



MINORS FACING **MAJOR** **DEBT**



The Immense
Burden of Court
Fees on Macomb
County Youth
and Families



by Michigan Center
for Youth Justice

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The process we collectively used to determine the multiple impacts of assessing and collecting juvenile court fines and fees can be replicated in any jurisdiction in Michigan. Our hope is that it will also assist Michigan legislators in changing policy for the entire state.



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Executive Summary: Introduction

Juvenile court debt has become a priority for reform across the country, as local jurisdictions and state governments realize that assessments and collections are inconsistently imposed, fiscally ineffective, exacerbate poverty for indigent families, and disproportionately impact families of color.

From 2017 to 2019, Macomb County assessed \$11.7 million in fees and fines (excluding restitution) to families with youth in their juvenile court, the highest amount in the state among the 73 counties who submitted data. Macomb retained approximately \$92 million in outstanding debt to which about \$4 million was added every year. The bulk of the outstanding debt, \$84 million or 91% of the total, was solely for the cost of detention and residential placements. Over a five year period, from 2015 - 2019, their average collection rate was only 7.2%.

The Michigan Center for Youth Justice (MCYJ), in partnership with the National Center for Youth Law (NCYL), and the 16th Judicial Circuit Court - Juvenile Division, developed an innovation site in Macomb County, Michigan to set precedent for statewide juvenile debt reform.

This report discusses the impact of juvenile court fines and fees on Macomb's youth/families; assesses the extent to which Macomb's juvenile court used fines and fees levied against youth and families to fund its court operations; and calculates the real costs associated with assessments and collections.

MCYJ interviewed 21 families who reported an average of \$87,165 in court debt. All of the families had a youth with at least one stay in detention and one stay in a residential facility. Every family stated they could not afford their juvenile court fines and fees, and most reported they would not be able to pay off the debt in their lifetime.

Even though the majority of youth involved with the juvenile court are under supervision for less than two years, the court can legally pursue payments until the debt is paid in full. One parent had consistently made \$100 per week payments for six years— a total of \$30,000 to date; it would take him another decade to pay off the full debt. Another parent has had her state tax refund intercepted for the past 10 years, with \$67,000 in remaining debt, because her son spent under a year in detention and a residential facility over a decade ago.

Although there were options for relief, including payment plans, deferrals and, rarely, a complete



discharge of the debt, they all had to be initiated by the submission of financial paperwork by the family. However, the court-involved families with the greatest need for debt relief were often the same families who experience housing instability, and/or cannot afford continuous cell-phone service, and/or may not have reliable access to the internet. Most of the families interviewed did not receive critical information sent to them by the courts because they had moved, changed their phone number, and/or did not have the technical resources or proficiency to view emails.

Macomb County's Disproportionate Minority Contact (DMC) data indicate that, like the State of Michigan overall, Black youth are overrepresented in every stage of their juvenile justice system. In 2019, Black youth, who account for 17% of Macomb's youth population, made up 45% of all detention placements and 51% of all longer-term residential confinements. As a result of the high per diems for both, Black youth and their families were disproportionately impacted by outstanding court debt.

A discussion with Probation Supervisors found that the Probation Officers felt that fines and fees were *"a substantial obstacle to rapport building and securing full cooperative engagement with the child and family."* Families believed the county benefited financially from placing children in residential facilities. Black families reported their belief that the imposition of detention and residential placement fees also had a racial motivation attached.

Once families had an understanding of court costs, they were less likely to ask for help or report negative behaviors early on, fearing that a probation violation could result in fees related to detention or residential placement. One parent stated, *"The cost outweighs asking for help because it's more stress*

than it is help. Sometimes it just feels like it's all about money rather than actual help. Why would I talk to his probation officer? All it does is just add to my bill."

Fines and fees created or exacerbated problems between children and their families. Some parents shouldered the financial burden alone, not wanting to add to the stress that their child was already experiencing. Other parents reminded their children of the financial burden they "caused," which could weaken the parent-child relationship.



In 2019, the Reimbursement Division collected a total of \$876,981, which included payments for all current and past assessments. After reconciliations with the State of Michigan, and minus the cost to collect, Macomb County retained only \$140,920. This net amount was likely to be reduced even further over time as the Macomb court had recently instituted \$50 per day and \$10,000 per year caps on assessments, and as they continued to advance practices that keep more youth at home. This declining amount of court revenue was weighed against the impact of millions of dollars in assessed debt on Macomb families.

For all of these reasons, in February 2021, the project partners recommended to Macomb County's Chief Judge James Biernat the elimination of all discretionary and waivable fines and fees, and the discharge of previously assessed debt.

**On May 4, 2021,
the Honorable James M. Biernat adopted all of the following
recommendations for Macomb County:**

01 Immediately eliminate the assessment and collection of all discretionary and waivable fines and fees in Macomb County delinquency cases.

02 Permanently discharge all outstanding debt and notify families/individuals that their debt has been discharged, using every means of communication available to the court.

03 Continue to reduce the number of youth held in expensive detention and residential placements - in alignment with national best practices.

**The Michigan Center for Youth Justice also recommends
that the State of Michigan:**

01 Eliminate the assessment and collection of all fines and fees for delinquency cases through new legislation.

Juvenile Court Debt

A National Priority for Reform

Juvenile court debt has become a priority for reform across the country, as local jurisdictions and state governments realize that assessments and collections are inconsistently imposed,¹ fiscally ineffective,² exacerbate poverty for indigent families,³ and disproportionately impact families of color.⁴ A recent Federal Reserve study indicated that nearly 40% of Americans would have difficulty paying an unexpected expense of \$400, and racial minorities at every education level “are even less able to handle a financial setback.”⁵

Five states have already taken bold legislative action to abolish juvenile court fees, including California,⁶ Maryland,⁷ Nevada,⁸ New Jersey,⁹ and New Hampshire.¹⁰ This year, an additional six states - Arizona, Florida, Indiana, New Mexico, Oregon and Virginia - have introduced legislation to eliminate some or all aspects of juvenile court debt. In Michigan, at least two counties, Wayne and Washtenaw, have eliminated discretionary and waivable fees and ceased collection efforts on previously assessed debt.



