



# North Dakota Legislative Council

Prepared for the Judiciary Committee  
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## ASSESSMENT OF COURT FINES AND FEES - BACKGROUND MEMORANDUM

Section 7 of House Bill No. 1417 (2025) ([appendix](#)) directs the Legislative Management to study court fines and fees, including fines and fees relating to travel permits, presentence investigations, the drug court program, electronic monitoring, alcohol monitoring, and the 24/7 sobriety program. The study must consider the total amount collected; rates of fees collected, including any money expended to collect the fines and fees; an evaluation of practices in other states; and the overall impact on a defendant.

### BACKGROUND

Cities, states, courts, and district attorneys' offices across the country levy fines or fees on defendants at nearly every stage of the criminal justice system. Fines are monetary punishments for infractions, misdemeanors, or felonies, and are intended to punish offenders and deter others from committing similar offenses. Under the Constitution of North Dakota, all fines for violations of state law and all other sums that may be added by law, must be used for the benefit of the common schools of the state. Fees such as court administrative fees, indigent defense fees, supervision fees, and crime victim and witness fees may be assessed by the court at sentencing. These fees are deposited in the state general fund, indigent defense administration fund, court facilities improvement and maintenance fund, or community service supervision fund, or deposited in the county or city treasury to be used for approved victim and witness programs.

According to the National Conference of State Legislatures, the monetary penalties and legal financial obligations associated with the criminal justice system and their effect on low-income defendants are a growing concern among policymakers across the country, including that some jurisdictions use criminal justice fees as revenue generators. Studies from the Fines and Fees Justice Center have concluded that misdemeanor fines and fees contribute to the criminalization of low-income defendants and place defendants at risk of ongoing court involvement through new warrants, suspension of driving privileges, and debt collection. Stakeholders in justice systems, however, have argued fees are important to funding day-to-day court operations. Others have argued those convicted of crimes, rather than taxpayers, should bear responsibility for some of the costs of running the justice system.

In North Dakota, jurisdictions do not use court fees as revenue generators, and the Legislative Assembly has not increased monetary court administrative fees since 2003.

### STATUTORY FEES

North Dakota Century Code Section 29-26-22 requires a court, upon a plea or finding of guilt, to impose a court administration fee in lieu of the assessment of court costs in all criminal cases except infractions. Under that section, the court administration fee must include a fee of \$125 for a Class B misdemeanor, \$200 for a Class A misdemeanor, \$400 for a Class C felony, \$650 for a Class B felony, and \$900 for a Class A or Class AA felony.

Section 29-26-22 also provides in all criminal cases except infractions, an indigent defense and court facility fee must include an additional \$100. From the additional \$100 court administration fee, the first \$750,000 collected per biennium must be deposited in the indigent defense administration fund, which must be used for indigent defense services in this state, and the next \$460,000 collected per biennium must be deposited in the court facilities improvement and maintenance fund. After the minimum thresholds have been collected, one-half of the additional court administration fee must be deposited in each fund.

Section 29-26-22 allows a court to waive the administration fee, indigent defense and court facility fee, or community service supervision fee upon a showing of indigency. That section further provides that district court administration fees, exclusive of amounts deposited in the indigent defense administration fund and the court facilities and improvement fund, and forfeitures must be deposited in the state general fund. A court may allow a defendant to pay any assessed administration fee or community service supervision fee in installments. When a defendant is assessed administration fees or a community service supervision fee, the court may not impose at the same time an alternative sentence to be served if the fees are not paid.

Section 29-26-22.4 requires the court, upon a conviction of a felony or misdemeanor offense, to impose a reimbursement fee for the cost of any digital forensic examinations performed on any personal electronic device in the investigation and prosecution of the crime for which the defendant was convicted. The fee assessed may not exceed \$100 per defendant. All fees collected must be remitted to the State Treasurer for deposit in the internet crimes investigation fund.

Section 12.1-32-08 requires a court, when restitution ordered by the court is the result of a finding that the defendant issued a check or draft without sufficient funds or without an account, to impose as costs the greater of the sum of \$10 or an amount equal to 25 percent of the amount of restitution ordered, except the amount may not exceed \$1,000. The state-employed clerks of district court are required to remit the funds collected to the State Treasurer for deposit in the restitution collection assistance fund. The funds deposited into the restitution collection assistance fund are appropriated to the judicial branch on a continuing basis for the purpose of defraying expenses incident to the collection of restitution, including operating expenses and the compensation of additional necessary personnel. The state's attorneys and county-employed clerks of district court are required to remit the funds collected to the county treasurer to be deposited in the county general fund.

