



**MAKING
CHILDREN PAY
THE HIDDEN COST TO KANSAS
OF JUVENILE FEES AND FINES**

WRITTEN BY

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PUBLISHED

FEBRUARY 2024

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Introduction

The goal of the Kansas juvenile legal system is “to promote public safety, hold juvenile offenders accountable for their behavior and improve their ability to live more productively and responsibly in their community.”¹ Evidence shows that juvenile fees and fines do the opposite.² This report outlines the ways in which fees and fines are 1) inefficient and costly to the public, 2) undermine public safety by driving youth further into the system, and 3) violate youth and families’ constitutional rights.

Fines and fees can be particularly challenging for youth:

Fines and fees can be particularly burdensome for youth, who may be unable to pay court-issued fines and fees themselves, burdening parents and guardians who may face untenable choices between paying court debts or paying for the entire family unit’s basic necessities, like food, clothing, and shelter. Children subjected to unaffordable fines and fees often suffer escalating negative consequences from the justice system that may follow them into adulthood.³

At the end of a case, families may face court fines and fees that can total in the tens of thousands of dollars.⁴ Kansas imposes more types of costs on youth in the juvenile justice system than almost any other state.⁵ In Kansas, these fees can begin as soon as a case is filed.⁶ Starting with a \$34 docket fee,⁷ youth begin accruing costs at nearly every turn—there are up to 23 fines that may be

¹ KAN. STAT. ANN. § 38-2301 (2024).

² Studies show that juvenile legal system involvement can lead to financial debt into adulthood and that fees and fines propel youth into early adulthood, with negative effects, hinder their educational and work aspirations, and increase distrust of the legal system. See generally, Leslie Paik et al., *The long reach of juvenile and criminal legal debt: How monetary sanctions shape legal cynicism and adultification*, 154 CHILD AND YOUTH SERVS. REV. (2023).

³ U.S. DEP’T OF JUST., DEAR COLLEAGUE LETTER TO COURTS REGARDING FEES AND FINES FOR YOUTH AND ADULTS (Apr. 20, 2023), [hereinafter Dear Colleague Letter], <https://www.justice.gov/opa/press-release/file/1580546/dl>.

⁴ NAT’L JUV. DEF. CTR., LIMITED JUSTICE: AN ASSESSMENT OF ACCESS TO AND QUALITY OF JUVENILE DEFENSE COUNSEL IN KANSAS 64 (2020), <https://njdc.info/wp-content/uploads/Kansas-Assessment-Web.pdf>.

⁵ See *Debtor’s Prison for Kids: The High Cost of Fines and Fees in the Juvenile Justice System*, JUV. L. CTR., <https://debtorsprison.jlc.org/#!/map> (last visited Dec. 16, 2024) (showing Kansas, Arkansas, and Michigan as states with the highest number of types of fees tracked as of 2022); see also ‘Debt Free Justice’ for Michigan youth, families; Lt. Gov. Gilchrist signs sweeping reforms, NAT’L CTR. FOR YOUTH L. (Dec. 12, 2023), <https://youthlaw.org/news/debt-free-justice-michigan-youth-families-lt-gov-gilchrist-signs-sweeping-reforms#:~:text=Among%20the%20notable%20reforms%2C%20set,involvement%20in%20the%20justice%20system> (noting Michigan has since abolished youth fees and fines in a bipartisan package of legislation in 2023, leaving Kansas and Arkansas as the states with the most extreme youth fees and fines structures).

⁶ NAT’L JUV. DEF. CTR., *supra* note 4, at 61.

⁷ *Id.*

assessed throughout a youth’s case in Kansas.⁸ These fees range from costs associated with prosecutor training programs to automatic fees for funding law libraries.⁹ When youth are adjudicated delinquent, the court may impose a fee of up to \$1,000 for each offense without assessing a youth’s ability to pay.¹⁰ Fees include contact with the legal system post-disposition as well. If a youth seeks to expunge their record, they are required to pay a \$176 docket fee.¹¹

Unpaid court costs may then cause ongoing challenges to young people. They can prevent the expungement of juvenile records,¹² limiting youths’ ability to move forward with their lives. Additionally, unpaid fines and fees are automatically treated as civil judgements against youth in Kansas,¹³ with a risk to youth and families’ credit scores and their broader financial stability. Moreover, Kansas statutes authorize interest accrual on money judgements,¹⁴ which allows for already impractical costs to multiply.

The harm is great, and the fiscal benefit is slim to nothing. The revenue collected from youth fines and fees makes up less than 1% of the judicial branch budget in Kansas.¹⁵ Moreover, the revenue collected from youth fees and fines is not a stable source of funding and is inefficient given the expense of collections.¹⁶ Indeed, current budgets can support fee and fine elimination. Kansas counties and judicial districts do not depend on youth fees and fines to fund courts; counties have reported on average \$7 million in surplus youth justice system funding that could cover any changes in revenue¹⁷ and some counties already do not collect youth fees.¹⁸

⁸ Kansas Appleseed analysis of data and information provided by counties, judicial districts, and Kansas Department of Corrections, on file with Kansas Appleseed, hereinafter *Kansas Appleseed Data Analysis*.