Michigan Law & Supreme Court Guidance

Michigan juvenile courts are permitted, and in some cases required, to charge and collect a variety of fees for youth involved in delinquency proceedings, regardless of the young person's age.¹¹ Some mandatory assessments can be waived, including costs for detention and residential placements. Discretionary fees include, but are not limited to, attorney fees, probation supervision costs, and costs of services (such as electronic monitors or counseling).¹²

Under Michigan Compiled Law (MCL) 712A.18(2), a juvenile court disposition order *“shall contain a provision for reimbursement by the juvenile, parent, guardian, or custodian to the court for the cost of care or service. The order shall be reasonable, taking into account both the income and resources of the juvenile, parent, guardian, or custodian. The amount may be based upon the guidelines and model schedule created under subsection (6),”* which allows SCAO to create “ability to pay” procedures regarding cost of care and services.

The April 2018 Michigan State Court Administrative Office's (SCAO) “Guidelines for Court-Ordered Reimbursement” require that an order *“must be reasonable, taking into account the income and resources of the juvenile, parent, guardian, or custodian.”*¹³

SCAO guidelines also state that the courts must make changes based on new information about a family's ability to pay. SCAO states, *“Because the court often discovers financial information after entry of the order of disposition, there must be flexibility for adjustments based on new information.”*¹⁴

Despite existing law and court rules that put limited guardrails in place to standardize the assessment and collection processes, counties use varying practices, resulting in geographic inconsistencies.





Macomb County Innovation Site

This report focuses on a year-long undertaking by the Michigan Center for Youth Justice (MCYJ), in partnership with the National Center for Youth Law (NCYL) and funded by the Community Foundation for Southeast Michigan (CFSEM), to develop a “Michigan Juvenile Justice Fines and Fees Initiative.”

The project objective was to develop an innovation site and set precedent for statewide juvenile debt reform, with the ultimate goal of eliminating all discretionary and waivable fees. Establishing an innovation site would help determine the impact of juvenile court fines and fees on youth/families; assess the extent to which fines and fees levied against youth and families were used to fund court operations; and calculate the real costs associated with assessments and collections.

MCYJ and NCYL identified the 16th Judicial Circuit Court - Juvenile Division, located in Macomb County, as a potential innovation site because it is a large urban area; has a significant population of youth of color who are overrepresented in the justice system;¹⁵ and, according to the Household Survival Budget used by

United Way’s ALICE indicator, Macomb County families’ annual costs for “basic household essentials” are the most expensive in the state, at \$64,320. ALICE stands for “Asset Limited, Income Constrained, Employed” and is a snapshot of the working poor who are not captured in the percent living below the federal poverty line.¹⁶

In comparison to the 73 other counties that reported assessment and payment data to SCAO, Macomb County assessed the highest total amount of fees and fines. For cases with disposition dates from 2017 to 2019, Macomb County assessed \$11.7 million in fees and fines (excluding restitution). The county that reported the next highest amount, assessed a total of \$2.3 million, and a large neighboring county assessed only \$370,000 (excluding restitution and fees in the “credit memo” category) during the same timeframe.¹⁷

The vast majority of assessments Macomb County ordered were for 1) reimbursement for cost of care and services (\$10.6 million), and 2) court-appointed attorney fees (\$416,000).

Approach



Partnership with Macomb County

Macomb's 16th Circuit Court agreed to collaborate on the project, and MCYJ entered into a formal partnership with their Juvenile Division in October 2020. Participants included: Judge Matt Switalski; Chief Referee Linda Harrison; Court Administrator Julie Bovenschen; Juvenile Court Administrator Nicole Faulds; and Juvenile Program Director David Joseph. Melissa Buyikian of the Macomb County Reimbursement Division also participated and offered her insight.

From Nicole Faulds, Macomb Juvenile Division Administrator:

"The 16th Judicial Circuit Court - Juvenile Division, in Macomb, Michigan, has implemented several strategies over the last few years consistent with an evolution in the juvenile justice field. In 2015, our court implemented an evidence-based risk/needs assessment, which helped us reduce the number of youth ordered to detention and residential placement by allowing us to better understand which youth are truly a public safety risk. Our court has focused on using our resources to provide cost-effective community-based treatment programs for our families as opposed to removing youth from their home as a response to delinquent behavior. Probation Officers use a social work approach to working with youth and have participated in training in motivational interviewing and strength-based interventions. Our court has partnered with "Kids At Hope" and has embraced a culture where we believe that all kids can succeed, no exceptions.

The impact of Juvenile Court fines and fees is now at the forefront of the evolution in juvenile court practices. In 2020, the Court implemented a cap of \$50/day or \$10,000/year for costs associated with youth being placed in detention or residential treatment. Prior to that, families were assessed the full amount of the costs associated with those services.

Not long after the cap was implemented, we were approached by MCYJ to examine our collections practices. The Court chose to work on this project because we acknowledge that even with the cap, it is important to look at how collections impact the youth and families under court supervision and to assess if we are covering the true cost to collect. The process of examining our collections practices has not been easy at times, but it has been necessary to fully understand how they impact the families we serve."

Partnership with University of Michigan Law Clinic

MCYJ, NCYL and Macomb's Juvenile Division established a collaborative partnership with the University of Michigan Law School's Juvenile Justice Clinic ("JJ Clinic") at the start of the project. The JJ Clinic, led by Frank Vandervort and Kim Thomas, and aided by law students, began offering pro-bono services to families with large court debts who were referred by MCYJ.

These services included assisting with filing a motion for reconsideration of costs, preparing for hearings, and legal representation at hearings.



Family Interviews

MCYJ conducted interviews with twenty-one legal guardians and one youth to learn about their experiences with juvenile court debt. Quotes from the interviews will be used throughout this report. Of the court-involved youth in those families, 82% identified as male and 18% identified as female. Fifty-five percent identified as Black or bi-racial, 41% identified as white, and 4% identified as Chaldean. The age of youth ranged from 12 to 18 years, with the exception of two young adults who “aged out” of the system several years prior. All of the families interviewed by MCYJ had a youth with at least one stay in a residential facility,¹⁸ and at least one occasion of detention in the Macomb County Juvenile Justice Center (MCJJC).