Section 12.1-32-16 provides when an individual whose occupational, professional, recreational, motor vehicle operator, or vehicle license or registration has been suspended for nonpayment of child support is convicted of engaging in activity for which the license or registration was required, the court shall require as a condition of the sentence that the individual pay restitution in the amount of \$250, or a higher amount set by the court.

Section 27-01-10 allows the governing body of a county to, by resolution, authorize the district judges serving that county to assess a fee of not more than \$25 as part of a sentence imposed on a defendant who pleads guilty to or is convicted of a criminal offense or of violating a municipal ordinance for which the maximum penalty that may be imposed by law for the offense or violation includes imprisonment. That section also allows the governing body of a city to, by ordinance, authorize a municipal judge to assess a fee of not more than \$25 as part of a sentence imposed on a defendant who pleads guilty to or is convicted of violating a municipal ordinance for which the maximum penalty that may be imposed under the ordinance for the violation includes imprisonment. All fees paid to a district or municipal court must be deposited monthly in the county or city treasury for allocation by the governing body of the county or city to a private, nonprofit domestic violence or sexual assault program or a victim and witness advocacy program of which the primary function is to provide direct services to victims of and witnesses to crime.

### **TRAVEL PERMIT**

Section 12-65-08 requires any probationer or parolee residing in the state who requests a travel permit to travel to another state to pay to the Department of Corrections and Rehabilitation (DOCR) a travel permit fee of \$10, unless waived by the department. The department must transfer all travel permit funds collected to the state treasury for deposit in the probationer and parole violation transportation fund.

### **PRESENTENCE INVESTIGATIONS**

Section 12.1-32-02 requires the court to order a defendant to pay \$50 to DOCR at the time a presentence investigation is initiated to partially defray the costs incurred by the department for the preparation of the presentence report. The court also may order any additional costs incurred by the department relating to the presentence investigation and report to be paid by the defendant at a rate of payment up to the full cost of conducting the investigation and preparing the report.

## **TREATMENT COURT PROGRAM**

Section 29-26-22 allows the court, upon the defendant's successful completion of an approved adult treatment court program, to waive all unpaid fines, fees, and costs imposed in the criminal judgment sentencing the defendant to the treatment court program, except restitution.

## **24/7 SOBRIETY PROGRAM**

Section 54-12-30 allows a criminal justice agency to collect program fees from offenders participating in the 24/7 sobriety program, including fees for twice-per-day breath alcohol testing, urine testing, drug patch testing, installation and deactivation fees for remote electronic alcohol monitoring devices, and remote electronic alcohol monitoring daily fees. The criminal justice agency must pay all program fees into the general fund of the governing body. The governing body is required to pay any daily fees collected for remote electronic monitoring to the 24/7 sobriety program fund.

Section 54-12-28 allows the Attorney General, in cooperation with law enforcement, the judiciary, DOCR, and the Traffic Safety Division of the Department of Transportation, to adopt guidelines, policies, and procedures to administer the 24/7 sobriety program, including sobriety testing twice per day, 7 days per week, electronic monitoring, including home surveillance and remote electronic alcohol monitoring, urine testing and drug patch testing, and to establish program fees, all of which are not subject to the Administrative Agencies Practice Act under Chapter 28-32.

The Attorney General requires the individual participating in the 24/7 sobriety program to pay the program testing fees. Program fees include \$1 per preliminary breath test, a \$6 per day monitoring fee for a secure continuous remote alcohol monitor bracelet, \$60 per drug patch, \$5 per urinalysis test and \$25 for laboratory confirmation.

## **COLLECTION OF COURT FEES**

Section 29-26-22 requires the court, in all criminal cases except infractions, upon a plea or finding of guilty, to impose a court administration fee in lieu of assessment of court costs. The court may allow the defendant to pay any assessed administration fee or community service supervision fee in installments. A judgment requiring the defendant to pay a fine or fees, or both, may be docketed and, if docketed, constitutes a lien upon the real estate of the defendant in the same manner as a judgment for money rendered in a civil action.

