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When the Dollars Don't Add Up to Sense:


**Why North Carolina Must Rethink Its
Approach to Criminal Fines and Fees**

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Executive Summary



Courts across the country, including those in North Carolina, impose financial obligations on people when they are convicted of a crime or infraction. These court-imposed financial obligations include fines, a form of financial punishment, and fees, which fund government services. North Carolina has increased its reliance on fines and fees as a revenue source over the past 20 years.¹ This practice harms many North Carolinians and is also an inefficient financial strategy for the state. In the past decade, other states have begun to reevaluate their use of fines and fees. North Carolina can find guidance from states like Louisiana, which has eliminated fees for juveniles, and Georgia, which has enacted guidelines to determine a person's ability to pay before imposing fines or fees.

Fines and fees disproportionately impact poor people and people of color, and in so doing, burden them with paying for government services that support all members of society. North Carolina courts often impose fines and fees without considering a person's ability to pay them. When a person does not have the financial means to pay, they face difficult, perilous choices. These choices result in some people paying fines or fees rather than buying groceries or medicine; some people losing their driver's license for not paying the fines or fees; and some people being taken to jail for failing to pay even when the original infraction had no risk of jail time.²

Furthermore, fines and fees are an unreliable and ineffective revenue source. The time and resources spent



1 in 3

Americans has been directly impacted by fines or fees related to traffic, criminal, or juvenile court in the past ten years.



650,000+

people in North Carolina, or **1 in 12 adults**, currently have unpaid criminal court debt



people of color make up

37.8%

of the population of North Carolina but are shouldering

47.8%

of the fines and fees

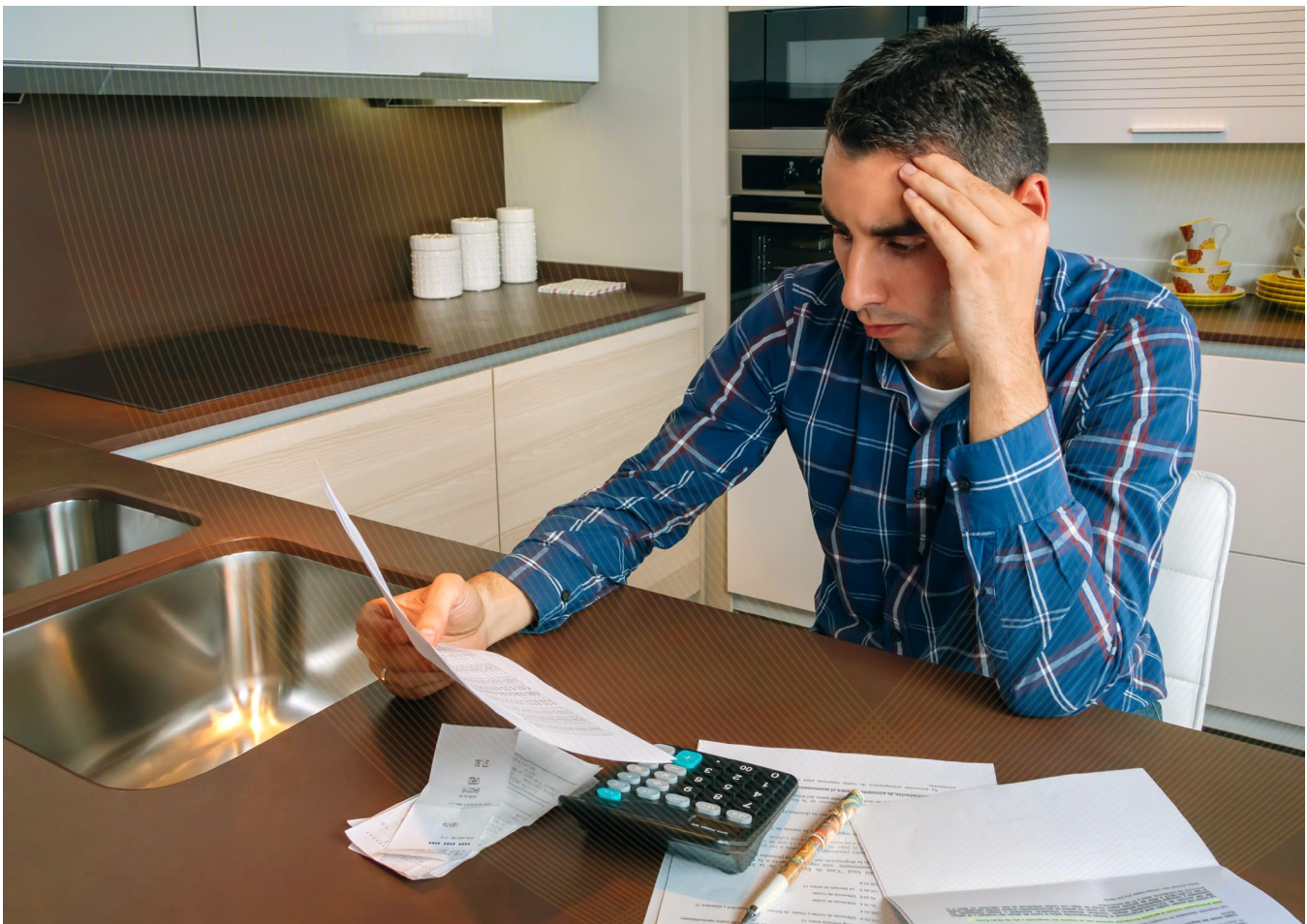
trying to collect court fines and fees can cost more than the money collected.³

The North Carolina Administrative Office of the Courts (“AOC”) does not publicly share information on the total amount of fines and fees imposed or outstanding. Instead, the publicly shared financial data shows the amount people pay to the Clerks of Superior Court. According to this information, the state recouped \$204.9 million in fiscal year 2020-2021 from fines and fees in criminal cases, which constituted only 0.3% of the state’s revenue for that year.⁴

North Carolina must examine its use of fines and fees, including the harm it has on residents, their families, and their communities; eliminate fees; and reduce fines imposed in criminal court.

Among other things, the Wilson Center encourages legislators to:

1. Eliminate all fees.
2. Require judges hold ability-to-pay hearings before imposing fines.
3. Forgive outstanding court debt.
4. Stop suspending driver’s licenses for failure to appear and failure to pay fines and fees.
5. Reinstate driver’s licenses that have been suspended.
6. Collect data on fines imposed for all convictions.
7. Until fees are eliminated, implement greater legal safeguards on the process of imposing and collecting fees, including not arresting people for unpaid court debt.



Background and Description of the Issue

What is the scope of court fines and fees in North Carolina?

Fines

are monetary punishments. The N.C. Constitution requires that fines be used to fund public education.

When someone is convicted of a felony, misdemeanor, or traffic infraction in North Carolina, the court may impose a variety of monetary obligations.⁵

More information about these court-imposed obligations, including the amount of each fee, the statutes authorizing fines and fees, where the money is disbursed once collected, and the amount people paid to the court, is detailed in [the appendix](#) of this brief.

Fees

are imposed to subsidize government spending. The fee funds a specific service (such as pre-trial supervision costs) or operational cost (such as the court facility fee). However, the largest share of fees – approximately 67% – goes to the state's General Fund, to be spent by the General Assembly in its discretion.⁶

The amount of fines and fees imposed varies case to case, but even the simplest traffic offense resolved in District Court tends to amount to roughly \$191.⁸ There are additional fees ordered depending on the case, such as a \$50 fee for an improper equipment infraction. If the person requests to pay the court costs in installments or is unable to pay on time, they will face additional fees (\$20 and \$50, respectively).

Restitution

is compensation to a victim or to a party that assisted a victim to cover damages or loss and is available in all criminal cases in North Carolina.⁷

The charges rise quickly for a more complicated case. For example, if a person pled guilty to a felony in Superior Court after staying one week in jail and then was ordered to probation and community service, they would owe approximately \$566.⁹ In addition, they must pay the monthly supervision fee of \$40 to be on probation, which lasts up to 60 months. If the person is appointed a public defender, they will face even more fees, including \$75

just to be appointed an attorney. Attorney fees increase for every hour the attorney investigates their case or negotiates with the prosecutor on their behalf, despite the court having found the person unable to afford an attorney. Attorney rates range between \$65 per hour and \$100 per hour.¹⁰ If the person exercises their right to a jury trial and is convicted, the fees increase exponentially, including if the state analyzes physical evidence like DNA or a cell phone (\$600 for each) or presents expert testimony (\$600 for each expert).

The legislature has created more than 20 new court fees in the last 20 years,¹¹ and it continues to increase fees. For example, the General Court of Justice fee is imposed

on anyone who is convicted of a traffic infraction, misdemeanor, or felony. For people whose case is handled in Superior Court, the fee has increased nine times: from \$33 in 1990 to \$154.40 in 2015.¹² If the fee increase were tied to inflation, the fee would be \$79 in 2023.¹³

There were 123,809 convictions in North Carolina in Fiscal Year 2021 (July 1, 2020-June 30, 2021), which includes felonies, misdemeanors, and Class 2 and Class 3 misdemeanor traffic convictions.¹⁴ Each person convicted is required to pay, at least, the General Court of Justice fee. Often, a person's court debt lasts for years.¹⁵



Court fines and fees have devastating impacts, particularly to poor people and people of color.

Fines and fees disproportionately impact poor people and people of color.