Each family interviewed was charged with the following fees:

- MCJJC detention stays;
- Residential facility stays;
- Juvenile defense costs;
- GPS electronic monitors; and,
- Probation supervision costs; including for programming



Data Collection

The Macomb Juvenile Division and their Reimbursement Division provided data from 2015 – 2019 to MCYJ for analysis, including the gross amount collected each year, by category (court-appointed attorney, probation oversight, cost of care, etc.); the total amount assessed for each year (not broken down by category); the total amount of collections tied to each year (i.e. total collections from 2015 - 2019 that were for 2015 assessments); and, the estimated expenses allocated by the Reimbursement Division to assess and collect juvenile court debt.

In addition to the data provided by the Macomb court, MCYJ and NCYL analyzed State Court Administrative Office data on assessments and payments for individual cases. This data was initially transmitted to SCAO by Macomb County, and included 3,097 cases with disposition dates from 2017 to 2019.



Findings



Assessment and Collection Process

In Michigan, juvenile court assessments are divided into “required” and “discretionary” categories. Required assessments include restitution, Crime Victim Rights Assessment, Minimum State Cost, cost of care, a 20% late penalty on amounts owed excluding restitution and cost of care, and a DNA assessment for any youth adjudicated for a sex-related offense. Discretionary assessments include fines, court-appointed attorney fees, and cost of services for youth living at home. All assessments, with the exception of Crime Victim Rights Assessment, restitution, and Minimum State Cost, are waivable. Per SCAO guidelines, “waivable” means the court can either discharge the debt or order alternatives to payment.¹⁹

Reimbursement Division

The juvenile judge or referee determined the initial assessment of fines and fees in Macomb County, based on the recommendation of the court’s Reimbursement Division, which also handles notifications and collections. The Macomb Reimbursement Division was authorized to collect government benefits and child support payments “during the period in which a child is placed in care outside of the home by the Juvenile Division. Benefits include but are not limited to child support, Social Security, Supplemental Social Security, Veterans payments, Adoption Subsidies, and trust funds.”²⁰ They collected outstanding debt through one-time payments, payment plans, wage assignments, adoption subsidies, Social Security Income (when the child is the beneficiary), and by intercepting state income tax refunds.

The Reimbursement Division’s webpage also stated that “*Failure to pay Court ordered assessments, including reimbursement, in a timely manner may result in the issuance of an order to show cause why you should not be held in contempt of court, a bench warrant for your arrest, penalties pursuant to state law, a court ordered wage assignment, garnishment, and any other remedy allowed by law.*”²¹

The Reimbursement Division’s stated function is to “*assist the 16th Judicial Circuit Court Juvenile Division in reimbursement of court ordered assessments and the cost of care and service for youth in juvenile cases.*” Reimbursements were to be consistent with a family’s ability to pay, as “*determined by the assigned Referee or Judge based on financial information supplied by the responsible person(s). Failure to provide financial information may result in an order of full payment of the actual costs.*”²²



Ability to Pay Process

The Macomb Reimbursement Division requested that families submit financial information to determine if they were indigent, could pay immediately, or could be put on a payment plan. Families also submitted or resubmitted this information if their financial circumstances changed before a debt was fully paid.

The required financial information included:

- (a) Prior year Federal tax return or Social Security Summary Earnings Query (SEQY).
- (b) Three current paycheck stubs or proof of unemployment.
- (c) Insurance disability payments.
- (d) Statements of Social Security or other benefits.
- (e) Statements of assistance i.e. food stamps, ADC.
- (f) Application for Social Security Disability or Insurance.
- (g) Child support verification.
- (h) Notarized letter from person(s) providing over 50% of financial support.

Ability to pay was determined by comparing financial information against Federal Poverty Guidelines. These guidelines are extremely low and do not account for geographic differences or “cost of living.” The Macomb court did not offer a sliding fee scale. If a family’s income was above federal poverty guidelines by any amount, they were responsible for 100% of assessed costs. As an example, a Macomb family of four with an income of \$26,500 (\$300 over the poverty guidelines) was ineligible for a deferral or discharge, no matter the size of the debt.

2020 Federal Poverty Guidelines

Persons in Family/Household	Poverty Guideline
1	\$12,760
2	\$17,240
3	\$21,720
4	\$26,200
5	\$30,680
6	\$35,160
7	\$39,640
8	\$44,120

The Macomb County Reimbursement Division estimates that 60% of the families who provided their financial information were found to be indigent (with income below the Federal Poverty Guidelines) and given a deferral. Approximately 50% of families completed the Ability to Pay verification process. Indigent families that did not submit paperwork were expected to pay the entirety of accumulated fees. The Reimbursement Division estimates that of the families that had not completed the financial verification process, an additional 15-20% were indigent.



Enforcement Alternatives

SCAO created a procedure which describes "enforcement alternatives," including payment plans, community service, youth-oriented projects, earning a GED, etc. SCAO encourages courts to consider waiving the costs of care and implementing enforcement alternatives, however, it did not appear that Macomb County utilized the waiver process or enforcement alternatives.



Payment Plans

Most of the families interviewed did not understand they could request a payment plan. Of the twenty-two individuals interviewed, five made a request and were able to set up payment plans with the court; three fell behind on payments due to pandemic-related unemployment. Some families reported that payment plan amounts, based on their income and expenses (including rent, car payments, car insurance, health insurance, groceries and other essential necessities) far exceeded their ability to pay.

One parent worked out a payment plan for delinquency court fees and consistently made \$100 per week payments for six years -- a total of \$30,000 to date; it would take him another decade to pay off the full debt. Due to pandemic-related unemployment, he could no longer afford to make his weekly payments and was at risk for a state income tax refund intercept.

Deferrals

Families that provided financial information and were found to be indigent per Federal Poverty Guidelines were given a deferral. This meant that their debt still stayed in accounts receivable, but they were not expected to make payments during the deferral period. Deferrals were most commonly granted for two years; five years if the parent received SSI or other indicator of permanent disability; and nine months when a parent received unemployment.

Once the deferral period expired, the Reimbursement Division mailed out a notice asking families to provide updated financial information for a reassessment. If the family failed to respond, they resumed responsibility for paying the debt.

Most of the families interviewed, reported that they were unaware, or did not understand, that there was an option to request a deferral.

“Set-Aside” Discharges

In rare cases, debt was discretionarily “set aside” (permanently discharged) through a formal court procedure that had to be requested by the family. The Reimbursement Division procedures were limited to deferrals. Set-asides were left to judicial discretion. However, most families were unaware or did not understand they had this option. Macomb estimated that only 15% of families requested a formal hearing to set aside their debt.



