056–57 (Ill. S. Ct. 2012)
- <sup>36</sup> ILL. CONST. art. VIII, § 12 (1818) (“Every person within this state . . . ought to obtain right and justice freely, and without being obliged to purchase it, completely and without denial, promptly and without delay, conformably with the laws”).
- <sup>37</sup> *See, e.g.*, ILL. CONST. art. II, § 19 (1870) (“Every person ought to find a certain remedy in the laws for all injuries and wrongs which he may receive in his person, property or reputation; he ought to obtain, by law, right and justice freely and without being obliged to purchase it, completely and without denial, promptly and without delay.”). Illinois has had four constitutions, which were ratified in 1818, 1848, 1870, and 1970.
- <sup>38</sup> ILL. CONST. art. I, § 12 (1970) (emphasis added).
- <sup>39</sup> *Carter v. City of Alton*, 32 N.E. 3d 1129 (Ill. App. 5th Dist. 2015) (citing *People v. Gildart*, 879 N.E.2d 410 (2007)). *Gildart* explained that “a statute which imposes a fee must survive rational-basis scrutiny.” *Gildart*, 879 N.E.2d at 413.
- <sup>40</sup> *See supra* n. 7 and accompanying text (describing the inherent authority of Illinois courts to waive fines, fees, and costs for indigent defendants); *see also* ILL. CONST., Art. I, § 11 (providing that criminal penalties must be proportional and rehabilitative rather than punitive); *Schilb v. Kuebel*, 404 U.S. 357, 371 (1971) (citing *Wells v. McCulloch*, 13 Ill. 606 (1852)) (noting the “long-established Illinois rule against the imposition of costs of prosecution upon an acquitted or discharged criminal defendant”).
- <sup>41</sup> Illinois Supreme Court Rule 10-100(a) (stating that the purpose of the Illinois Supreme Court Commission on Access to Justice “is to make access to justice a high priority for everyone in the legal system”).
- <sup>42</sup> 735 ILCS 5/5-105.
- <sup>43</sup> 735 ILCS 5/5-105 (b).
- <sup>44</sup> *See supra* nn. 40–41 and accompanying text.
- <sup>45</sup> For an in-depth discussion of the ethical issues arising for judges when a criminal court has to be “self-supporting” through imposition of court fees and costs on defendants, see Micah West, *Financial Conflicts of Interest and the Funding of New Orleans’s Criminal Courts*, 101 CAL. L. REV. 521 (2013). Ethical issues for judges in Cook County are outside the scope of this brief but are worthy of consideration, as the Supreme Court has held that financial assessments may violate the Due Process Clause if they create a possible financial “temptation” that undermines a defendant’s right to an impartial judge. *See* West, 101 CAL. L. REV. at 534 (citing *Toomey v. Ohio*, 273 U.S. 510 (1927), *Dugan v. Ohio*, 277 U.S. 61 (1928) and *Ward v. Village of Monroeville*, 409 U.S. 57 (1972)); *see also United Church of the Medical Center v. Medical Center Commission*, 689 F.2d 693, 699 (7th Cir. 1982).
- <sup>46</sup> 730 ILCS 5/5-6-3(b)(2).
- <sup>47</sup> 730 ILCS 5/5-6-3(i).



- <sup>48</sup> See Chicago Appleseed Fund for Justice Policy Brief on Public Defense under the Sixth Amendment (2015), available upon request.
- <sup>49</sup> See <http://www.ilga.gov/legislation/ilcs/fulltext.asp?DocName=073500050K5-105>.
- <sup>50</sup> Cf. 735 ILCS 5/5-105 (b).
- <sup>51</sup> See [http://www.illinoiscourts.gov/supremecourt/Rules/Art\\_II/ArtII.htm#298](http://www.illinoiscourts.gov/supremecourt/Rules/Art_II/ArtII.htm#298).
- <sup>52</sup> For civil litigants, the Illinois Supreme has provided a three-page form (WA-P 603.1) titled “Application for Waiver of Court Fees,” which is required to be accepted in all Illinois courts. See [http://www.illinoiscourts.gov/Forms/approved/procedures/fee\\_waiver.asp](http://www.illinoiscourts.gov/Forms/approved/procedures/fee_waiver.asp). In Cook County, current proposals to ensure appointment of the Public Defender to indigent defendants include proposed affidavits of indigence, which could also be used to assess whether fines, fees, and costs should be imposed.
- <sup>53</sup> Revised Code of Washington, Section 10.01.160(3).
- <sup>54</sup> *State v. Blazina*, No. 89028-5, Wash. S. Ct. (Mar. 12, 2015); *State v. Paige-Colter*, No. 89109-5, Wash. S. Ct. (Mar. 12, 2015). Moreover, procedurally, failure by the defendant to properly preserve a claim of error with regards to this statutory obligation, will not bar a defendant from raising it on appeal for the first time as a matter of right. Wash. Rules of Appellate Procedure 2.5(a).
- <sup>55</sup> Section 43.091 of the Texas Code of Criminal Procedure.
- <sup>56</sup> Texas undertook such a simplification effort, and the Texas State Office of Court Administration, under a legislative mandate, published a report on court costs and fees in Texas. The report found that “[t]he court fee and cost system that has been established in Texas over the past two centuries is quite complex,” identified several concerns with the regime (similar to problems identified in this report), and recommended the repeal of multiple fees and costs that were not “necessary to accomplish the stated statutory purpose.” *Study of the Necessity of Certain Court Costs and Fees in Texas (as directed by Senate Bill 1908, 83rd Legislature)*, Texas State Office of Court Administration, September 1, 2014.
- <sup>57</sup> ILL. CONST. art. I, § 12 (1970) (emphasis added).
- <sup>58</sup> See *supra* nn. 19–25 and accompanying text.



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