⁹ NAT’L JUV. DEF. CTR., *supra* note 4, at 61.

¹⁰ *Id.* at 65.

¹¹ *Id.*

¹² KAN. STAT. ANN. § 38-2312(e)(2) (2024).

¹³ *Id.* at § 38-2361(e)(3) (2024).

¹⁴ *Id.* at § 16-204 (2024).

¹⁵ *Kansas Appleseed Data Analysis*, *supra* note 8.

¹⁶ *Id.*; See FINES AND FEES JUST. CTR. & JUV. L. CTR., DREAMS DEFERRED: THE IMPACT OF JUVENILE FEES ON FLORIDA’S CHILDREN, FAMILIES, AND FUTURE 4 (2022), <https://jlc.org/sites/default/files/attachments/2022-01/Dreams%20Deferred%20Florida%20Juvenile%20Fees%20Report%202022.pdf>; LIZ GEORGE ET AL., MICH. CTR. FOR YOUTH JUST., MINORS FACING MAJOR DEBT: THE IMMENSE BURDEN OF COURT FEES ON MACOMB COUNTY YOUTH AND FAMILIES 33 (2021), https://35f5626c-61e6-48d6-83b9-5da8713cbd74.filesusr.com/ugd/03cb01_64e35871392043c9b2358e5f488275ba.pdf; Alex Kaplan et al., UNIV. OF CAL. BERKELEY SCH. OF L. POL’Y ADVOC. CLINIC, HIGH PAIN, NO GAIN: HOW JUVENILE ADMINISTRATIVE FEES HARM LOW-INCOME FAMILIES IN ALAMEDA COUNTY, CALIFORNIA 5, 12-14 (2016), https://lawcat.berkeley.edu/record/1127714/files/High_Pain_No_Gain.pdf (each discussing the cost of collections and the minimal revenue collected).

¹⁷ *Kansas Appleseed Data Analysis*, *supra* note 8.

¹⁸ *Id.*

Youth Fees and Fines Do Not Make Fiscal Sense

Juvenile legal system fees and fines are inefficient in raising government revenue.¹⁹ Kansas charges fees and fines to youth for attorney fees, blood and alcohol test, supervision, court ordered programs, diversion, DNA, fingerprint, other labs, and other court related costs.²⁰

In fiscal year 2024, the state assessed about \$394,000 in fees.²¹ The same year, they collected about \$345,000 in fees and much of this was from fees and fines assessed in previous years.²² Indeed, fees and fines may take years to recover, if they are recouped at all.²³

This small amount collected does not take into consideration the cost of collections. In other states, the cost of collections has exceeded the amount collected; this may be true in Kansas as well.²⁴ Collecting fees from youth and their families requires multiple agencies and significant time and resources. Collections can involve the time of police, sheriffs, public defenders, detention facilities, probation and parole officers, DMV, state tax agencies, and court staff.²⁵ Additionally, unpaid debt can result in additional court hearings to address the debt or because a case cannot close. Such additional hearings cost the time of judges, bailiffs, court reports, data collection staff, and probation staff along with the cost to use facilities for the hearing. A study in Michigan found that their reimbursement division of 8 full-time staff spend about 60% of their time on youth cases.²⁶ Each of those 8 staff generated less than \$30,000 in collections per year or just over 2% of outstanding youth fees.²⁷ Another study from Oregon found the state spent \$866,000 to collect \$864,000 in juvenile system fees and fines.²⁸

Even assuming no costs of collections, \$345,000 is minimal revenue, particularly considering the harm of these fees to children and families. The budget for the judicial branch in the state is \$222.2 million for fiscal year 2025, most of which (\$211 million) is from the state general fund.²⁹ Only \$11.2 million comes from other sources.³⁰ The revenue obtained from children and their families

¹⁹ See FINES AND FEES JUST. CTR & JUV. L. CTR., *supra* note 16, at 10-11; George et al., *supra* note 16, at 33; Kaplan et al., *supra* note 16, at 5, 12-14.

²⁰ *Kansas Appleseed Data Analysis*, *supra* note 8.

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ See FINES AND FEES JUST. CTR & JUV. L. CTR., *supra* note 20, at 10-11; George et al., *supra* note 16, at 33; Kaplan et al., *supra* note 16, at 5, 12-14.

²⁵ *Kansas Appleseed Data Analysis*, *supra* note 8.

²⁶ GEORGE ET AL., *supra* note 16, at 31.

²⁷ GEORGE ET AL., *supra* note 16, at 31.

²⁸ YOUTH, RTS. & JUST., *Research on Juvenile Administrative Fees* (2021), <https://youthrightsjustice.org/wp-content/uploads/2021/08/Legislative-Packet-OR-Fees-and-Fines-Repeal.pdf>.