“ I use my tax refund to catch up on bills every year; God forbid they ever took that, I’d be homeless again. ”

State Income Tax Intercepts and Wage Assignments

An estimated 33% of Macomb’s 2019 juvenile court collections came from state income tax intercepts. Families reported they could not pay and ignored bills from the court until their state income tax refunds were garnished, which, they reported, affected their ability to maintain a basic quality of life. One mother stated, *“I use my tax refund to catch up on bills every year; God forbid they ever took that, I’d be homeless again.”*

One parent has had her state tax refund intercepted for the past 10 years, with \$67,000 in remaining debt. Her son spent under a year in detention and placement over a decade ago.

The court also collected on debt through “voluntary” wage assignments. Unlike a traditional garnishment, a family member had to sign paperwork authorizing the court to deduct debt payments from their paychecks.

Many of the families interviewed reported that tax refund intercepts, wage assignments and direct payments led to repossession of vehicles, threats of eviction, and difficulty purchasing and retaining assets such as their homes.

Communication Barriers and Misunderstandings

At the time of disposition, some families were instructed to contact the Reimbursement Division to set up a payment plan. However, many families reported that this recommendation was unclear to them and came at a time of great stress. One parent stated:

“It would have been more appropriate for the lawyers or people doing their job to pick up on this (assessments), than for us who are traumatized.”

Another mother misunderstood the name “Reimbursement Division” to mean she would receive a “reimbursement” from the court.

Both the Reimbursement Division and the families have experienced communication barriers posed by extreme poverty. The court requested and kept contact information they received from families, including

mailing addresses, phone number(s) and/or email addresses. However, the court-involved families with the greatest need for debt relief are often the same families who experience housing instability, and/or cannot afford continuous cell-phone service, and/or may not have reliable access to the internet. Most of the families interviewed did not receive critical information sent to them by the courts because they



“It would have been more appropriate for the lawyers or people doing their job to pick up on this (assessments), than for us who are traumatized.”

had moved, changed their phone number and/or did not have the technical resources or proficiency to view emails.

Some families received their first bill several months after their child was placed in detention, others received it after their child’s case was settled. However, when the youth was initially detained, families did not understand they would have to pay for their child’s time in confinement. In most cases, by the time families had received a bill, they no longer had access to their court-appointed attorney and found it difficult to understand their options and/or navigate the system for payment plans or deferrals.

If a youth was to remain home at the time of disposition, the family was mailed an order stating they would be responsible for reimbursements ordered on the record, such as Crime Victim Rights Assessment and State Minimum Costs. Other reimbursement amounts, such as court-appointed attorney fees, were not known at the time of disposition. Families were mailed a separate order of reimbursement with a checklist of all fees that had accrued, and any future fees that could accrue as the case progressed.

Michigan Law requires that an order of disposition placing a young person in care outside of their own home must contain a provision for reimbursement for the cost of care or service.²⁴ *“After a disposition order is entered by a court, a separate order of reimbursement is prepared using the calculated net income, if the youth or parents have provided sufficient information, computing all or a portion of the costs for placement, services, and other fees, including attorney fees. While the issue of reimbursement must be addressed at the disposition hearing, the final amount of the reimbursement is often not set at that time.”*²⁵



After the first detention stay, the families interviewed received a bill from the Reimbursement Division. However, when the youth was initially detained, *families did not understand they would have to pay a per diem for detention costs.*

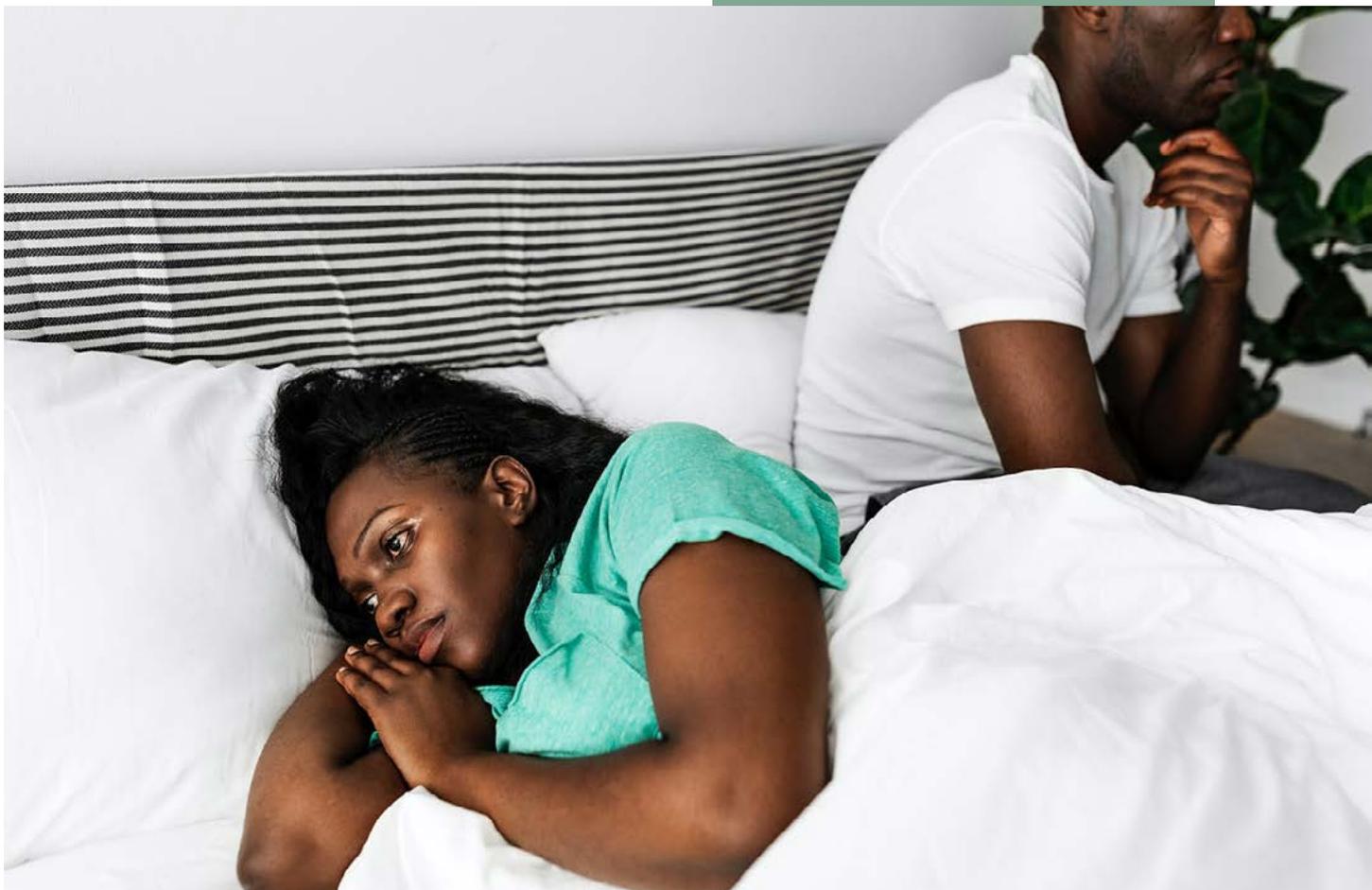
One parent reported that she was shocked to discover, via a notice to intercept her state tax refund, that she owes *over \$120,000 in fees* for her daughter's time in the juvenile justice system.

