

Reducing and Eliminating Criminal Fines and Fees

Case Study: New Mexico

These case studies highlight innovative and promising court practices related to Fines, Fees, and Pre-Trial Practices and were developed with the support of the State Justice Institute and the [CCJ/COSCA Fines, Fees, and Pre-Trial Practices 2.0 Task Force](#). The best practices highlighted in these Case Study Briefs are based on the [Task Force's Principles](#). These case studies spotlight examples from diverse jurisdictions across the U.S. and are designed to provide jurisdictions with a sample of approaches and options.

Fines and Fees

Criminal fines and fees¹ (also called court imposed financial obligations or legal financial obligations) cause significant barriers for people living in poverty. The Department of Justice, in April 2023, urged courts to look carefully at situations in which fines and fees are imposed and to think about other ways to collect revenue that does not rely on fines and fees.²

This case study looks at steps that **New Mexico** has taken to reduce or eliminate criminal fees in a variety of case types. All post-adjudication fees were statutory; none were created by the courts.

Reforms in Adult Criminal and Traffic Cases

New Mexico's [HB 139](#), enacted in 2023, created reforms to fines and fees in New Mexico, including:

- Eliminating most fees in criminal and traffic cases, including fees charged to people with bench warrants.
- Allowing courts discretion to dismiss unpaid fees assessed prior to the enactment of HB 139.
- Requiring the use of payment plans when a person is not able to pay the full amount of a fine up-front.
- Allowing community service instead of financial sanctions without requiring a showing of inability to pay.

¹ Fines are typically tied to a particular offense and are imposed upon conviction. Fees are often automatically imposed and not related to a particular offense. *See e.g.*, Matthew Menendez and Lauren Brooke-Eisen, The Steep Costs of Criminal Justice Fees and Fines, November 21, 2019, *available at* <https://www.brennancenter.org/our-work/research-reports/steep-costs-criminal-justice-fees-and-fines?limit=all> (last visited February 20, 2024).

² U.S. Dep't. of Justice, Dear Colleague Letter, April 20, 2023, *available at* <https://www.justice.gov/media/1288301/dl> (last visited February 20, 2024).

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- Expanding and clarifying the definition of community service to allow for job training, enrollment in a vocational or academic program, or participation in social or rehabilitative programs to count as community service.

New Mexico's reforms related to HB 139 also include identifying alternative sources of funding for judicial operations as fees are eliminated as of July 1, 2024. In anticipation of the loss of fee revenue beginning July 1, 2024, the Legislature appropriated funds to the New Mexico Administrative Office of the Court to replace the fee revenue. HB139 also eliminates post-adjudication fees that generated revenue for Executive agencies and local government entities. The fee revenue eliminated by HB139 amounted to about \$8 million annually for the courts and an additional \$8 million annually for non-court entities.

Reforms in Juvenile Cases

New Mexico's [HB 183](#), passed in 2021, eliminated fines and fees in juvenile cases, including fees for public defender representation.

Best Practices

New Mexico's reforms to fines and fees reflect a number of best practices identified by the Fines, Fees, and Pre-Trial Practices Task Force.

Public Trust and Fundamental Fairness

[Principle 1.1 Purpose of Courts](#)

[Principle 1.5 Court Funding and Legal Financial](#)

New Mexico's elimination of fees in criminal and traffic cases and of fines and fees in juvenile cases ensures that courts will be perceived as fair protectors of rights and liberties, not revenue-generating bodies. Although eliminating fines and fees is not the only way to bolster public trust and ensure fundamental fairness, moving away from reliance on fines and fees will both ensure that courts are seen as fair and that defendants are not faced with unjust sanctions. By replacing fee revenue with legislative appropriations, New Mexico has ensured that court operations are not dependent on fee revenue and that court operations have a stable funding source.

Principle 1.1 Purpose of Courts

The purpose of courts is to be a forum for the fair and just resolution of disputes, and in doing so to preserve the rule of law and protect individual rights and liberties. States and political subdivisions should establish courts as part of the judiciary and the judicial branch shall be an impartial, independent, and coequal branch of government. It should be made explicit in authority providing for courts at all levels that, while they have authority to impose Legal Financial Obligations and collect the revenues derived from them, they are not established to be a revenue-generating arm of any branch of government -- executive, legislative, or judicial.

Principle 1.5 Court Funding and Legal Financial Obligations

Courts should be entirely and sufficiently funded from general governmental revenue sources to enable them to fulfill their mandate. Core court functions should not be supported by revenues generated from Legal Financial Obligations.

Ability to Pay and Alternative Sanctions

[Principle 2.3 Statewide Ability to Pay Policies](#)

[Principle 6.5. Alternative Sanctions](#)

New Mexico's requirements for payment plans and non-financial sanctions support this principle. Payment plans ensure that defendants are not unjustly burdened. The use of alternative sanctions, such as community service, creates systems that do not rely solely on financial sanctions or incarceration and that work to meaningfully address the underlying causes of a particular offense.

Cost of Counsel

[Principle 4.4. Cost of Counsel for Indigent People](#)

By eliminating fees for public defender representation in juvenile cases, New Mexico has ensured that people who are indigent are not charged for costs of representation in these cases. This is particularly important in juvenile cases, where a young person may not have access to money or work and will be reliant on parents or guardians to pay public defender and other fees, creating yet another barrier to representation.

Principle 2.3. Statewide Ability to Pay Policies

States should have statewide policies that set standards and provide for processes courts must follow when doing the following: assessing a person's ability to pay; granting a waiver or reduction of payment amounts; authorizing the use of a payment plan; and using alternatives to payment or incarceration.

Principle 6.5. Alternative Sanctions

Courts should not charge fees or impose any penalty for an individual's participation in community service programs or other alternative sanctions. Courts should consider an individual's financial situation, mental and physical health, transportation needs, and other factors such as school attendance and caregiving and employment responsibilities, when deciding whether and what type of alternative sanctions are appropriate.

Principle 4.4. Cost of Counsel for Indigent People

Representation by court-appointed counsel should be free of charge to indigent defendants, and the fact that such representation will be free should be clearly and timely communicated in order to prevent eligible individuals from missing an opportunity to obtain counsel. No effort should be made to recoup the costs of court-appointed counsel from indigent defendants unless there is a finding that the defendant committed fraud in obtaining a determination of indigency.