One in three Americans has been directly impacted by fines or fees related to traffic, criminal, or juvenile court in the past ten years.¹⁶ Over 650,000 people in North Carolina, or 1 in 12 adults, currently have unpaid criminal court debt.¹⁷ The majority of this debt arises from low-level traffic cases and infractions.¹⁸

Fines and fees disproportionately affect poor communities and communities of color nationwide and in North Carolina.¹⁹ Despite people of color making up 37.8%²⁰ of the population of North Carolina, they are shouldering 47.8% of the fines and fees from Class 2 and Class 3 misdemeanor traffic infractions, misdemeanors, and felonies.²¹

Judges may use their discretion to waive (i.e., exempt) most fines and fees that people owe, including in situations where it would be unjust to require payment.²² With this wide discretion, it would be logical for judges to waive fines and fees at around the same rate as the poverty rate because a person living at or below the poverty line does not have the financial resources to pay fines and fees. If fines and fees are imposed on a person living at or below the poverty line, the costs will cause a burden that amounts to punishment.

In North Carolina in 2021, 13.4% of people lived below the federal poverty line, which is above the national rate of 12.6%.²³ Nonetheless, judges waived fines and fees in less than 7% of cases in 2021, revealing the stark gap between how frequently

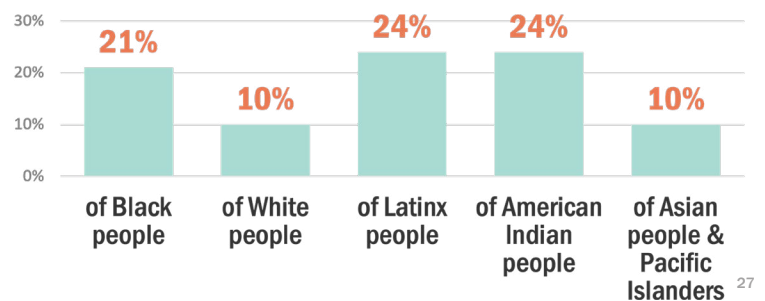




judges waive fines and fees (7%) and the poverty rate (13.4%).²⁴

The poverty rate varies across the state, ranging from 6% in Camden County to 27% in Washington County.²⁵ In 2021, judges ordered people to pay fines or fees in 1,232 Washington County criminal cases, and judges waived or partially waived those costs in only 5 (0.4%) of cases.²⁶

People and communities of color are disproportionately impacted by poverty. In North Carolina between 2016 and 2020, people were living below the federal poverty line at the following rates:



For a multitude of reasons, people of color are also disproportionately impacted by the legal system and therefore encounter fines and fees at a higher rate. Moreover, some counties with the highest portion of people of color have the lowest waiver rates. For example, Robeson County's population is 26% white people and 74% people of color.²⁸ The poverty rate there is 27%.²⁹ Yet judges waive the fines and fees for people in 0.3% of the cases.³⁰

Furthermore, using the federal poverty line as a barometer for ability to pay likely underestimates how many people cannot afford fines and fees. In 2020, the federal poverty threshold for a family of one adult and one child was an income of \$17,839 per year. Rather, using eligibility for other government benefits, like Medicaid, which allows individuals who earn 138% of the federal poverty level to access benefits, may be a better measure of affordability (e.g. 138% of the federal poverty level increases the threshold to \$24,618 for one adult and one child).



Court fines and fees have devastating impacts.

A person with financial savings or a support network might be able to pay the fees associated with low-level traffic cases on time, and then they will have little interaction with the legal system resulting from their fees. However, 58% of Americans live paycheck-to-paycheck.³¹ For most people then, there is little or no ability to absorb an extra expense. The Federal Reserve Board found that nearly one in four adults in the United States was just one unexpected \$400 bill away from severe financial hardship.³² In North Carolina, one in

eight households with kids did not have enough food to eat in the past seven days.³³

The Fines and Fees Justice Center and the Wilson Center for Science and Justice at Duke Law surveyed a nationally representative sample of people who had a court fee imposed in the past 10 years.³⁴ The survey findings show how the effects of court costs ripple into the community:



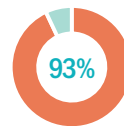
Among working families impacted by fines and fees, **61%** of people must cut back on essentials (that is, food, housing, employment, childcare, transportation, and healthcare) because of the money they owe the court.



99% of parents of minors had to cut back on at least one essential daily need. Half of parents (**51%**) had to cut back on two or more of these essentials.



Four out of five survey respondents reported that they received other types of support when they owed fines and fees, such as food and transportation.



93% of adult survey respondents relied on money from loved ones to pay a fine or fee.



When juveniles are ordered to pay fines and fees, the financial burden falls to their parents or guardians, who may face an impossible choice between paying the court debt or paying for housing for the entire family.³⁵

Reflections on the personal sacrifices made to pay court fines and fees from the 2023 survey

“

There was a time where the only money I had for rent I had to give to court or go to jail so I ended up homeless.”

— white man, late 40s, currently employed full-time, bachelor's degree, household income of \$42,500, married with one child, owed money for traffic tickets, misdemeanor, late fees, and warrant fees

“

[I] have to get on food stamps and buy food because all my resources have to go towards paying this fine.”

— Black woman, early 50s, currently employed part-time, associate's degree, household income of \$50,000, separated with four children, owed money for traffic tickets

“

I have to do gig work while my younger child is with me. Also we are behind on preschool payments.”

— white man, early 40s, currently employed part-time, master's degree, household income of \$110,000, married with two children, owed money for traffic tickets

“

I had to sacrifice books for courses.”

— white woman, between 18-24, currently employed full-time, bachelor's degree, household income of \$65,000, single, no children, owed money for traffic tickets

“

I postponed doctor appointments and buying medications.”

— white woman, early 30s, currently employed part-time, bachelor's degree, household income of \$58,000, married with two children, owed money for traffic tickets

“

[I] missed [my] son's games because couldn't afford gas or admission.”

— white woman, late 40s, currently employed full-time, attended some college, household income of \$29,000, divorced with three children, owed money for a misdemeanor

And yet, prioritizing paying the court rather than paying for their family's necessities makes sense in many instances because the stakes are high. A person who does not pay their court costs on time may face:

- Arrest,
- Loss of government benefits,
- Driver's license revocation, and
- Deteriorating health.

A person may be arrested and jailed for failing to pay court fines or fees even when they could not have been jailed for the original charge.³⁶

Even if a person is not jailed, they risk losing access to government benefits if they do not pay the court. Under federal law, those who violate a term of their probation — including paying their fines and fees — may become ineligible for Temporary Assistance to Needy Families (TANF), Supplemental Nutrition Assistance Program (SNAP) benefits, low-income housing and housing assistance, and Supplemental Security Income for the Aged, Blind, and Disabled (Social Security).³⁷ North Carolina exempts some individuals convicted of certain drug-related felonies.³⁸

The person may also face other sanctions, like the loss of their driver's license. The court must report two things to the N.C. Division of Motor Vehicles (DMV): if a person fails to appear in court for a traffic offense within 20 days after the scheduled appearance, or if a person fails to pay the fine, penalty, or costs within 40 days of the date specified in the court's judgment. At that point, the DMV must revoke the person's license.³⁹

North Carolina is one of 15 states that requires a person's license be suspended for failure to pay fines and fees,⁴⁰ even when the original charge is not driving-

related.⁴¹ Almost 400,000 people in North Carolina have active driver's license suspensions because they have unpaid court debt.⁴²

Researchers have found that having debt is a risk factor for poor health, including behavioral health conditions. Over 65% of respondents to the national survey by the Wilson Center and the Fines and Fees Justice Center said they experienced distress because of their fines or fees, with the average stress level a 7.5 on a scale of 1 to 10.⁴³



Has debtors' prison returned to North Carolina?

From the late 1600s to the early 1800s in the United States, many cities and states operated debtors' prisons. These were facilities designed to jail borrowers with outstanding debt, some of whom owed no more than \$0.60.⁴⁴ People were not released until they paid what they owed, and some people stayed their whole lives.⁴⁵ Many saw debt as a moral failing, and debtors were often kept in deplorable conditions.⁴⁶

Congress abolished by debtors' prison in 1833. The N.C. Constitution prohibits debtors' prison: "There shall be no imprisonment for debt in this State, except in cases of fraud."⁴⁷ The U.S. Supreme Court has held that it is unconstitutional to incarcerate a person for the inability to pay court-ordered monetary obligations unless the person's failure to pay is willful.⁴⁸

North Carolina law currently makes ability-to-pay hearings optional, but to better reflect the requirements of both the N.C. Constitution and U.S. Supreme Court, these hearings should be mandatory. North Carolina can look to Texas and Oklahoma, both of which have enacted statutes to codify ability-to-pay hearings.⁴⁹

North Carolina's laws specify how to arrest and detain a person who does not pay, requires that person to appear in court, and then places the burden on them to show cause as to why they should not be imprisoned for failure to pay.⁵⁰ At this "show cause" hearing, the person must show an inability to comply with the order for fines or fees and that their nonpayment was not attributable

to a failure on their part to make a good faith effort to pay. If the person cannot make that showing, then the court may activate a suspended sentence, if any. Even if the law provides no term of imprisonment for the offense for which the person was convicted or if no suspended sentence was imposed, the court may still order the person imprisoned for a term up to 30 days.⁵¹ If the person fails to appear at the show cause hearing, an order for their arrest may be issued.⁵²



Court watchers across North Carolina have seen arbitrary decisions by judges when they impose fees or at “show cause” hearings.⁵³ Some judges failed to inquire about a person’s ability to pay altogether, while others failed to inquire about a person’s income and ability to pay for food, shelter, and healthcare in addition to the fines and fees.⁵⁴ The N.C. legislature gives no objective criteria to assess at this hearing, such as whether a person is a juvenile, qualifies for a court-appointed attorney, or qualifies for government assistance.