Only two of the families interviewed received an itemized bill; others families stated that they received bills providing only the owed amount, with no explanation of charges or breakdown of costs.

At the suggestion of the University of Michigan Juvenile Justice Clinic and MCYJ, Macomb County created an accessible Google form, featured on their website, to ease the process of filing the motion for reconsideration of costs. Law students reported that despite this, families still struggled to succeed with the process. However, with mentoring and encouragement from the JJ Clinic students, two families were granted discharges of their debt by the court, totaling over \$270,000.

Harms of Juvenile Court Debt

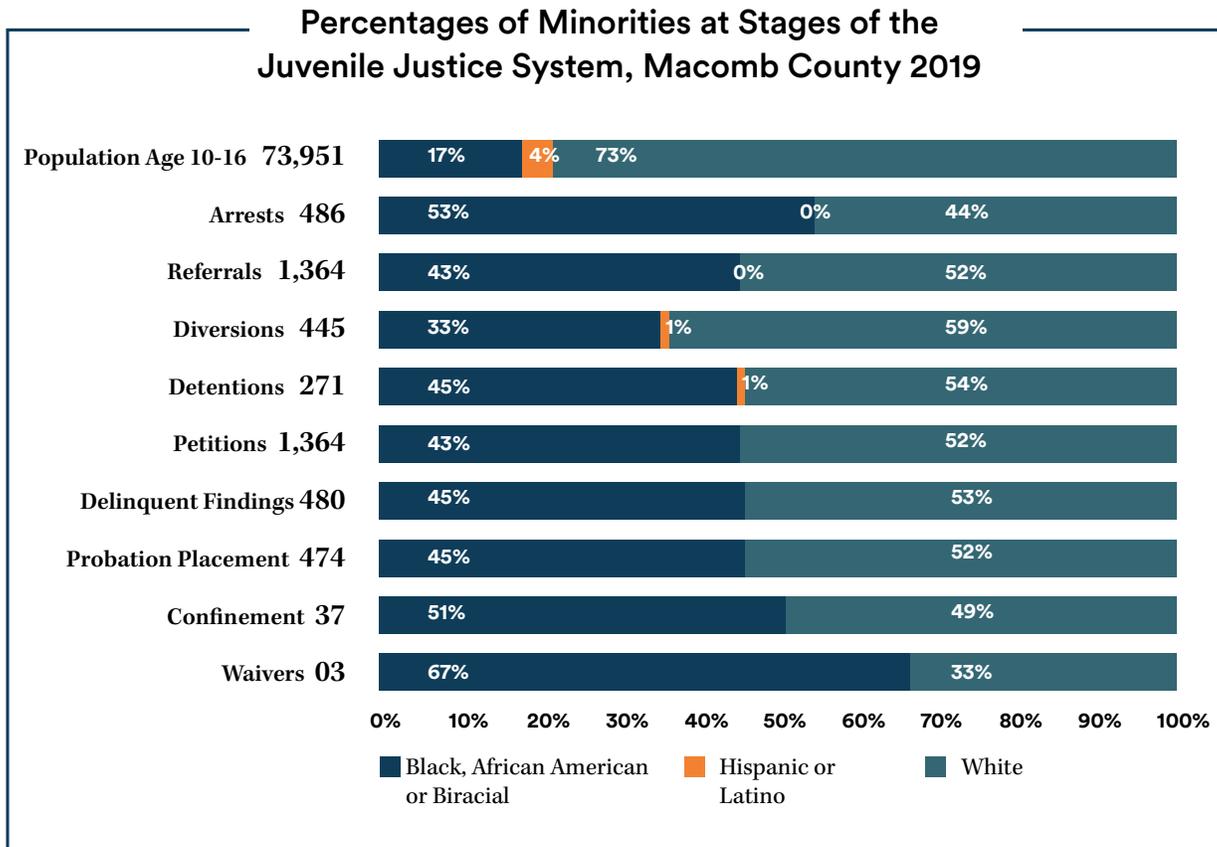
The driving factor behind the national movement to eliminate fees is broad recognition of the harm of juvenile court debt to youth and families. Harms include increased risk of recidivism;²⁶ racial and ethnic inequities in the youth justice system;²⁷ and financial and emotional hardships for the entire family.²⁸ These harms are not mitigated by any benefits from imposing fines and fees. Existing research and evidence collected through this project consistently found that fines and fees do not result in more accountability,²⁹ better family engagement,³⁰ positive outcomes for youth or families, or significant or stable revenue for the courts.³¹



Disproportionate Minority Contact (DMC) in Macomb County

For all Macomb County youth between the ages of ten and sixteen, 73% identify as white, 17% as Black, African American or biracial, and 4% as Latino, according to the Michigan Committee on Juvenile Justice (MCJJ).³²

Macomb County’s DMC data indicate that, like the State of Michigan overall, Black youth are overrepresented in every stage of their juvenile justice system.