²⁹ KANS. JUD. BRANCH, JUDICIAL BRANCH BUDGET (2024), <https://kscourts.gov/About-the-Courts/Court-Administration/Budget>.

³⁰ *Id.*

constitutes only 3% of the other funds in the judicial branch’s budget or less than one percent of the overall budget.

State revenue from youth fees and fines is not necessary to fund essential functions of youth justice. The largest category of fees assessed is for reimbursement of attorney fees.³¹ In fiscal year 2023, court districts in the state received \$160,000 in payments for attorney fee reimbursement, despite only expending, on average, about 14% of those reimbursements. In total, judicial districts in the state spent only \$25,000 in reimbursements of attorney fees,³² a negligible amount of revenue across 26 judicial districts.

At the local level, counties and judicial districts are not dependent on collecting youth fines and fees to fund essential functions. County and judicial district officials reported collecting very little in youth fees and fines. From fiscal year 2022 through 2024, districts reported collecting an average of \$32,000 across the state, or about \$2,300 per local jurisdiction.³³ Officials reported using the collected funds on services such as drug testing, substance abuse evaluations and treatments, client incentives, electronic monitoring services, mental health evaluations and treatments, other support programs, general operating expenses, and employee support and morale projects (e.g. luncheons and office decor).³⁴

Surplus funding in the Kansas Department of Corrections Evidence-Based Programs Account (EBPA) can cover the costs of needed services. Although grant funds do have limitations on use, the funding could be used for many of the key services currently covered in small part by fees and fines. The state of Kansas provides EBPA grants to counties and judicial districts to cover certain costs in the youth justice system, including programs related to intake, diversion, probation, and conditional release. Grants from the account provide funding for community-based organizations to create evidence-based programs targeted at reducing recidivism while keeping youth in their communities. The EBPA funds are dispersed to local entities through state contracts, Juvenile Corrections Advisory Boards (JCAB) grants, Reinvestment Grants, Regional Collaboration Grants, and Innovation Grants.³⁵

Counties and judicial districts have not used all the EBPA grant funds they have received, leaving funding available to cover the difference from no longer collecting youth fees and fines.³⁶ For example, in 2023, counties received about \$34 million in grant funding from the EBPA. On average counties used about 80% of the grant funds they received, or about \$27 million. Considering

³¹ *Kansas Appleseed Data Analysis*, *supra* note 8.

³² *Id.*

³³ *Id.*

³⁴ *Id.*

³⁵ KAN. JUV. JUST. OVERSIGHT COMM., *2024 Annual Report (2024)*, https://www.kslegislature.gov/li_2024/b2023_24/committees/ctte_jt_cjjo_1/documents/testimony/20241118_10.pdf.

³⁶ *Kansas Appleseed Data Analysis*, *supra* note 8.

counties reported averaging only about \$2,300 in collected fees, the \$7 million in unused grant funds would easily allow counties to cover any funding shortfalls from ending collection of youth fees and fines.³⁷

Jurisdictions do not need to rely on youth fee collections to fund operations and other activities. A handful (five) of local county and judicial officials reported that they already do not collect youth fees. They noted that the practice was unnecessary and inappropriate, since KDOC grants already cover everything they would spend fees on.³⁸

Moreover, youth fees and fines collections are not reliable sources of consistent and sustainable funding for operations or programs in judicial districts. Across all counties and judicial districts that reported fees collected from fiscal year 2022 through fiscal year 2024, yearly collection amounts varied significantly from year to year. For example, in one county the amount collected increased by 133% over the course of three years. However, in another jurisdiction, the amount collected decreased by 70% over the course of three years.³⁹ The small and fluctuating collection amounts in Kansas jurisdictions show that Kansas youth cannot and should not have to fund the justice system.

Fees and Fines Undermine Public Safety and Harm Youth and Families

Fees and fines have a human cost as well. They have been shown to increase recidivism, push youth deeper into the juvenile justice system, undermine family wellbeing, and create barriers to educational and economic stability. These harms are felt most acutely by young people already facing economic instability and have a racially disparate impact.

Fees and Fines Undermine Public Safety By Increasing Recidivism

[H]ow do you expect me to rehabilitate back into the society when you've taken everything that I could have used to help me obtain another lifestyle or go to college and apply that to my tuition or to get a car or to get an apartment? How am I supposed to navigate the world with nothing...Having not enough all the time then puts you in survival mode to get enough. – Nykia Gatson, Kansas resident incarcerated at 15⁴⁰

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ Nykia Gatson, DEBT FREE JUST., <https://debtfreejustice.org/stories/nykia-gatson> (last visited Dec. 16, 2024).