To improve this practice, North Carolina can look to its neighbor, Georgia, which is one of eleven states that has codified standards giving clear guidance to judges to assess a person’s ability to pay. In Georgia, a person shall be presumed to have a significant financial hardship if they:

- Have a developmental disability;
- Are totally and permanently disabled;
- Are indigent; or
- Have been released from confinement within the preceding 12 months and were incarcerated for more than 30 days before their release.

The state may rebut this presumption by proving by a preponderance of the evidence that a person will be able to satisfy his or her financial obligations without undue hardship to themselves or dependents.⁵⁵

At best, punishing people for not paying court fines and fees is an attempt to incentivize payment. However, the policy fails to consider that people with overdue court debt may simply lack the financial resources needed to repay these debts.





The legislature has restricted judges' ability to help people avoid jail for unpaid court debt.

N.C. judges can help people avoid jail for unpaid court debt.

To avoid the injustice of detaining a person who is unable to pay fines and fees, judges can choose to:

1 waive most of the fines and fees at the time of conviction,

2 remit (i.e. reduce or excuse) them after the conviction,

3 modify the fines or fees,⁵⁶ or

4 convert the fines or fees into a civil judgment.⁵⁷

A judge may waive the following fees at the time of conviction:⁵⁸

- | | |
|--|--|
| 1. Service of process | 13. Failure to comply |
| 2. Facilities | 14. Crime lab |
| 3. Phone/technology | 15. DNA Databank |
| 4. Misdemeanor confinement | 16. Impaired driving |
| 5. Law enforcement officer and sheriff retirement | 17. Chemical/forensic analysis |
| 6. Law enforcement officer and sheriff training | 18. Jail fee (pretrial) |
| 7. General court of justice (General fund) | 19. Trial transcript |
| 8. General court of justice (Legal Aid) | 20. Installment |
| 9. Traffic infraction | 21. Probation supervision |
| 10. Improper equipment | 22. Electronic house arrest |
| 11. Pretrial services | 23. Jail fees for a split sentence |
| 12. Failure to appear | 24. Attorney fees (not appointment fee) |

If a fine or fee was not waived at the time of conviction, the court has wide discretion to remit the fine or fee in whole or part after it has been imposed.⁵⁹ The statute simply requires the court to find it is satisfied the circumstances that warranted the imposition of the fine or costs no longer exist, it would otherwise be unjust to require payment, or the proper administration of justice requires resolution of the case.

Similarly, if a person is unable to pay the costs, then the court may consider whether the person made a good faith effort to pay.⁶⁰ If the person shows in good faith that they are unable to pay, the court may enter an order modifying the fines or fees by:

1. Allowing additional time for payment;
2. Reducing the amount owed; or
3. Eliminating the fine or fees, or the unpaid portion, in whole or in part.

Finally, a judge can convert the criminal monetary obligation into a civil obligation, called a civil judgment.⁶¹ Though a civil judgment means that a person cannot be arrested for this fine or fee, there are other consequences, such as a lien on the person's real property. Civil judgments for fines and attorney fees accrue interest at the rate of 8% per year.⁶² This 8%

interest accrues even when a person is incarcerated.

Civil judgments for other fees do not accrue interest, and courts do not typically issue a writ of execution to collect the fees.⁶³

According to state reports, despite having this wide discretion to help low-income people, judges rarely do:

- Less than 7% of monetary obligations are waived or remitted statewide.⁶⁴
- Less than 1% of monetary obligations are modified.
- Less than 6% of monetary obligations are converted into civil judgments.

Approximately 70% of criminal defendants facing incarceration are indigent, yet judges fail to relieve the financial burden on poor people.⁶⁵



Judges' failure to help is likely related to two burdensome hurdles mandated by the legislature.

First, a 2014 law required the AOC to make an annual report of each individual judge and the number of times they have waived a fine or fee during the year.⁶⁶ No other state is known to have demanded this reporting.⁶⁷ Some judges believe this report is used to pressure them into waiving fewer fines and fees, and it is hard to find a practical purpose for the report, since close to half of the total number of monetary obligations that are supposed to be counted are missing or uncategorized.⁶⁸ These statutory revisions occurred through the anonymity of the budget process.⁶⁹

Second, in 2017, the legislature mandated that courts give a 15-day notice and opportunity to be heard to each government agency that would be impacted if a fine or fee is waived.⁷⁰ Again, no other state is known to have demanded this requirement. Court calendars often consist of hundreds of defendants each week.⁷¹ There are over 600 agencies who may need to be notified. Notifying all interested parties by first-class mail for every defendant in every county on every day of

court is impractical. In addition to the mailing, a second hearing would be required for each case so each agency may object to waiving each fine or fee. In 2018, the AOC expressed concern that this notice requirement “poses numerous operational difficulties for our criminal courts.”⁷² In order to comply with this law and still conserve court resources, the AOC sends out monthly letters to each government agency, giving them notice about their ongoing right to request an opportunity to be heard on any waiver or to register a standing objection to a waiver.⁷³ The General Assembly asked legislative staff to investigate the AOC’s plan to ensure the AOC is “complying with the spirit of the provision,⁷⁴” and as of now this plan remains in place.

The General Assembly has increased the likelihood of detaining individuals over court debt by creating difficult administrative processes and attempting to discourage judges from using their discretion to reduce fines and fees in cases that warrant relief. The General Assembly must take steps to end this tacit approval of debtors’ prison.





Fines and fees are overly burdensome and inefficient stream of revenue.

The toll on North Carolinians is not justified to generate 0.3% of the state's revenue

Is the state's intention to raise revenue with these financial obligations or does it seek to punish people? The U.S. Constitution prohibits a state from using a fee as a punishment. Thus, revenue generation is the only legitimate purpose of fees. As such, it's important to consider how much revenue North Carolina raises through the judicial branch and at what cost.

The state's total revenue for fiscal year 2021 was \$63,436,735,000.⁷⁵ Courts remitted \$204,919,576 from criminal fines and fees to state and local entities in fiscal year 2021.⁷⁶ These funds support government services. While this is a large amount of money — and a huge burden for those who must pay it — it constituted approximately 0.3% of the state's revenue that year.

The installment payment plan fee is one example of a fee used to subsidize government services and not fund programs used by the payee (e.g., supervised release). This fee is imposed when someone is unable to pay the full amount at one time and asks for permission to pay on a monthly basis. In fiscal year 2020-2021, the installment payment plan fee raised \$2.1 million for the state General Fund, an insignificant percentage of the state's \$63.4 billion budget.⁷⁷

The N.C. Constitution permits the state to impose fines as punishment, and it designates those fines go toward public education. However, it's worth considering whether the punishment — which sometimes prevents a family from paying rent or buying groceries — justifies the gain.

In 2022, counties received \$20,960,294 from criminal fines received by the courts.⁷⁸ Again, this is a large amount of money and a huge burden for those who must pay the fine, but fines contribute less than 1% of the money spent on public education. Public schools are funded by the county, state, and federal governments. The General Assembly allocated over \$16.4 billion from the General Fund for public education covering grades K-12, community college, and the UNC system for 2022-2023.⁷⁹ Funding for education comes from county property taxes, lottery sales, tribal gaming, civil fines and forfeitures, and federal allocations.

Perhaps the purpose of fines and fees is to offset the cost of the judicial branch, which was appropriated \$598,200,000 in 2021-2022, and constituted 2.44% of the state's General Fund.⁸⁰ However, user fees that sometimes cause people to lose their license or be unable to pay for food or medicine are not worth the cost to constituents. Additionally, a user-fee model creates the wrong incentive for officers to over-charge people to increase their own jurisdiction's revenue.

Traffic and misdemeanor cases comprise about 80% of the criminal docket. If a main purpose of these cases is imposing fines and fees, but the cost to collect fines and fees is greater than what is actually received, then one way to save the state's resources is to reduce the number of traffic and misdemeanor cases prosecuted. A smaller docket for the courts would result in a smaller budget required for the judicial branch.

Fines and fees are an inefficient stream of revenue.