In 2019, Black youth, who account for 17% of Macomb’s youth population, made up 53% of total arrests, 45% of all detention placements and 51% of all longer-term residential confinements. White youth were more likely to be placed on community probation (52%) or diverted from the courts (59%).

As a result of the overrepresentation of Black youth in detention and residential placements, and the high per diems for both, Black youth and their families were disproportionately impacted by outstanding court debt.

The High Cost of Care

Youth detention and residential facilities in Michigan appear to have no legal limits on the daily rates they charge, although such a cap exists for at least some adults in the county jails.³³

Juvenile residential facility charges range from approximately \$190 to \$315 per night. Additionally, Macomb County has charged up to \$170 per day for youth detained at the Macomb County Juvenile Justice Center. The majority of youth MCYJ interviewed were detained between two and six months in the MCJJC, cumulatively over the course of their court involvement. Post-disposition, they spent between nine to fourteen months for each stay in a residential facility, with 50% of the youth completing more than one stay. Families reported that prior to care in a residential facility, their children had multiple short-term stints in detention.

One mother referred to detention stays as a “\$2,000 time-out,” which she said did nothing to address the source of her child’s behaviors or mental health concerns. She stated, “*We are crying out for help with our kids. We don’t know what to do. And instead we’re being charged for reaching out for help.*”

The families interviewed by MCYJ

reported an average of **\$87,165** in court debt.



This average amount is based on reports from the families and reflected the last communication they received from Macomb County. Therefore, the amounts did not reflect a family's final bill, since many youth were still in custody at the time of our interviews.

The Pandemic's Impact

The COVID-19 pandemic exacerbated financial hardships for the families interviewed. Parents expressed hopelessness, frustration, and a general sense of anxiety about the amount they owed in fees.

One mother reported that virtual schooling, due to the pandemic, coupled with unaffordable childcare, left her unable to maintain consistent employment,

“We almost lost our home last month. I messed up on unemployment one time a couple months ago and that check never came in, and I was behind on bills and lot rent. That’s all it takes... one check. It’s taken me a month and a half to make up for it.”

Some states, including Louisiana, New Jersey and Oregon, have opted to suspend all assessments and collections of juvenile court fees, including tax intercepts, during the COVID-19 pandemic.



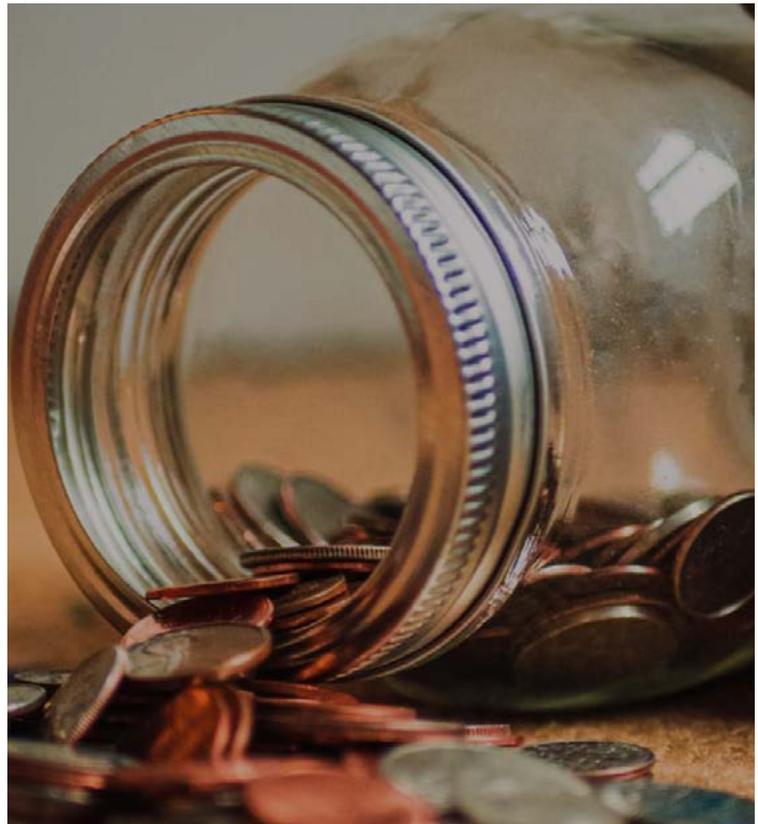
“ We almost lost our home last month. I messed up on unemployment one time a couple months ago and that check never came in, and I was behind on bills and lot rent. That’s all it takes... one check. It’s taken me a month and a half to make up for it. ”

A Legacy of Debt

Even though the majority of youth involved with the juvenile court are under supervision for less than two years, the debt they accrued could last for many years after supervision ends.

Some families proceeded with the false hope that the debt would be discharged once their child turned 18 or left the juvenile justice system. Unfortunately, in Michigan, court fees can follow a family even after their child has been released from supervision, and the court can legally pursue payments until the debt is paid in full.

One youth shared that he found it difficult to comprehend being charged “a quarter of a million dollars for being locked in a jail (detention) cell.” He was fearful that the financial burden imposed by the court would follow him for the rest of his life, based on what he learned from peers staying at his facility. He worried about the impact of the fees on his parents, who talked to him “all the time” about the burden of this debt. This young person shared that, while he is attempting to create a life for himself post-incarceration, he could not shake the feeling of being weighed down by the fees that could ultimately fall upon his shoulders.



All of the families interviewed stated they could not afford the juvenile court costs, and most reported they would not be able to pay off the debt in their lifetime.

Impact of Fines and Fees on Youth Rehabilitation

The juvenile justice system is designed to rehabilitate, rather than punish young people who get in trouble. The 16th Circuit Court – Juvenile Division has implemented many significant changes over the past 10 years in an effort to improve public safety and increase positive outcomes in the lives of the children and families they serve. David Joseph, Macomb’s Juvenile Program Director who oversees the probation officers, stated, *“Our juvenile court has moved away from a punitive, detention reliant, surveillance, and monitoring practices to a court that focuses on helping the child and their family address the behaviors that lead to the initial court engagement. Court staff are no longer simple enforcement officers, they are ‘change agents.’”*

Impact for Youth and Family Engagement

Probation Officers are the primary staff responsible for engaging youth and their families in services designed to prevent further offenses. They also have the most “face time” with the family, so they absorb most of the complaints about assessments. Officers explained the process for relief, but could not grant it themselves. They directed families to their attorneys and to the Reimbursement Division for assistance related to assessments and collections.