A growing body of research has found that monetary sanctions cause an increase in youth recidivism and therefore undermine public safety.⁴¹ A 2023 criminology study of more than 1,000 cases found that youth who owed fines and fees had higher recidivism rates than those who did not, even when controlling for age, race, gender, and type of offense—and the more they owed, the larger the increase.⁴² More 13.3% of youth surveyed in that study reported they would resort to criminal activity to pay fees or fines.⁴³ As a result, youth fees and fines undermine the Kansas juvenile justice system’s goal of promoting public safety.

Fees and Fines Push Youth Deeper Into the Juvenile Justice System

I was a kid – I'm not going to be able to pay that and my mom was on a fixed income because she didn't have a job....Just another reason why I never was able to complete the probation as a juvenile. I felt stuck in the system. It's why I ended up going to juvenile prison to do my time rather than completing probation. Because no matter how hard I tried, none of it mattered. If those fines weren't paid, I wouldn't be getting off. – Sierra Jones, Kansas resident incarcerated as a child.⁴⁴

When a failure to pay fines and fees leads to increased time under court supervision and inability to access diversion programs, it needlessly pushes youth deeper into the juvenile system.⁴⁵ For example, in Kansas, young people must pay for diversion programs; youth unable to pay may be pressured to refuse diversion and face formal processing in court instead.⁴⁶ Court costs then

⁴¹ Dear Colleague Letter, *supra* note 3, at 3, n.11 (citing Alex R. Piquero & Wesley G. Jennings, *Research Note: Justice System–Imposed Financial Penalties Increase Likelihood of Recidivism in a Sample of Adolescent Offenders*, 15 YOUTH VIOLENCE & JUV. JUST. 325 (2017)); see also Tyler Giles, *The Government Revenue, Recidivism, and Financial Health Effects of Criminal Fines and Fees*, FINES AND FEES JUST. CTR. (Sep. 9, 2023), <https://finesandfeesjusticecenter.org/articles/the-government-revenue-recidivism-and-financial-health-effects-of-criminal-fines-and-fees/>; See also Press Release, U.S. Dep’t of Just., Office of Pub. Affs., Fact Sheet on White House and Justice Department Convening—A Cycle of Incarceration: Prison, Debt and Bail Practices (Dec. 3, 2015), <https://www.justice.gov/opa/pr/fact-sheet-white-house-and-justice-department-convening-cycle-incarceration-prison-debt-and> (discussing economic inefficiency of fines and fees and their disproportionate impact on the poor)

⁴² Alex R. Piquero & Jennings, *A Statewide Analysis of the Impact of Restitution and Fees on Juvenile Recidivism in Florida Across Race & Ethnicity*, 21 YOUTH VIOLENCE AND JUV. JUST. 279 (2023).

⁴³ *Id.*

⁴⁴ Sierra Jones, DEBT FREE JUST., <https://debtfreejustice.org/stories/sierra-jones> (last visited Dec. 16, 2024).

⁴⁵ Jessica Feierman et al., *Debtors’ Prison for Kids? The High Cost of Fines and Fees in the Juvenile Justice System*, JUVENILE L. CTR. 1, 24 (2016), <https://debtorsprison.jlc.org/documents/jlc-debtors-prison.pdf>.

⁴⁶ See KAN. STAT. ANN. § 38-2346(f) (2024) (noting that programs cannot deny participation to youth who cannot pay but that fees may still be assessed for such programs); see also NAT’L JUV. DEF. CTR., *supra* note 4, at 63 (“A few probation officers interviewed for this assessment suggested that some youth do not accept an offer for an [immediate intervention program] because they have to pay a fee upfront and the fee is not waived.”).

function as a gatekeeper whereby youth who are unable to pay are formally processed and funneled deeper into the system while those with the ability to pay for diversion and services are able to stay in their own communities and avoid the stigma and repercussions associated with a juvenile record.⁴⁷

Fees and Fines Undermine Family Wellbeing

I've watched my mom struggle basically my whole life, working two jobs just to keep me and my people up....So we automatically was targeted. I feel like they know whenever you can't really pay your fines and fees. – Adonijah Metcalf, Kansas resident and system impacted individual⁴⁸

Research has found that fees and fines can lead to increased conflict between parents and youth⁴⁹ and can also affect youth's relationship with other children in the same household because of youth's absence from the house when fulfilling court obligations.⁵⁰ Families have further explained the strain they experience when fees limit their ability to pay for bills and other basic necessities such as transportation and healthcare.⁵¹ Evidence shows that fees and fines increase the “financial and social instability of members of the debtor's family' in addition to the instability of the individual.”⁵²

Fees and Fines Create Barriers to Education and Economic Stability

Even to this day now, I can't afford houses, or I don't get accepted for a lot of things because of my background checks, things I did when I was a youth, growing up. – Dante Bristow, Kansas resident incarcerated at 13⁵³

I incurred over a thousand dollars worth of debt, and it took me several years to be able to pay that off both in the facility and once I

⁴⁷ NAT'L JUV. DEF. CTR., *supra* note 4, at 63.