When a person is arrested and detained for failing to pay their fines or fees, their resulting detention often costs North Carolina thousands more than the person owes.⁸¹ For example, researchers found Mecklenburg County jailed 246 people with unpaid debt who had failed to update their addresses in 2009. The cost to detain them in jail was over \$40,000, and the county collected only \$33,476.⁸²

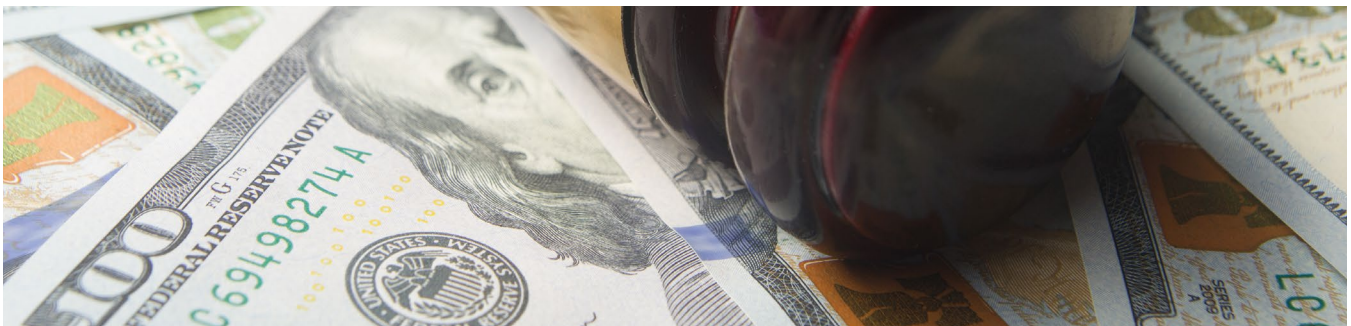
Statewide data about the fines and fees imposed and collected in North Carolina is unavailable, but nine states, including Virginia and Florida, do track at least some of this data and provide insight about the inefficiency of this revenue.

Fines and Fees Collected in Virginia and Florida

Virginia clerks collect approximately 60% of the fines and fees imposed. If the charge is not paid within 90 days of being imposed, the state utilizes state and private collection agencies to collect the debt, and the state pays the agencies 17%-35% of the money collected. To compare, the IRS spends 0.35%, or \$0.35 to recoup \$100.

Florida Court Clerks and Comptrollers reported that the people associated with 78% of the debt in felony cases and 31% of the debt in misdemeanor cases were either incarcerated, indigent, or both and were considered to have a “minimal collection expectation.”

Va. Compensation Board, FY22 Fines & Fees Report (December 1, 2022) <https://www.scb.virginia.gov/docs/fy22finesandfeesreport.pdf>.
See also IRS, The Agency, its Mission and Statutory Authority (last accessed August 18, 2023) <https://www.irs.gov/about-irs/the-agency-its-mission-and-statutory-authority#:~:text=The%20IRS%20is%20a%20bureau,it%20collected%20in%20FY%202020>.
Florida Court Clerks & Comptrollers, 2018 Annual Assessments and Collections Report (last accessed August 17, 2023) <https://flccoc.org/wp-content/uploads/2018/12/2018-Annual-Assessments-and-Collections-Report.pdf>.



Once someone is in jail, without a driver's license, or unwell, it is often difficult to repay court debt since they may be unable to get to work. The amount of revenue lost on taxable wages outpaces the amount of revenue the state can expect to collect from criminal fees. Additionally, a higher employment rate for our state, means an increase in consumer spending, further stimulating our economy. Thus, if these consequences for failing to pay are intended to incentivize payment,

they are self-defeating.⁸³ Indeed, researchers found driver's license revocations in Tennessee did not result in increased collection rates.⁸⁴

This economic impact of license revocations is highlighted when compared to the results of a program in Arizona that helped drivers repay their debt: the restoration of 7,000 licenses led to an estimated GDP increase of \$149.6 million.⁸⁵

Cost savings from modifying fines and fees

- ★ Once California stopped suspending driver's licenses, collections on unpaid fines and fees increased by 8.9%.
- ★ Texas, California, and Arizona have saved money by reducing fees or letting people pay in small installments.
- ★ Georgia expected to save \$80,000 in postage costs alone by changing non-driving license suspension laws.
- ★ Texas and New Mexico counties spent 121 times what the Internal Revenue Service spends to collect taxes. Researchers found that, "as much as 99 percent of the resources spent on criminal fee and fine compliance appear to be effectively squandered."

N.C. Access to Just. Comm'n, When Debt Takes the Wheel, (last visited July 17, 2023) <https://ncprobono.org/drive/story/>. Joseph Neff, No Mercy for Judges Who Show Mercy, The Marshall Project (November 29, 2017) <https://www.themarshallproject.org/2017/11/29/no-mercy-for-judges-who-show-mercy>. Joni Hirsch & Priya Sarathy Jones, Driver's License Suspensions for Unpaid Fines & Fees Movement for Reform, 54 U. Mich. J. L. Reform 85 (2021) <https://repository.law.umich.edu/cgi/viewcontent.cgi?article=2535&context=mjlr>. Matthew Menendez & Lauren-Brooke Eisen, The Steep Costs of Criminal Justice Fees and Fines, Brennan Center (November 21, 2019) <https://www.brennancenter.org/our-work/research-reports/steep-costs-criminal-justice-fees-and-fines>. Michael F. Crowley et. al. If We Only Knew the Cost: Scratching the Surface on How Much it Costs to Assess and Collect Court Imposed Criminal Fees and Fines, UCLA Criminal J. L. Rev. (2020) <https://escholarship.org/uc/item/19p8b9r6>.

Though it is not reported, hundreds of N.C. state employees spend time – and the state's money – collecting fines and fees.⁸⁶ Judges and clerks must spend time preparing for hearings on fees, presiding over court hearings, and issuing orders.⁸⁷ The AOC also employs 16

accounting specialists, some of whom are responsible for processing the receipts collected at the 100 clerks of Superior Court offices across the state. Law enforcement and probation officers must check for compliance, execute arrest warrants, and detain people in jail. The

N.C. DMV staff must process license suspensions, revocations, and reinstatements. The N.C. Department of Revenue ("DOR") must intercept refunds from people who owe attorney's fees. In the last 20 years, counties spent roughly \$1.4 billion building and maintaining jails in North Carolina, a cost that would be reduced if fewer people were arrested for failing to pay fines and fees.⁸⁸ Since the county, municipality, and state budgets are all impacted by the collection of fines and fees, it is complicated to understand the true cost.

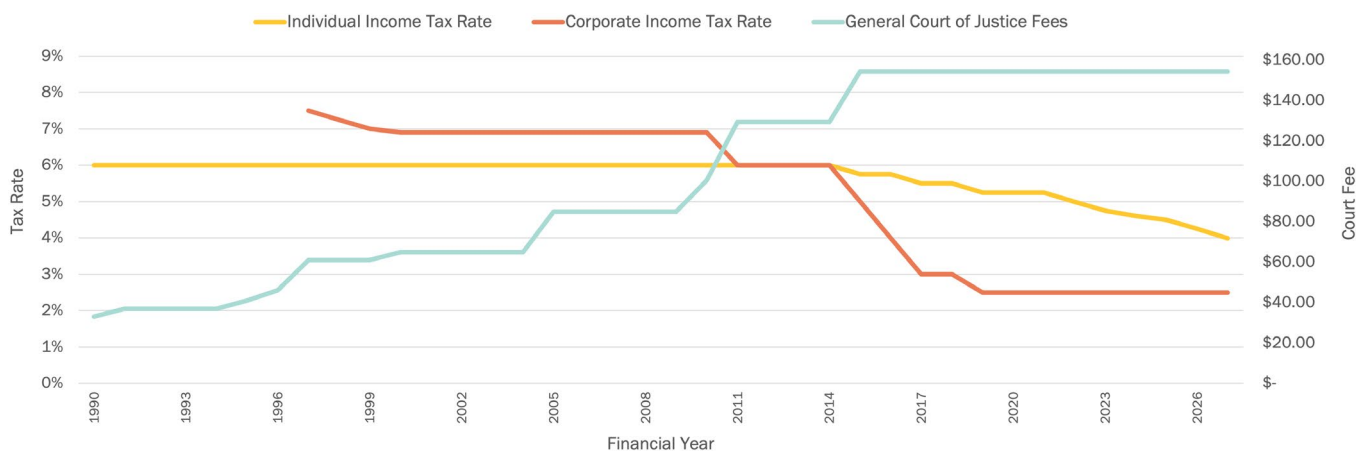
It is unclear how much time is spent collecting fines and fees in North Carolina; however, the state's efforts to impose them, collect them, and detain individuals who owe them pull resources away from other priorities. This includes public safety priorities, like responding to 911 calls, solving property and violent crimes, and helping probationers succeed and reduce recidivism.⁸⁹ Researchers found that fees and restitution assessed against juveniles increased recidivism in Florida, making communities less safe.⁹⁰ Additionally, while people are in jail, without a license, or unwell, they do not contribute to the state's economy. When more residents participate in our economy, it contributes millions, as seen in Arizona's \$149.6 million increase in GDP after restoring 7,000 drivers licenses.⁹¹

While the General Assembly increased court fees, it reduced income tax rates, creating a regressive state tax. The legislature:

- repealed the estate tax in 2012,⁹²
- flattened and reduced personal income tax rates yearly since 2014,⁹³
- mandated that personal income tax rates will continue to decrease in the future, with the last planned decrease set to 3.99% in 2026,
- reduced the corporate income tax rate from 6.9 percent to 2.5% beginning in 2013,⁹⁴
- eliminated the Earned Income Tax Credit, which had benefitted lower-income people,⁹⁵ and
- expanded sales taxes, which forces lower-income people to pay a larger portion of their income in taxes.⁹⁶

Each of these tax policy changes overwhelmingly benefit wealthier North Carolinians,⁹⁷ while each of the increases to fines and fees have harmed poorer North Carolinians.

Imposing court fines and fees is an ineffective method of raising revenue for the state. These costs are devastating to many of the thousands of people it impacts. If the legislature seeks to punish people who cannot pay, their efforts are successful, though at a cost to constituents and sometimes unconstitutional.⁹⁸





States across the country are modifying court fines and fees.