A discussion with Probation Supervisors found that the Probation Officers felt the negative impact of fines and fees on their relationship with the families they serve. *“Overall, probation staff view massive financial burdens created by fines and fees as a substantial obstacle to rapport building and securing full cooperative engagement with the child and family.”*

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Racial Injustice

Black families bore the brunt of the highest debt because their children are overrepresented in detention and residential placements. This impacted the willingness of some parents and youth to fully participate in rehabilitative services. Supervisors noted: *“The mistrust and resentment levels are nearly impossible to overcome when the family is convinced that the imposition of cost of care fees also has a racial motivation attached. It is extremely difficult for the probation officer to overcome this systemic mistrust when families of color point out disproportionate minority rates of out-of-home care.”*

Mistrust in Financial Motives

Families expressed mistrust in the system; they believed the county benefits financially from placing children in residential facilities. Supervisors stated: *“Families that are convinced the county has a financial incentive to impose costs are far less likely to cooperate with probation and other court staff... (and this) is further exacerbated when cost-of-care fees rise to unmanageable levels.”*



Less Likely to Ask for Help

Once families had an understanding of court costs they owed or could owe, they were less likely to ask for help or report negative behaviors early on, fearing that a probation violation could result in fees related to detention or residential placement. This had an impact on outcomes for troubled youth. Supervisors noted: *“When families get an idea of how fees play in... it drives families to not report behaviors because of a fear of future bills. The family is now using a calculator, which is the last thing that you want when you’re a change agent.”*

From a parent: *“The cost outweighs asking for help because it’s more stress than it is help. Sometimes it just feels like it’s all about money rather than actual help. Why would I talk to his probation officer? All it does is just add to my bill. It’s stressing me out; I feel trapped in a money hole.”*

Impact on Family Dynamics

Fines and fees created or exacerbated problems between children and their families. Some parents shouldered the financial burden alone, not wanting to add to the stress that their child was already experiencing. Supervisors stated: *“Children often confide in probation staff their feelings of tremendous guilt caused by creating such large financial burdens for the family.”* Other parents reminded their children of the financial burden they “caused,” which could weaken the parent-child relationship. A supervisor reported that some children *“express anger towards their parents for constantly reminding the child how their behavior has financially devastated the family.”*

Macomb County's Debt and Cost to Collect

Macomb County has pursued collections on all existing debt, as far back as the early 1990s. As of June 30, 2020, Macomb retained \$92,000,000 in outstanding debt from delinquency cases. They added approximately \$4,000,000 to this amount every year. The bulk of the outstanding debt, \$84,000,000, or 91% of the total, was solely for cost of care.

A few years ago, Macomb County put their outstanding debt up for bid with collection agencies. No agency was interested, due to the unlikelihood of collection and a negligible, if any, return on their investment.

Collection Rates

Per the “Family Division Outstanding Receivables by Cash Code Report - Summary, 2014-2020,” created by SCAO and provided by Macomb County, the collection rates on assessed debt, as of June 30, 2020 were as follows:

- 2020: 2.3%
- 2019: 5.8%
- 2018: 4.6%
- 2017: 4.7%
- 2016: 9.8%
- 2015: 10.9%

These numbers increased incrementally over time, as collections received are applied to the original year in which the debt was assessed. Over a five year period, from 2015 - 2019, the average collection rate was 7.2%

To use a typical year as an example, in 2019, the collection rates on fees assessed in the same year were as follows:

Net Assessed:

\$3,839,122.33

Collections as of 6/30/20:

\$224,584.28

Outstanding Receivables as of 6/30/20:

\$3,614,538.05

Collection Rate as of 6/30/20:

5.8%

Cost to Collect

The Reimbursement Division budgeted \$691,580 in 2021 for eight full-time staff to collect on both delinquency and neglect/abuse cases. The Division estimates that staff spent 60% of their time and budget on delinquency cases; i.e. of the \$691,580 total budget, they spent approximately \$415,000 to collect on juvenile court debt.

In 2019, the Reimbursement Division collected a total of \$876,981, which included payments for all current and past assessments. After reconciliations with the State of Michigan, and subtracting the cost to collect, Macomb County retained \$140,920. This reflected the “net” amount collected in 2019, against the total outstanding debt.

This net amount was likely to be reduced even further over time. The current trend showed an almost \$2,000,000 decrease in assessments from 2015 - 2019. The vast majority of the collections (91%) were for cost of care. Juvenile confinement has been, and will continue, decreasing over time as the Macomb court advances best practices that will keep more youth at home.

In addition, Macomb had recently instituted caps on assessments at \$50 per day and \$10,000 per year, in an attempt to improve collection rates. The decision preceded Macomb County’s engagement in this project and its subsequent analysis of the number of court-involved families living in poverty, for whom the capped amounts were still prohibitive.

Each staff generated less than \$30,000 per year on average for delinquency cases. This amount would have continued to go down over time and was weighed against the impact of millions of dollars in assessed debt on Macomb families.



Conclusion and Recommendations



The objective of the Michigan Juvenile Justice Fines and Fees Initiative in Macomb County was to develop an innovation site that could set precedent for statewide juvenile debt reform, with the ultimate goal of eliminating all discretionary and waivable fees.

MCYJ and NCYL invited the 16th Judicial Circuit Court - Juvenile Division to engage in this project because of their history of improving public safety and increasing positive outcomes in the lives of the children and families they serve. They entered into the project with openness and a curiosity to learn more about all of the impacts of assessing and collecting juvenile court debt on families, and for the court.

The project commenced with a series of interviews with impacted youth and families, followed by regular meetings with the Juvenile Division Administrator, the Chief Referee and the Juvenile Program Director. Data provided by the State Court Administrator's Office (SCAO) and the Macomb Reimbursement Division were collected and analyzed to determine the extent to which Macomb's juvenile court assesses fines and fees; how indigency is determined; the Reimbursement Division's collection methods and successes; and the net revenue generated.