⁴⁸ *Ado'Nijah Zaire Metcalf*, DEBT FREE JUST., <https://debtfreejustice.org/stories/adonijah-zaire-metcalf> (last visited Dec. 16, 2024).

⁴⁹ Leslie Paik & Chiara Packard, *Impact of Juvenile Justice Fines and Fees on Family Life: Case Study in Dane County, WI* 12 (2019), <https://debtorsprison.jlc.org/documents/JLC-Debtors-Prison-dane-county.pdf>.

⁵⁰ *Id.*

⁵¹ *Id.* at 14; Eileen Funnell, *Debt-Free Delinquency: Clearing the Path for Debt-Imprisoned Juveniles*, 52 SETON HALL L. REV. 1183, 1193 (2022).

⁵² *Id.* at 1187 (citing Beth A. Colgan, *The Excessive Fines Clause: Challenging the Modern Debtors' Prison*, 65 UCLA L. REV. 2, 66 (2018)).

⁵³ *Dante Bristow*, DEBT FREE JUST., <https://debtfreejustice.org/stories/dante-bristow> (last visited Dec. 16, 2024).

was released. . . . Once I was released off of probation and became homeless, that's when I started receiving calls every week from the county, stating that I needed to make an \$80 payment every week, or there'd be first issuing of wage garnishments, and then a warrant for my arrest...I was working a part-time job for minimum wage at Domino's. So, I was not financially stable. I was homeless, with no car, no vehicle, no support system. – Tyler Williams, Kansas Resident, incarcerated at 13⁵⁴

Fees limit children’s ability to “live more productively and responsibly in their community”⁵⁵ by harming their educational success.⁵⁶ Public Defenders in Kansas have reported that their youth clients missed school or work for payment-related court dates.⁵⁷ Similarly, taking on more work hours to pay off debts, may cause youth to miss school or extracurricular activities making it difficult for them to stay engaged and on track academically.⁵⁸

The financial stress imposed on families may further disrupt a youth’s capacity to focus on, and succeed in, school.⁵⁹ Families struggling with financial obligations may have less money to support their children’s schooling, including limiting access to school supplies, uniforms, tutoring, academic resources, and after school activities that support youth development. Parents may also have less capacity to attend meetings or participate in school-related activities.

These harms can, in turn, lead to increased drop-out rates for system-involved youth and prevent youth from pursuing higher education. Studies show that a single childhood arrest reduces a child’s likelihood of graduating from high school and enrolling in college and is correlated with lower adult wages.⁶⁰ Even for youth who complete primary education, fines and fees pose additional barriers

⁵⁴ *Tyler Williams*, DEBT FREE JUST., <https://debtfreejustice.org/stories/tyler-williams> (last visited Dec. 16, 2024).

⁵⁵ KAN. STAT. ANN. § 38-2301 (2024).

⁵⁶ Feierman et al., *supra* note 45, at 24; Paik et al., *supra* note 2, at 30.

⁵⁷ *Kansas Appleseed Data Analysis*, *supra* note 8.

⁵⁸ According to one study, youth who work more than 20 hours a week may have lower grade point averages and are more likely to drop out of school than those who work fewer hours. The study notes that overall, the negative effects of employment appear to be linked, not to whether students work, but how often and how long. See Jeremy Staff, et al., *Adolescent Work Intensity, School Performance, And Academic Engagement*, 83 SOCIO. EDUC. 183, 183-200 (2010), <https://pmc.ncbi.nlm.nih.gov/articles/PMC2926992/pdf/nihms217082.pdf>.

⁵⁹ Rashmita S. Mistry & Laura Elenbaas, *It’s All in the Family: Parents’ Economic Worries and Youth’s Perceptions of Financial Stress and Educational Outcomes*, 50 J. YOUTH AND ADOLESCENCE 724, 725-727, 733 (2021); see *id.* at 724 (“Overall, youth who worried more about their family’s economic needs had lower academic achievement...”).

⁶⁰ David S. Kirk & Robert J. Sampson, *Juvenile Arrest and Collateral Educational Damage in the Transition to Adulthood*, 86 SOCIO. OF EDUC. 36, 49 (2013); James P. Smith, *The Long-Term Economic Impact of Criminalization in American Childhoods*, 65 CRIME & DELINQ. 422, 441 (2019).

as some higher education institutions may require all financial obligations to be satisfied before a student can enroll in classes or receive financial aid.⁶¹

When fees and fines lead to greater system involvement and an associated juvenile record, that too, may decrease the young person’s ability to find employment; juvenile records may be accessible in background checks for certain jobs, educational opportunities, or military service.⁶²