In the last two years, at least 15 states have passed legislation limiting or eliminating certain fees for adults and juveniles.⁹⁹

A sample of the reforms across the country

- ☆ In 2022, **Delaware** passed a law prohibiting courts from issuing an arrest warrant for unpaid court debt. This law also eliminates a wide range of fees, including probation and parole fees, public defender fees, and juvenile system fees. Those fees previously raised over \$1 million per year. Additionally, the new law provides the courts with the discretion to waive, modify, or suspend any fine or fee.¹⁰⁰
- ☆ **Louisiana** and **New Mexico** ended the practice of imposing fees on children involved in the juvenile justice system in 2021.¹⁰¹
- ☆ In 2023, the **New Mexico** legislature passed a law to eliminate bench warrant fees (\$100) and post-adjudication fees.¹⁰²
- ☆ Twenty-four states plus **Washington, D.C.** have stopped suspending a person's driver's license for missed court hearings and overdue fines and fees payments.¹⁰³
- ☆ **New Jersey** enacted a new law in summer 2023 to eliminate public defender fees. The law also applies retroactively and eliminates all unpaid outstanding costs previously imposed for a criminal conviction. The state budget includes \$4 million to offset the fees from people represented by state public defenders in 2024. The revenue from public defender fees is less than 0.01% of the total state budget.¹⁰⁴
- ☆ **California's** legislature began repealing fees across the entire justice system in 2020. The legislature has repealed more than 40 fees and forgiven billions of dollars in court debt. Lawmakers provided a \$65 million appropriation to cover the lost fee revenue until they determine the new revenue source.¹⁰⁵
- ☆ **Philadelphia** Mayor Jim Kenney proposed a \$5 million fund to clear criminal justice-related debts in his 2024 budget.¹⁰⁶

The federal government is invested in creating a more equitable system of fines and fees. In April, the U.S. Department of Justice (“DOJ”) sent a letter to state and local courts stating that “[i]mposing and enforcing fines and fees on individuals who cannot afford to pay them has been shown to cause profound harm.” The DOJ details this harm: “[i]ndividuals confront escalating debt; face repeated, unnecessary incarceration for

nonpayment of fines and fees; experience extended periods of probation and parole; are subject to changes in immigration status; and lose their employment, driver’s license, voting rights, or home.”¹⁰⁷ The DOJ is developing a guide for best practices regarding fines and fees and will provide grant funding and technical assistance as jurisdictions move away from using fines and fees to support government programs.

North Carolina must reconsider its use of fines and fees.

The N.C. Supreme Court took a step in the right direction when it adopted Rule 28 of the General Rules of Practice for the Superior and District Courts to establish a procedure for a person to request a reduction or waiver of costs at the time of conviction. The rule went into effect on January 1, 2022. AOC Form CR-415 was created to support movants under this new rule, and it serves both as a worksheet to determine a person’s ability to pay and a template for a Court’s order on the

request for relief.¹⁰⁸ A court is required to consider the motion if it is filed, and, if necessary, to hold a hearing on the movant’s ability to pay. The court is required to rule on the motion before imposing monetary obligations on the movant. However, it is unclear how many people know about their right to move for a reduction or waiver of fines and fees. The state would be served by tracking the use of AOC Form CR-415 and reporting its findings.



Recommendations

Primary recommendations

The Wilson Center encourages policymakers to consider how they can address the issues of fines and fees and puts forth the below suggestions. Primarily, lawmakers should pass legislation to accomplish the following:

- 1. Eliminate all fees.** The General Assembly should eliminate all fees by amending N.C.G.S. §§ 7A-304, 15A-1343(c1)-(c2), 143B-708(c), 143B-1483, 14-208.45, 7A-455, and 7A-455.1, which authorize, and in some cases require, courts to impose fees.
- 2. Require judges hold ability-to-pay hearings before imposing fines.** The General Assembly should amend N.C.G.S. § 15A-1362 to codify Rule 28 and require judges hold ability-to-pay hearings before imposing fines regardless of whether a person files form CR-415 to request relief. The statute should also enumerate categories of people presumed to be unable to pay any fine. Indigency, and consequent inability to pay, should be presumed for persons who: i) are eligible for a public defender, ii) are eligible for or have dependents who are eligible for public assistance of any form, iii) have a net household income that does not exceed 200% of the federal poverty guidelines, iv) are homeless, v) are a juvenile, or vi) are currently serving a sentence in a correctional institution, subject to commitment, or reside in a mental health or court-ordered treatment facility. Once a person is presumed to be indigent, the burden is on the State to prove otherwise.
- 3. Forgive outstanding court debt.** The General Assembly should forgive outstanding court debt by enacting a new law that states that any unpaid fines and fees assessed in a criminal case or infraction case are no longer enforceable or collectable criminally or civilly.

Until all outstanding court debt is forgiven by statute, judicial or prosecutorial districts should engage in court debt relief projects where low-income people with court debt may have their court debt dismissed or reduced in court under N.C.G.S. § 15A-1363. This type of event has occurred in 15 counties through partnerships with the N.C. Pro Bono Resource Center.

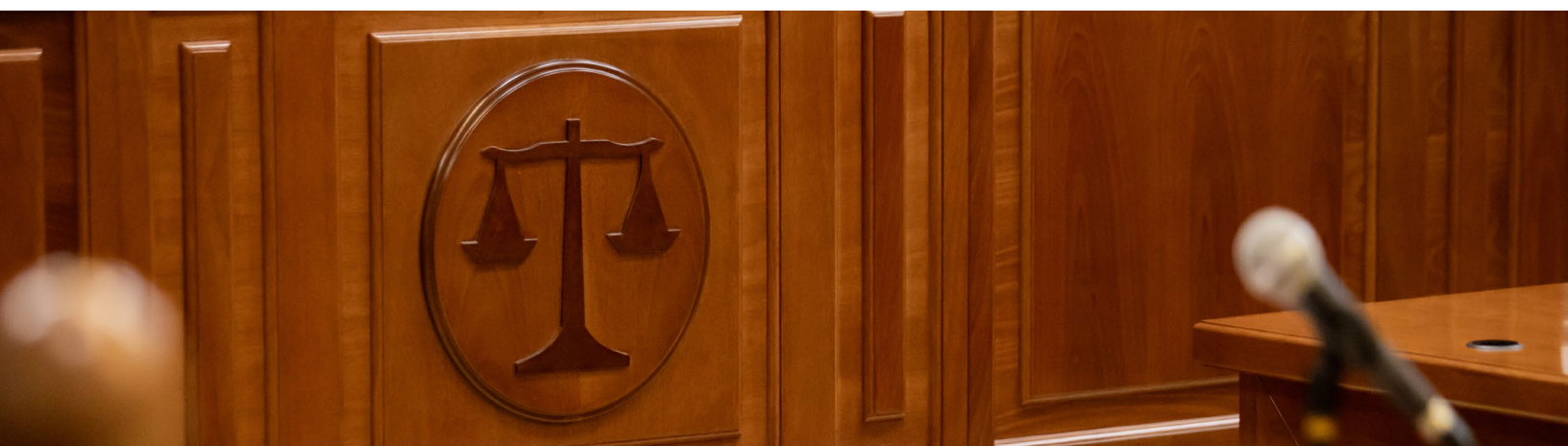
- 4. Stop suspending driver's licenses for failure to appear or failure to pay.** The General Assembly should end the practice of courts notifying the DMV of failure to appear or pay, thereby stopping the practice of suspending a person's driver's license in these instances. The General Assembly may amend N.C.G.S. §§ 20-24.1 and 20-24.2 to enact these changes.
- 5. Reinstate suspended licenses** if they had been suspended for failure to appear or to pay.
- 6. Collect data on fines imposed for all convictions,** including the total amount imposed and collected.*

* For example, N.C. House Bill 888 addresses recommendations 4-6, see <https://www.ncleg.gov/Sessions/2023/Bills/House/PDF/H888v1.pdf>.

Interim recommendations until fees are eliminated

Until North Carolina has eliminated all fees, the process for imposing and collecting fees must include greater legal safeguards:

- 1. Require judges hold ability-to-pay hearings before imposing fees.** The General Assembly should pass new legislation to require judges to hold ability-to-pay hearings before imposing fees regardless of whether a person files form CR-415 to request relief. As explained above, the statute should enumerate categories of people presumed to be unable to pay any fee. Indigency should be presumed for persons who: i) are eligible for a public defender, ii) are eligible for or have dependents who are eligible for public assistance of any form, iii) have a net household income that does not exceed 200% of the federal poverty guidelines, iv) are homeless, v) are a juvenile, or vi) are currently serving a sentence in a correctional institution, subject to commitment, or reside in a mental health or court-ordered treatment facility. Once a person is presumed to be indigent, the burden is on the State to prove otherwise.
- 2. Do not arrest people for unpaid court debt.** The General Assembly should revoke the authority granted to courts so that people may not be arrested when unpaid court debt is a person's only pending matter. This authority is granted to courts in N.C.G.S. § 15A-1364(b).
- 3. Do not require reporting on specific judges who waive fees.** The General Assembly should abolish the requirement to report which specific judge waives monetary obligations by revoking N.C.G.S. § 7A-350 and the requirement for AOC to provide notice and an opportunity to be heard to each government agency affected by the waiver of a fine or fee by revoking N.C.G.S. § 7A-304.
- 4. Collect data on fees imposed for all convictions,** including the total amount imposed and collected, and information about driver's license suspensions.