**As a result of our collaboration,
the project partners learned that:**

- Almost 70% of the families with youth in the Macomb Court had incomes under the Federal Poverty Guidelines. Several of the families interviewed by MCYJ were facing homelessness, as a result of wage assignments and state tax intercepts they believed would last a lifetime.
- Probation supervisors were convinced that the imposition of fines and fees hindered, rather than helped them do their job. They believed that charging families for supervision, treatment and confinement created a barrier to building trust with youth and their families and reduced engagement in treatment.
- Assessing and collecting juvenile court fines and fees has now been shown to have negative impacts, including an increased risk of recidivism,³⁴ racial and ethnic inequities³⁵; and financial and emotional hardships for the entire family.³⁶
- The court expended significant staff resources to collect a negligible amount of revenue that had been decreasing over time, and there was no reason to believe that trend would change.



**On May 4, 2021,
the Honorable James M. Biernat adopted all of the following
recommendations for Macomb County:**

01 Immediately eliminate the assessment and collection of all discretionary and waivable fines and fees in Macomb County delinquency cases.

02 Permanently discharge all outstanding debt and notify families/individuals that their debt has been discharged, using every means of communication available to the court.

03 Continue to reduce the number of youth held in expensive detention and residential placements - in alignment with national best practices.

**The Michigan Center for Youth Justice also recommends
that the State of Michigan:**

01 Eliminate the assessment and collection of all fines and fees for delinquency cases through new legislation.

Endnotes

1. Atasi Uppal, “The High Cost of “Justice”: A Snapshot of Juvenile Court Fines and Fees in Michigan,” National Center for Youth Law, (2020), <https://youthlaw.org/wp-content/uploads/2020/08/2020.08.13-MI-Fines-Fees-1.pdf>.
2. Ibid.
3. Jessica Feirman, Naomi Goldstein, Emily Haney-Caron, and Jaymes Fiarfax Columbo, “Debtors’ Prison for Kids? The High Cost of Fines and Fees in the Juvenile Justice System,” Juvenile Law Center, (2016), <http://debtorsprison.jlc.org/documents/jlc-debtors-prison.pdf>.
4. Sarah Hockenberry, and Charles Puzzanchera, “Juvenile Court Statistics 2018,” National Center for Juvenile Justice, (2020), <https://ojjdp.ojp.gov/sites/g/files/xyckuh176/files/media/document/juvenile-court-statistics-2018.pdf>.
5. “Report on the Economic Well-Being of U.S. Households in 2018,” Federal Reserve, (May 2019), <https://www.federalreserve.gov/publications/files/2018-report-economic-well-being-us-households-201905.pdf>.
6. An act to amend Section 27757 of the Government Code, to amend Sections 1203.016, 1203.1ab, and 1208.2 of the Penal Code, and to amend Sections 207.2, 332, 634, 652.5, 654, 654.6, 656, 659, 700, 729.9, 729.10, 871, 900, 902, 903, 903.1, 903.2, 903.25, 903.4, 903.45, 903.5, and 904 of, and to repeal Section 903.15 of, the Welfare and Institutions Code, relating to juveniles, (2017), https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180SB190.
7. Juvenile Proceedings - Fines, Fees, and Costs, Article II, Section 17(c) of the Maryland Constitution - Chapter 35 (2020), <https://legiscan.com/MD/text/HB36/2020>.
8. Revises provisions relating to juvenile justice, (2019), <https://legiscan.com/NV/text/AB439/2019>.
9. Concerns juvenile incarceration and parole., Section 2 of P.L.1982, c.77 (C.2A:4A-21), (2020), <https://legiscan.com/NJ/text/S48/2018>.
10. Relative to adoption and parentage; the office of the child advocate; reimbursement of court ordered services for juveniles; the legal representation of children in the juvenile justice system; the best interest of the child under RSA 169-C and the duties of the oversight commission on children's services; insurance coverage for children's early intervention services; expanding the family-centered early supports and services (FCESS) program to children under the age of 3 who are born substance-exposed; the child abuse and neglect central registry; establishing a kinship navigator program; missing children; dispositional hearings under RSA 169-B; and the rebuttable presumption of harm under the child protection act., (2020), <https://legiscan.com/NH/text/HB1162/id/2072535>.
11. Supra note 4.
12. Supra note 5.
13. Supra note 6.
14. Ibid.
15. “Michigan Racial and Ethnic Disparities Data, Macomb,” Michigan Committee on Juvenile Justice, <https://michigancommitteeonjuvenilejustice.com/michigan-data/socio-demographic-data.html>.
16. “The ALICE Project,” Michigan Association of United Ways, <https://www.uwmich.org/alice>.

Endnotes

17. Analysis of Michigan State Court Administrative Office Data by National Center for Youth Law.

18. Residential facility refers to government or non-profit facilities intended to house and provide services to delinquent youth. Examples include Bridges Academy, Wolverine Human Services, Spectrum Juvenile Justice Services, Starr Albion Prep, and MDHHS facilities like Bay Pines Center and Shawono Center.

19. Ibid.

20. Reimbursement Division, “Juvenile Benefits,” 16th Judicial Circuit Court Juvenile Division, <http://www.macombgov.org/sites/default/files/content/government/circuitcourt/pdfs/Reimbursement%20Division.pdf>.

21. Ibid. at Failure to Pay.

22. Ibid. at Function.

23. “Tools and Guidance for Determining an Obligor’s Ability to Pay,” Michigan State Court Administrative Office, (2105), <https://courts.michigan.gov/Administration/SCAO/Resources/Documents/Publications/Reports/AbilityToPay.pdf>.

24. MCL § 712A.18(2)

25. “Overdue for Justice: An Assessment of Access to and Quality of Juvenile Defense Counsel in Michigan,” National Juvenile Defender Center, (2020), <https://njdc.info/wp-content/uploads/Michigan-Assessment-Web.pdf>.

26. Supra note 1.

27. Josh Rovner, “Racial Disparities in Youth Incarceration Persist,” Sentencing Project, 2021, <https://www.sentencingproject.org/publications/racial-disparities-in-youth-incarceration-persist/>.

28. Supra note 9.

29. Ibid.

30. Ibid.

31. Supra note 22.

32. Supra note 22.

33. MCL § 801.83(1)(a).

34. Supra note 1.

35. Josh Rovner, “Racial Disparities in Youth Incarceration Persist,” Sentencing Project, 2021, <https://www.sentencingproject.org/publications/racial-disparities-in-youth-incarceration-persist/>.

36. Supra note 9.