Fees can also undermine stability by following a child into adulthood. “[U]npaid costs that are not expressly waived are not forgiven upon termination of youth’s supervision.”⁶³ Rather, they convert to a civil judgment, subjecting young adults who cannot pay to wage garnishment, property lien, bank levy, or tax intercept.⁶⁴ State law may preclude young people with civil judgments from obtaining or keeping a driver’s license or registering a vehicle,⁶⁵ or obtaining a loan for higher education or housing.⁶⁶ Moreover, youth in Kansas cannot expunge their records while these debts are outstanding.⁶⁷ With a juvenile record, limited transportation, obstacles to secure housing and education, and no financial resources, young people face an often insurmountable hurdle to moving past their childhood conduct.⁶⁸

Fees and Fines Disproportionately Affect Youth of Color

The legal system disproportionately impacts youth in low-income households and youth of color, and fines and fees further exacerbate these existing disparities.⁶⁹ Black, Latine, and Indigenous youth are exposed to deeper juvenile legal system involvement and higher juvenile fees and fines than their white peers regardless of underlying conduct.⁷⁰ In Kansas, for example, Black youth are

⁶¹ Feierman et al., *supra* note 45, at 23.

⁶² Riya Saha Shah & Jean Strout, *Future Interrupted: The Collateral Damage Caused by Proliferation of Juvenile Records* 9-11 (2016), <http://juvenilerecords.jlc.org/juvenilerecords/documents/publications/future-interrupted.pdf>; NAT’L JUV. DEF. CTR., *Have a Juvenile Record in Kansas? Plan for your Future!* (2021), <https://www.defendyouthrights.org/wp-content/uploads/Kansas-Collateral-Consequences.pdf>.

⁶³ NAT’L JUV. DEF. CTR., *supra* note 4, at 66.

⁶⁴ Feierman et al., *supra* note 45, at 23-24; see also, KAN. STAT. ANN. § 38-2361(e)(3) (2024).

⁶⁵ See KAN. STAT. ANN. § 38-2361(a)(5) (2024).

⁶⁶ Feierman et al., *supra* note 45, at 23.

⁶⁷ *Id.* at 23-24; see also KAN. STAT. ANN. § 38-2312(e)(2) (2024).

⁶⁸ See Shah & Strout, *supra* note 62, at 9-11.

⁶⁹ Leigh R. Shapiro, *The Crippling Costs of the Juvenile Justice System: A Legal and Policy Argument for Eliminating Fines and Fees for Youth Offenders*, 69 EMORY L. J. 1305, 1341 (2020).

⁷⁰ See, e.g., Piquero & Jennings, *supra* note 42, at 280; see also Carl E. Pope et al., U.S. Dep’t of Just., *Disproportionate Minority Confinement: A Review of the Research Literature From 1989 Through 2001* 5 (2002), https://ojdp.ojp.gov/sites/g/files/xyckuh176/files/media/document/dmc89_01.pdf (25 of 34 studies comparing race and juvenile justice outcomes across the nation reported “race effects” leading to poorer outcomes for youth of color); James Bell & Laura John Ridolfi, W. Haywood Burns Inst., *Adoration of the Question: Reflections on the Failure to Reduce Racial & Ethnic Disparities in the Juvenile Justice System* 5-8 (2008), <https://www.modelsforchange.net/publications/199/> (noting disparate enforcement and punishment of Black, Indigenous, and Latinx youth).

detained at a rate 7 times that of their white peers, despite similar rates of conduct that typically leads to juvenile justice involvement.⁷¹ Studies in other jurisdictions have shown that these disparities at entry to the juvenile legal system also lead to disparities in fees and fines.⁷² Marginalized communities feel the impact of fees and fines most heavily; imposing these fees thus exacerbates racial inequality.

Fees and Fines Violate Youth and Families' Constitutional Rights

Fees and fines run the risk of violating youth and families' constitutional rights, and, in turn, place Kansas stakeholders at risk of litigation. Abolishing these fees can therefore further protect the rights of Kansas citizens and minimize the risk of liability for state and county stakeholders.

The Constitution protects youth in the justice system, as it does adults. "Neither the Fourteenth Amendment nor the Bill of Rights is for adults alone."⁷³ Moreover, the Constitution provides heightened protections for youth in some instances, recognizing that children are not just "miniature adults,"⁷⁴ and that certain punishments may be inappropriate for youth, even when they are permitted for adults.⁷⁵ The U.S. Supreme Court has recognized that certain punishments may be "especially harsh" for a child because of the practical consequences.⁷⁶ Adult penalties are "the same in name only" when applied to young people who require a "distinctive set of legal rules."⁷⁷

Youth Fees and Fines Likely Violate the Eighth Amendment Prohibition on Excessive Fines

The Eighth Amendment provides that "Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted." U.S. Const. amend. VII. Given the practical reality that youth are generally unable to earn the money needed to pay fines and fees, "the

⁷¹ JOSHUA ROVNER, THE SENTENCING PROJECT, RACIAL DISPARITIES IN YOUTH INCARCERATION PERSIST 7 (2021), <https://www.sentencingproject.org/wp-content/uploads/2021/02/Racial-Disparities-in-Youth-Incarceration-Persist.pdf>.