North Carolina's imposition of fines and fees harms residents and fails to raise revenue efficiently.

Over 650,000 people in North Carolina, or 1 in 12 adults, currently have unpaid criminal court debt.¹⁰⁹ The majority of this debt arises from low-level traffic cases and infractions.¹¹⁰ Some people are arrested and sent to jail for 30 days when they are unable to pay their fines or fees, even when the original infraction had no risk of jail time.

North Carolina can determine a fairer way to raise the 0.3% of the state's revenue that people currently pay for criminal fines and fees. Lawmakers should eliminate fees and reduce fines imposed in criminal court.



Appendix: Court Costs Summary

Amount of Cost	Type of Cost Statutory Authority	Total Amount Paid by People Impacted by Fines and Fees Fiscal Year 2020-2021 (where amount is available) ¹¹¹
Fees remitted to the state's General Fund		
\$147.50	General Court of Justice (imposed on every person appearing in District Criminal Court) § 7A-304(a)(4) \$0.95 of each fee is remitted to the North Carolina State Bar for legal aid services	\$79,114,132 Approx. \$700,000 was disbursed to the North Carolina State Bar for legal aid assistance
\$154.50	General Court of Justice (imposed on every person appearing in Superior Criminal Court) § 7A-304(a)(4) \$0.95 of each fee is remitted to the North Carolina State Bar for legal aid services	
\$10	Traffic Infraction Fee § 7A-304(a)(4a)	\$4,661,161
\$50	Improper equipment offense § 7A-304(a)(4b)	\$396,535
\$200	Failure to Appear Fee § 7A-304(a)(6)	\$7,733,419
\$50	Failure to Comply Fee § 7A-304(a)(6)	\$2,994,211
\$100	Impaired Driving Fee § 7A-304(a)(10)	Unknown
\$600	Testifying Lab Expert from private hospital (testified at trial re toxicological testing) § 7A-304(a)(13)	Unknown
\$20	Paying on installment plan § 7A-304(f)	\$2,064,528
\$600	Hospital fee (testing of bodily fluids of defendant for presence of alcohol or controlled substances) § 7A-304(a)(8a)	Unknown
\$40/month	Probation Supervision Fee § 15A-1343(c1) Parole Supervision Fee § 15A-1374	\$9,926,192
\$250	Community Service Fee § 143B-1483	Unknown
\$6.25	Retirement and insurance benefits of state and local law enforcement officers § 7A-304(a)(3)	\$2,901,812
\$90	House Arrest with Electronic Monitoring Fee § 15A-1343(c2)	Unknown

Amount of Cost	Type of Cost Statutory Authority	Total Amount Paid by People Impacted by Fines and Fees Fiscal Year 2020-2021 (where amount is available) ¹¹¹
Fees remitted to local government		
\$5	Arrest/Process fee § 7A-304(a)(1)	Unknown
\$12	Facilities fee (District) § 7A-304(a)(2)	\$9,305,204 to counties \$44,195 to municipalities
\$30	Facilities fee (Superior) § 7A-304(a)(2)	
\$15	Pretrial release services (only if defendant had been accepted and released to the supervision of agency providing the pretrial release services) § 7A-304(a)(5)	Unknown
\$10/day	Pretrial Jail Fees § 7A-304(c) , 7A-313	Unknown
\$40/day	Probationary Jail Fee (split sentence served in local facility) § 7A-313	
\$600	Crime lab (DNA, bodily fluids for alcohol or controlled substance, or analysis of controlled substances; if lab performed digital forensics) § 7A-304(a)(8) , (9b)	\$59,477
\$600	Testifying Lab Expert (local crime lab; testified at trial re chemical analysis, forensic analysis, or digital forensic analysis) § 7A-304(a)(12)	
Fines remitted to Public Schools		
Varies	Fines NC Constitution Article IX §§ 15A-1361; 1340.23 (misdemeanors); 1340.17 (felonies)	Unknown
Fees that stay within the state court system		
\$4	Telecom/Data fee § 7A-304(a)(2a)	\$3,379,448
\$5	Attorney Appointment Fee (see also \$70 Attorney Appointment Fee below) § 7A-455.1	Unknown
Fees remitted to NC Department of Justice		
\$600	State lab (DNA, bodily fluids for alcohol or controlled substance, or analysis of controlled substances; if labs performed digital forensics) § 7A-304(a)(7) , (9a)	\$1,714,356
\$2	DNA Fee § 7A-304(a)(9)	\$251,840
\$600	Testifying Lab Expert Fee (testified at trial about chemical or forensic analysis in Defendant's trial) § 7A-304(a)(11)-(13)	Unknown
\$1.25	Pension benefit of sheriffs § 7A-304(a)(3a)	\$580,375
Fees remitted to NC Department of Adult Correction		
\$4.48/day	House Arrest with Electronic Monitoring Fee § 15A-1343(c2)	Unknown
\$90	SBM Fee § 14-208.45	\$78,256

Amount of Cost	Type of Cost Statutory Authority	Total Amount Paid by People Impacted by Fines and Fees Fiscal Year 2020-2021 (where amount is available) ¹¹¹
Fees remitted to NC Indigent Defense Services		
\$5	Private Assigned Counsel Fund § 7A-304(a)(3c)	\$414,700 (when fee was \$2 instead of \$5)
Varies between \$65/hour - \$100/hour	Public Defender Attorney Fees § 7A-455	\$4,227,308 \$4,569,001 (intercepted from tax refunds and lottery winnings)
\$70	Attorney Appointment Fee (see also \$5 Attorney Appointment Fee above) § 7A-455.1	\$927,297 (when fee was \$60 instead of \$75)
Varies	Trial Transcript § 7A-304(c)	Unknown
Restitution returned to people or organizations		
Varies	Restitution – Crime Victims' Rights Act ("victim – a person against whom there is probable cause to believe an offense against the person or a felony property crime has been committed") § 15A-834 , § 15A-1340.34	\$35,195,975 (combined for all victims)
Varies	Restitution – non CVRA, e.g., victims of misdemeanor property crimes § 15A-1340.34 . Restitution generally – § 15A-340.39	
Varies	Restitution – non-victims e.g., when a person receives money for drugs from a confidential informant or undercover officer and then is convicted based on that exchange, the law allows the court to order the person to repay that money as restitution § 90-95.3(a) ; when a person convicted of a drug crime has a drug lab and the state must clean it up, then the cost of that must be ordered as restitution § 90-95.3(c) ;	Unknown
Worthless Checks Fund		
\$60	Worthless Check § 7A-308(c)	\$14,910

References

- ¹ Tauheeda Yasin, *North Carolina Criminal Justice-Related Fines and Fees Historical Data*, Harvard Criminal Justice Debt Initiative, (last accessed July 20, 2023), <https://dataverse.harvard.edu/dataset.xhtml?persistentId=doi:10.7910/DVN/XFUAN5>.
- ² Wilson Ctr. for Sci. & Just., Fines & Fees Just. Ctr., *Debt Sentence: How Fines and Fees Hurt Working Families* (2023), https://wcsj.law.duke.edu/wp-content/uploads/2023/05/Debt_Sentence_FFJC-Wilson-Center-May-2023.pdf. See also, N.C. Gen. Stat. Ann. § 15A-1364.
- ³ See section below “Fines and fees are an inefficient stream of revenue.”
- ⁴ N.C. Jud. Branch, *Budget Management and Financial Statistical and Operational Summary Report* (2021), <https://www.nccourts.gov/documents/publications/2020-21-Statistical-Operational-Report-Budget-Financial.pdf> (showing total amount disbursed); see also N.C. Jud. Branch, *2021-2022 North Carolina Judicial Branch Annual Report* (2022) at 7, <https://www.nccourts.gov/assets/documents/publications/2021-22-North-Carolina-Judicial-Branch-Annual-Report>; see also N.C. Off. State Budget & Management, *N.C. State Government Fee Report Fiscal Year 2020-21* (2022), <https://www.osbm.nc.gov/fee-report-fy-2020-21/download?attachment> (showing itemized list of criminal and civil fees); Office of the State Controller, *State of North Carolina Annual Comprehensive Financial Report, FY ending June 30, 2021* (December 8, 2021), <https://www.osc.nc.gov/2021comprehensiveannualfinancialreport-bookmarkspdf/open>. This paper uses data from fiscal year 2020-2021 because it provided a more complete picture of the collection and disbursement of criminal fines and fees. Though the budget report and judicial branch annual report was available for fiscal year 2021-2022 at the time the paper was published, the fee report was not.
- ⁵ This paper does not include the fees imposed on people when they are incarcerated, such as fees for seeing a doctor, buying personal hygiene items, and calling loved ones. These fees create another difficult challenge to our communities, and they are important to consider for full context.
- ⁶ N.C. Jud. Branch, Court Costs (last visited July 17, 2023), <https://www.nccourts.gov/help-topics/fees-and-payments/court-costs>. (“Although several of the statutes about court costs say that the money is ‘for the support of the General Court of Justice,’ most of the money collected does not stay with the courts and is not reserved for the courts’ use.”); see also Criminal Court Cost Summary on pages 24-27 of this report; *2021-2022 North Carolina Judicial Branch Annual Report*, *supra* note 4.
- ⁷ Because restitution does not enrich the state, it is largely outside the scope of this brief. Nonetheless, it is the Wilson Center’s position that courts should continue to be required to consider a person’s ability to pay before imposing restitution. While it is important to make a victim whole after a crime, that need is best filled by the government, often through the Crime Victims Compensation Fund. Where a person has no ability to pay the restitution, this obligation does not further a person’s rehabilitation; instead, it furthers their punishment. Although restitution is constitutionally authorized in North Carolina, it may not be used for punitive damages. *State v. Burkhead*, 85 N.C. App. 535 (1987). For restitution to be meaningful to the victim, defendant, or society, the defendant must have the ability to pay it.
- ⁸ \$147.50 General Court of Justice fee (District Court), \$12.00 facilities fee (District Court), \$4.00 telecom/data fee, \$7.50 law enforcement officers retirement fund, \$5 Indigent Defense Service, \$5 process fee, \$10 Chapter 20 traffic fee.