Section 29-26-22.1 allows the court, within 10 years of the date of entry of a judgment that imposes a fine, imposes a requirement that restitution or reparations be paid, or assesses costs against a defendant, to order the judgment be docketed by the clerk of court in the judgment docket, in the same manner in which a civil judgment for money is docketed.

Section 28-20-13 allows the clerk of the district court in which the judgment was rendered to docket the judgment in a separate record to be known as the "judgment docket". The judgment may be docketed in any other county upon filing with the clerk of the district court of that county a transcript of the original judgment docket. For a judgment docketed after August 1, 2021, the judgment is a lien on all the real property, except the homestead, of every person against whom the judgment is rendered, which the person may have in any county in which the judgment is docketed at the time of docketing or which the person thereafter acquires in the county, for 20 years from the time of docketing the judgment in the county in which it was rendered.

## **ADJACENT STATES**

States including Montana, South Dakota, and Minnesota permit courts and supervising authorities to use garnishment or collection mechanisms to recover unpaid costs of defendants.

Montana allows unpaid fines, fees, or court costs to be converted into a civil judgment. The judgment may be docketed and collected using a civil tool such as garnishment, a lien, or wage withholding. The court may not incarcerate solely for inability to pay, but voluntary nonpayment can trigger civil collection.

South Dakota also allows unpaid court costs, fees, and fines to be recorded as a civil judgment in the circuit court. Once entered as a judgment, collection may proceed through civil enforcement mechanisms like garnishment or liens. Probation extension or jail may be ordered only for willful nonpayment by the defendant, and only after an ability-to-pay hearing has been conducted.

Minnesota allows unpaid fines, fees, and surcharges to be referred to the Minnesota Department of Revenue or private collection agencies, with notice and a right to contest referral based on inability to pay by the defendant. The Minnesota State Court Administrator may promulgate uniform collection policies and procedures for the courts and may contract with credit bureaus, public and private collection agencies, the Department of Revenue, and other public or private entities providing collection services as necessary for the collection of court debts.

### **PRIOR STUDIES**

The Commission on Alternatives to Incarceration studied the imposition of fees upon offenders during the 2005-06, 2007-08, and 2011-12 interims. The focus of each of these studies was on the funding and community service programs and the imposition of the community service supervision fee. The Legislative Management directed the Judiciary Committee to study the assessment of fees by courts during the 2013-14 interim. The focus of the study was on the feasibility and desirability of combining various court fees, and whether courts should be mandated to impose fees established by statute. Several bill drafts were considered to consolidate the different fees imposed by the court in criminal cases into a single fee, the amount of which would vary based on the grade of the offense. After receiving testimony on the possible negative impacts on several of the funds, including the indigent defense administration fund, the committee made no recommendation.

### **2025 LEGISLATION**

The 69<sup>th</sup> Legislative Assembly considered bills relating to court fees for criminal defendants, including:

- House Bill No. 1310, which would have eliminated monthly supervision fees, indigent defense application fees, reimbursement of the costs of appointed defense council, presentence investigation fees, court administration fees, community service supervision fees, and victim and witness program fees. The bill failed on second reading in the House.
- House Bill No. 1417, which eliminated criminal defendant monthly supervision fees to improve a defendant's opportunity to successfully transition into the community. The bill also eliminated the application fee for indigent defense services. The bill was enacted into law.
- Senate Bill No. 2167, which requires an individual convicted of a felony or misdemeanor to pay a fee not to exceed \$100 for the reimbursement of any digital forensic examinations performed on any personal electronic devices. The bill was enacted into law.

### **SUGGESTED STUDY APPROACH**

In conducting the study of court fines and fees, the committee may wish to:

- Receive information from the judicial branch regarding caseload and revenues collected from the various court fees;
- Receive information from DOCR regarding supervision fees;
- Receive information from the Attorney General's office regarding the 24/7 sobriety program fees;
- Receive information from the judicial branch regarding drug court fees and presentence investigation fees;
- Receive information on money expended to collect court fines and fees; and
- Receive information regarding an evaluation of practices in other states and the overall impact court fees have on the defendant.