⁷² See Piquero & Jennings, *supra* note 42, at 285, 309.

⁷³ *In re Gault*, 387 U.S. 1, 13 (1967).

⁷⁴ *J.D.B. v. North Carolina*, 564 U.S. 261, 272 (2011) (citing *Eddings v. Oklahoma*, 455 U.S. 104, 115 (1982)).

⁷⁵ See, e.g., *Roper v. Simmons*, 543 U.S. 551, 575 (2005) (holding the death penalty disproportionate when imposed on children); *Graham v. Florida*, 560 U.S. 48, 82 (2010) (sentencing child who committed non-homicide offense to life without parole violates Eighth Amendment); *Miller v. Alabama*, 567 U.S. 460, 465 (2012) (sentencing child to mandatory life imprisonment without parole violates Eighth Amendment).

⁷⁶ *Miller*, 567 U.S. at 475 (Recognizing that a life sentence imposes a greater term of years on a child than on an adult).

⁷⁷ *Id.*; *J.D.B. v. North Carolina*, 564 U.S. at 272 ("A child's age is far 'more than a chronological fact.'" (quoting *Eddings*, 455 U.S. at 115)).

imposition of any fine or fee on youth has the potential to be an excessive and unreasonable burden.”⁷⁸

The touchstone of an excessive fines inquiry is whether the penalty is “grossly disproportional to the gravity of the defendant’s offense.”⁷⁹ Fees and fines are disproportional for youth because, as the U.S. Supreme Court has consistently recognized, youth have reduced culpability under the Eighth Amendment,⁸⁰ and punishments typically applied to adults may be more severe when inflicted on children.⁸¹

As described above, many youth have no way to earn the money they would need to pay fines. Youth as a class are generally unable to pay fees and fines—and this practical context is critical to assessing the fine’s constitutionality. Youth under 18 are not financially responsible for their own care and face significant restrictions on their ability to work, contract, and obtain credit.⁸² Most are also of compulsory school age.⁸³ For youth too young to hold a job, or who are still in school full time, fines ask them to do the impossible—to pay money they don’t have and cannot earn.

In Kansas, juvenile fines may be particularly disproportional because, even when imposed for minor adolescent misbehavior, and although juvenile court jurisdiction ends at age 21,⁸⁴ they can follow a child into adulthood by converting into civil judgments that result in serious challenges to economic stability, as described above.

Kansas Fees May Violate Youths’ Right to Counsel

Youth have a constitutionally protected right to counsel.⁸⁵ “Where a right to counsel exists, that right cannot be conditioned on a defendant’s payment of fines or fees that the defendant lacks the

⁷⁸ Dear Colleague Letter, *supra* note 3 at 5.

⁷⁹ *United States v. Bajakajian*, 524 U.S. 321, 337 (1998).

⁸⁰ See *Roper*, 543 U.S. at 571 (“Once the diminished culpability of juveniles is recognized, it is evident that the penological justifications for the death penalty apply to them with lesser force than to adults.”); *Graham*, 560 U.S. at 74 (“[Life without parole for non-homicide offenses] is not appropriate in light of a juvenile nonhomicide offender’s capacity for change and limited moral culpability.”); *Miller*, 567 U.S. at 471 (“children are constitutionally different from adults for purposes of sentencing”).

⁸¹ *Graham*, 560 U.S. at 70-71; *Miller*, 567 U.S. at 475 (Adult penalties are ‘the same . . . in name only’ when applied to young people and require a “distinctive set of legal rules” to determine how severely they punish youth (quoting *Graham*, 560 U.S. at 70)).

⁸² *J.D.B.*, 564 U.S. at 273 (“[T]he legal disqualifications placed on children as a class—e.g., limitations on their ability to alienate property, enter a binding contract enforceable against them, and marry without parental consent—exhibit the settled understanding that the differentiating characteristics of youth are universal.”).

⁸³ See Nat’l Ctr. for Educ. Stats., *Table 5.1: Compulsory school attendance laws, minimum and maximum age limits for required free education, by state: 2017*, https://nces.ed.gov/programs/statereform/tab5_1.asp (last visited May 10, 2021).

⁸⁴ KAN. STAT. ANN. § 38-2304 (d)(1)(iii) (2024).