⁹ \$154.40 General Court of Justice fee (Superior Court), \$30 facilities fee (Superior Court), \$4 telecom/data fee, \$7.50 law enforcement officer retirement fund, \$5 Indigent Defense Service, \$5 process fee, \$10/day for 7 days for pre-trial jail fee, \$250 community service fee.

¹⁰ N.C. Indigent Def. Serv., *Current Hourly Assigned Counsel Rates* (last accessed July 20, 2023), <https://www.ncids.org/counsel-rates/>.

¹¹ Tauheeda Yasin, *supra* note 1.

¹² N.C. Gen. Stat. Ann. § 7A-304(a)(4).

¹³ U.S. Bureau Lab. Statistics, *CPI Inflation Calculator*, U.S. Dep't of Lab. available at https://www.bls.gov/data/inflation_calculator.htm.

¹⁴ N.C. Sentencing and Policy Advisory Comm'n, *Structured Sentencing Statistical Report for Felonies and Misdemeanors FY 2021*, <https://www.nccourts.gov/assets/documents/publications/SPAC-FY-2021-Structured-Sentencing-Statistical-Report.pdf?VersionId=R9uQkudMc69SyYkWSHFS5gMCxQPaVdOU>

¹⁵ Wilson Ctr. for Science & Just., *Driving Injustice* (2021), <https://wcsj.law.duke.edu/wp-content/uploads/2021/09/Driving-Injustice-Report.pdf>.

¹⁶ *Debt Sentence: How Fines and Fees Hurt Working Families*, *supra* note 2.

¹⁷ *Driving Injustice*, *supra* note 15.

¹⁸ *Id.*

¹⁹ *Id.* See also, N.C. Sentencing and Policy Advisory Commission, *supra* note 14; U.S. Dep't of Just., Open Letter from the C.R. Div., Off. of Just. Programs, and Off. for Access to Just. <https://www.justice.gov/opa/press-release/file/1580546/download> (addressing its evaluation of fines and fees across the country).

²⁰ U.S. Census Bureau, *State Profile – North Carolina* (August 25, 2021), <https://www.census.gov/library/stories/state-by-state/north-carolina-population-change-between-census-decade.html>.

²¹ N.C. Sentencing and Policy Advisory Commission, *supra* note 14 (reporting 123,809 Total Convictions FY 2021 (7/1/2020-6/30/2021) which includes Class 2 and Class 3 misdemeanor traffic convictions. See also, *Driving Injustice*, *supra* note 15.

²² N.C. Gen. Stat. Ann. § 15A-1363.

²³ U.S. Census Bureau, *Quick Facts – North Carolina* (last accessed August 16, 2023).

²⁴ N.C. Administrative Office of the Courts, *2022 Report on Criminal Cost Waivers G.S. 7A-350* (March 7, 2022).

²⁵ Logan Rockefeller Harris & Mel Umbarger, *Economic County Snapshots 2022*, N.C. Budget and Tax Ctr., (June 28, 2022), <https://ncbudget.org/economic-county-snapshots-2022/>.

²⁶ *2022 Report on Criminal Cost Waivers G.S. 7A-350*, *supra* note 24.

²⁷ Logan Rockefeller Harris & Mel Umbarger, *supra* note 25 (explaining overall, North Carolina's poverty rate is 14% for 2016-2020).

²⁸ *Quick Facts - North Carolina*, *supra* note 23.

²⁹ *Id.*

³⁰ *2022 Report on Criminal Cost Waivers G.S. 7A-350*, *supra* note 24.

³¹ CNBC, *With inflation stubbornly high, 58% of Americans are living paycheck to paycheck: CNBC survey* (April 11,

2023), <https://www.cnbc.com/2023/04/11/58percent-of-americans-are-living-paycheck-to-paycheck-cnbc-survey-reveals.html>.

³² U.S. Fed. Rsrv., *Economic Well-Being of U.S. Households (SHED)* (May 2022), <https://www.federalreserve.gov/publications/files/2021-report-economic-well-being-us-households-202205.pdf>.

³³ N.C. Just. Ctr., *Data shows too many in NC still struggle to pay for food, rent, and basic expenses* (July 8, 2021), <https://www.ncjustice.org/publications/data-shows-too-many-in-nc-still-struggle-to-pay-for-food-rent-and-basic-expenses/>.

³⁴ *Debt Sentence: How Fines and Fees Hurt Working Families*, *supra* note 2 (explaining that survey was sent to 5,600 adults; 2,007 people responded that they did have a fee in the past 10 years).

³⁵ U.S. Dep't of Just., *supra* note 8. See also Gene Nichol & Heather Hunt, *The Price of Poverty in North Carolina's Juvenile Justice Systems*, N.C. Poverty Rsch. Fund (2021), <https://law.unc.edu/wp-content/uploads/2021/04/juvenilejustice-povertyreport2021.pdf>; Fines & Fees Just. Ctr., *New Study Shows High Cost of Florida's Hidden Taxes on Children* (February 9, 2023), <https://finesandfeesjusticecenter.org/2023/02/09/new-study-shows-high-cost-of-floridas-hidden-taxes-on-children/>.

³⁶ N.C. Gen. Stat. Ann. § 15A-1364.

³⁷ Alicia Bannon et. al., *Criminal Justice Debt a Barrier for Re-entry*, Brennan Ctr. for Just. (October 4, 2010), <https://www.brennancenter.org/our-work/research-reports/criminal-justice-debt-barrier-reentry>; 7 U.S.C. § 2015(k)(1); 42 U.S.C. § 1437d(l)(9); 42 U.S.C. § 1437f(d)(1)(B)(v); 42 U.S.C. § 1382(e)(4)(A)(ii); N.C. Gen. Stat. Ann. § 15A-1345.

³⁸ N.C. Gen. Stat. Ann. § 108A-25.2 (exemption from limitations for individuals convicted of certain drug-related felonies).

³⁹ N.C. Gen. Stat. Ann. §§ 20-24.1, 20-24.2.

⁴⁰ Fines & Fees Just. Ctr., *Free to Drive: National Campaign to End Debt-Based License Restrictions* (last accessed April 27, 2023), <https://finesandfeesjusticecenter.org/campaigns/national-drivers-license-suspension-campaign-free-to-drive/>, see also interactive map <https://www.freetodrive.org/maps/#page-content>.

⁴¹ *Driving Injustice*, *supra* note 15.

⁴² *Driving Injustice*, *supra* note 15, at 8.

⁴³ *Debt Sentence: How Fines and Fees Hurt Working Families*, *supra* note 2.

⁴⁴ Eli Hager, *Debtors' Prisons, Then and Now: FAQ*, U.S. Dep't of Just. (February 24, 2015), <https://www.justice.gov/usao-sdal/page/file/918356/download>.

⁴⁵ *Id.*

⁴⁶ Nino Monea, *A Constitutional History of Debtors' Prisons*, 14 Drexel L. Rev. 1, 13 (2022).

⁴⁷ N.C. Const. art. 1, § 28.

⁴⁸ *Williams v. Illinois*, 399 U.S. 235 (1970); *Tate v. Short*, 401 U.S. 395 (1971) *Bearden v. Georgia*, 461 U.S. 660 (1983) (Imprisoning a person who, through no fault of his own, is unable to pay his court debts despite making bona fide efforts to do so, violates the Equal Protection Clause of the Fourteenth Amendment. A sentencing court must hold a hearing into a defendant's ability to pay and must, based on evidence presented at said hearing, conclude that the defendant had the ability to pay but chose not to, before the defendant may be sentenced to prison for failure to fulfill the payment terms of probation).

⁴⁹ N.C. Gen. Stat. Ann. § 15A-1362 guides court's on the imposition of fines; no legislation mandates a court consider

a person's ability to pay before imposing fees. See Tex. Code Crim. Proc. art. 42A.655; Tex. Code Crim. Proc. art. 42.15; Okla. Ct. Crim. App. R. 8.1.

⁵⁰ N.C. Gen. Stat. Ann. §§ 15A-1362, 15A-1364.

⁵¹ N.C. Gen. Stat. Ann. § 15A-1364.

⁵² *Id.*

⁵³ Am. C.L. Union N.C., *At All Costs: The Consequences of Rising Court Fines and Fees in North Carolina* (2019), <https://www.acluofnorthcarolina.org/en/atallcosts>.

⁵⁴ *Id.*

⁵⁵ Ga. Code Ann. § 42-8-34.

⁵⁶ N.C. Gen. Stat. Ann. §§ 7A-313, 7A-455, 15A-1343, 15A-1363 (remittance), 15A-1364 (modification).

⁵⁷ N.C. Gen. Stat. Ann. § 15A-1365.

⁵⁸ N.C. Gen. Stat. Ann. §§ 7A-313, 7A-455, 15A-1343.

⁵⁹ N.C. Gen. Stat. Ann. § 15A-1363.

⁶⁰ N.C. Gen. Stat. Ann. § 15A-1364.

⁶¹ N.C. Gen. Stat. Ann. § 15A-1365. Attorney fees and the attorney appointment fee are entered as civil judgments automatically. This practice has benefits and consequences. For example, the person will not be arrested if they are unable to pay, however, the amounts owed may be garnished through a person's state income tax refund or from lottery winnings. See also N.C. Gen. Stat. Ann. §§ 7A-455, 105A-3, 18C-134.

⁶² N.C. Gen. Stat. Ann. § 24-1.

⁶³ N.C. Gen. Stat. Ann. § 24-5.

⁶⁴ 2022 *Report on Criminal Cost Waivers* G.S. 7A-350, *supra* note 24.

⁶⁵ Gene Nichol & Heather Hunt, *Forcing Judges to Criminalize Poverty: Eroding Judicial Independence in North Carolina*, N.C. Poverty Rsch. Fund (2018) at 9 (citing to wral.com article), https://www2.law.unc.edu/documents/poverty/publications/judicialindependence_final.pdf.

⁶⁶ N.C. Gen. Stat. Ann. § 7A-350; N.C. Administrative Office of the Courts, *supra* note 13.

⁶⁷ *Forcing Judges to Criminalize Poverty*, *supra* note 65, at 3.

⁶⁸ *Forcing Judges to Criminalize Poverty*, *supra* note 65.

⁶⁹ *Id.*

⁷⁰ N.C. Gen. Stat. Ann. § 7A-304.

⁷¹ N.C. Jud. Branch, *Traffic Violations*, ("Hundreds of traffic cases may be scheduled for the same court session...") (last accessed July 20, 2023), <https://www.nccourts.gov/help-topics/traffic-and-vehicles/traffic-violations>.

⁷² *Forcing Judges to Criminalize Poverty*, *supra* note 66 (citing to AOC Memo on New Fee Waiver Provision in the 2017 Provisions Act).

⁷³ N.C. Jud. Branch, *Cost/Fine Waiver and Remission – Agency Response Registry*, (last accessed July 20, 2023), <https://www.nccourts.gov/documents/publications/costfine-waiver-and-remission-agency-response-registry>. See also N.C. Admin. Off. Courts, *Implementation of Waiver Notices*, (March 7, 2022), <https://webservices.ncleg.gov/ViewDocSiteFile/24275>.

⁷⁴ *Forcing Judges to Criminalize Poverty*, *supra* note 65, at 9 (citing to wral.com article).

⁷⁵ Office of the State Controller, *supra* note 4.

⁷⁶ *Id.*; see also 2021-2022 North Carolina Judicial Branch Annual Report, *supra* note 4; N.C. Off. State Budget & Management, *supra* note 4.

⁷⁷ N.C. Off. State Budget & Management, *supra* note 4.

⁷⁸ N.C. Dep't of State Treasurer, *State and Local Government Finance Division: Financial Reports and Analysis Tools* (last accessed June 30, 2023), <https://logos.nctreasurer.com/Reporting/Report/External?applicationCode=AFIR> (showing county budgets on education and the amount raised from fines and fees).

⁷⁹ S.L. 2022-74/H.B. 103, *Current Operations Appropriations Act of 2022*, https://sites.ncleg.gov/frd/wp-content/uploads/sites/7/2022/07/2022_Budget_Bill_H103v5.pdf (showing appropriations from the General Fund to each public education institution).

⁸⁰ 2020-2021 North Carolina Judicial Branch Annual Report, *supra* note 4, at 7.

⁸¹ Am. C.L. Union N.C., *supra* note 56. See also Gene Nichol & Heather Hunt, *Court Fines and Fees: Criminalizing Poverty in North Carolina*, N.C. Poverty Rsch. Fund (2017) at 18-19, <https://law.unc.edu/academics/centers-and-programs/n-c-poverty-research-fund/research-and-programs/> (discussing Mecklenburg County); U.S. Dep't of Just., *supra* note 8; *Driving Injustice*, *supra* note 15.

⁸² *Court Fines and Fees: Criminalizing Poverty in North Carolina*, *supra* note 81.

⁸³ U.S. Dep't of Just., *supra* note 19.

⁸⁴ Think Tennessee, *Reducing the Harms of Court Debt: Driver's License Revocations are an Ineffective Policy for Increasing Court Collections* (2022), <https://www.thinktennessee.org/wp-content/uploads/2022/11/drivers-license-revocation-report.pdf>.

⁸⁵ L. William Seidman Rsch. Inst., W. P. Carey Sch. of Bus., Ariz. State Univ., *The City of Phoenix Municipal Court's Compliance Assistance Program, 2016: An Economic Assessment* (2017), <https://finesandfeesjusticecenter.org/content/uploads/2018/11/Phoenix-license-restoration-pilot-THE-CITY-OF-PHOENIX-MUNICIPAL-COURT%E2%80%99S-COMPLIANCE-ASSISTANCE-PROGRAM.pdf>.

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⁸⁷ N.C. Gen. Stat. Ann. § 7A-304.

⁸⁸ Jordan Wilkie, *Beyond Jails: Exploring policy changes to reduce need for bigger jails in NC* (October 28, 2021), <https://carolinapublicpress.org/49305/beyond-jails-exploring-policy-changes-to-reduce-need-for-bigger-jails-in-nc/>.

⁸⁹ *Id.*

⁹⁰ James Van Bramer, *Report: Court Fines Promote Juvenile Recidivism, Not Rehabilitation*, The Crime Report, (February 16, 2023), <https://thecrimereport.org/2023/02/16/report-court-fines-promote-juvenile-recidivism-not-rehabilitation/>.

⁹¹ See *supra*, note 85.

⁹² N.C. Dep't of Revenue, *Estate Tax Collections*, (last accessed July 20, 2023), <https://www.ncdor.gov/documents/reports/table5-8/open>.

⁹³ N.C. Dep't of Revenue, *Tax Rate Schedules*, (last accessed July 20, 2023), <https://www.ncdor.gov/taxes-forms/tax-rate-schedules>. In 2014, the legislature set the income tax rate at 5.75% for everyone in 2015. Previously, there were three individual income tax rates of 6%, 7%, and 7.75%, based on filing status and income levels. The legislature has mandated that tax rates will continue to decrease, with the last planned decrease set to 3.99% in 2026.

⁹⁴ N.C. Dep't of Revenue, *Corporate Income Tax Rate*, (last accessed July 20, 2023), <https://www.ncdor.gov/taxes-forms/corporate-income-franchise-tax/corporate-income-tax-rates>. See also Roby Sawyers, *The History of State and Local Taxes in North Carolina - Changes in Sources and Burdens*, N.C. State Univ. (2006), <https://webservices.ncleg.gov/ViewDocSiteFile/31291>; Carolina Leadership Coalition, *NC's Corporate Income Tax is Nation's Lowest* (last accessed July 20, 2023), <https://carolinaleadershipcoalition.com/ncs-corporate-income-tax-is-nations-lowest/>.

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⁹⁶ *Id.*

⁹⁷ *Id.*

⁹⁸ *Williams v. Illinois*, 399 U.S. 235 (1970); *Tate v. Short*, 401 U.S. 395 (1971) *Bearden v. Georgia*, 461 U.S. 660 (1983).

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¹⁰³ *Free to Drive: National Campaign to End Debt-Based License Restrictions*, *supra* note 41 (identifying Montana, Texas, Mississippi, California, Idaho, Maine, Hawaii, Maryland, Oregon, Virginia, West Virginia, New York, Arkansas, Arizona, Colorado, Delaware, Illinois, Indiana, Michigan, Minnesota, Nevada, Utah, Washington, and Washington D.C. having passed reforms to curb debt-based driving restrictions).

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¹⁰⁸ AOC-CR-415, Rev. 3/22 Request for Relief from Fines, Fees, and Other Monetary Obligations and Order on Request (last accessed August 18, 2023), https://www.nccourts.gov/assets/documents/forms/cr415_3.pdf?VersionId=.nS22gZSK7rAHve63oys0MBaQUlouACa. See also *Johnson v. Goodwin* (Formerly *Johnson v. Jessup*) Case No. 1:18-cv-00467 (M.D. N.C. 2022) (On March 3, 2022, a federal court accepted a settlement in this class action lawsuit brought against the North Carolina Department of Motor Vehicles (DMV) by state residents who had their licenses revoked for failure to pay fines, penalties, or court costs related to traffic offenses).

¹⁰⁹ *Driving Injustice*, *supra* note 15.

¹¹⁰ *Id.*

¹¹¹ N.C. Off. the State Budget & Management, *supra* note 4. See also *Budget Management and Financial Statistical and Operational Summary Report*, *supra* note 4, and Commission on Indigent Defense Services, *Annual Report of the Commission on Indigent Defense Services July 1, 2021 – June 30, 2022* (March 15, 2023), <https://www.ncids.org/wp-content/uploads/2023/04/FY22-Annual-Report-FINAL-3-15-23.pdf>.

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