⁸⁵ *In re Gault*, 387 U.S. at 13.

ability to pay.”⁸⁶ In Kansas, even when youth are appointed public defenders, they, or their parents, can be assessed the cost.⁸⁷ Imposing the cost of representation on youth and families who cannot pay chills the exercise of the right to counsel.⁸⁸

As the U.S. Supreme Court has explained, a child “needs counsel and support if he is not to become the victim first of fear, then of panic. He needs someone on whom to lean lest the overpowering presence of the law, as he knows it, may not crush him.”⁸⁹ Indeed, the U.S. Supreme Court has repeatedly affirmed that “children ‘are more vulnerable . . . to negative influences and outside pressures,’ including from their family and peers; they have limited ‘contro[l] over their own environment.’”⁹⁰ The right to counsel applies to all youth in the juvenile justice system, not simply those who can afford to pay.⁹¹

Even where a State’s criminal system objectives are legitimate, “they cannot be pursued by means that needlessly chill the exercise of basic constitutional rights.”⁹² A law unconstitutionally burdens a defendants’ right to counsel under the Sixth Amendment if it unduly pressures defendants to waive the right to trial or right to counsel.⁹³ Youth who cannot afford to pay will be pressured to forego counsel; relative immaturity, fear of authority, and susceptibility to pressure, including pressure from parents to avoid unaffordable financial obligations, will exacerbate the chilling effect of public defender fees.⁹⁴ Defenders in Kansas have observed this chilling effect.⁹⁵

⁸⁶ Dear Colleague Letter, *supra* note 3, at 13 (citing *Fuller v. Oregon*, 417 U.S. 40, 52-53 (1974)).

⁸⁷ KAN. STAT. ANN. § 38-2306 (2024).

⁸⁸ *Fuller*, 417 U.S. at 54 (where a statute allowing for imposition of attorneys’ fees was upheld only after determining that it took into account ability to pay).

⁸⁹ *Haley v. Ohio*, 332 U.S. 596, 600-601 (1948) (holding unconstitutional a confession of a child without counsel).

⁹⁰ *Miller*, 567 U.S. at 471 (alterations in original) (quoting *Roper*, 543 U.S. at 570); see also *Bellotti v. Baird*, 443 U.S. 622, 635 (1979) (“[D]uring the formative years of childhood and adolescence, minors often lack the experience, perspective, and judgment to recognize and avoid choices that could be detrimental to them.”). It is well-documented that “children have a ‘lack of maturity and an underdeveloped sense of responsibility,’ leading to recklessness, impulsivity, and heedless risk taking.” *Montgomery v. Louisiana*, 577 U.S. 190, 207 (2016) (quoting *Miller*, 567 U.S. at 471).

⁹¹ *In re Gault*, 387 U.S. at 41 (1967).

⁹² *U.S. v. Jackson*, 390 U.S. 570, 582 (1968) (citations omitted).

⁹³ *Id.*

⁹⁴ Hannah R. Gourdie, *The Guiding Hand of Counsel, for a Price: Juvenile Public Defender Fees and Their Effects*, 62 WM. & MARY L. REV. 999, 1019-1027 (2021). See also NAT’L JUV. DEF. CTR., *supra* note 4, at 80 (“Charging youth and families for the services of a constitutionally required defense attorney may create pressure for youth to not fully challenge the charges against them...all in an effort to limit their family’s financial exposure.”).

⁹⁵ NAT’L JUV. DEF. CTR., *supra* note 4, at 6 (describing a defender that “believed the juvenile court judge used costs to dissuade a youth from appealing their case: ‘Client filed an appeal and the judge immediately ordered the kid to pay for the cost of the transcripts and costs of the appeal.’”); KAN. STAT. ANN. §38-2384 (2024).

Juvenile System Fees May Violate Youth and Families Due Process and Equal Protection Rights

The Supreme Court has long established that poverty should not be a punishable offense.⁹⁶ In *Williams*, the Court held that converting costs and fines into prison terms for those unable to pay violates the Equal Protection Clause.⁹⁷ As described above, given the unique vulnerability of adolescents, punishments may violate the Constitution for youth even when they would not violate it for adults. And the pressure of having to pay to access the courts, such as fees associated with representation or with appeals, creates disproportionate pressure on youth. Costs that may increase the risk that a young person faces incarceration, that lead to circumstances which lengthen their terms of probation, or otherwise cause harm based on financial resources may similarly violate the constitution.

Conclusion

The Kansas juvenile justice system is meant to promote community safety and help rehabilitate youth.⁹⁸ Under the Kansas juvenile justice code, policies must be designed “to be cost effectively implemented to utilize resources wisely” and “be outcome based.”⁹⁹ Assessing fines and fees on youth in Kansas does not promote public safety, is not cost efficient, and creates significant and lasting harms for Kansas youth and their families. On top of this, the current fees and fines structure in Kansas presents constitutional concerns related to youth’s due process rights, equal protection rights, and youths’ right to counsel. The research is clear: fees and fines do not benefit Kansas youth and families, and they present liability for litigation around children and families constitutionally protected rights. Kansas should join the many states - red and blue - recognizing that juvenile system fees and fines are counterproductive and eliminating them from juvenile codes.



⁹⁶ Griffin v. Illinois, 351 U.S. 12, 19 (1956) (“[T]here can be no equal justice where the kind of trial a man gets depends on the amount of money he has.”).

⁹⁷ Williams v. Illinois, 399 U.S. 235, 242 (1960).

⁹⁸ KAN. STAT. ANN. § 38-2301 (2024).

⁹⁹ *Id.*