

Debt Free Justice for Court-Involved Youth and Their Families

A Do It Yourself Guidebook for Michigan Juvenile Courts



Introduction

This guide can provide your court with the information to conduct a 360 analysis of the assessment and collection of juvenile court debt, resulting in a more complete understanding of the total cost and impact of your practices.

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 ineffective², exacerbate poverty for indigent families,³ and disproportionately impact families of color.⁴ The harms of juvenile debt 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,⁵ better family engagement,⁶ positive outcomes for youth or families, or significant or stable revenue for the courts.⁷

Five states have already taken bold legislative action to abolish juvenile court fees, including California,⁸ Maryland,⁹ Nevada,¹⁰ New Jersey,¹¹ and New Hampshire.¹² Recently, 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, Macomb County recently eliminated discretionary and waivable fees and ceased collection efforts on previously assessed debt.

The Macomb Collaboration

During the three years 2017 - 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 that 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, 2015 - 2019, their average collection rate was only 7.2%.

The 16th Judicial Circuit Court - Juvenile Division in Macomb County collaborated with the Michigan Center for Youth Justice (MCYJ) to eliminate/alleviate the burden of discretionary fees and cost of care levied and collected by the juvenile court on justice-involved youth and families in Macomb County, and set precedent for statewide juvenile debt reform.

As a result of a collaborative assessment, which found significant harm to families, a negative impact on supervising officers, and a negligible amount of net revenue generated, on May 4, 2021, the Honorable James M. Biernat adopted all of the following recommendations for Macomb County:

- 1 Immediately eliminate the assessment and collection of all discretionary and waivable fines and fees in Macomb County delinquency cases.**
- 2 Permanently discharge all outstanding debt and notify families/individuals that their debt has been discharged, using every means of communication available to the court.**
- 3 Continue to reduce the number of youth held in expensive detention and residential placements — in alignment with national best practices.**

Why a Do It Yourself (DIY) Guidebook?

Since the public announcement of the new policies in Macomb County, several other juvenile courts have expressed a desire to replicate the project. This Do it Yourself Guidebook was created to help interested courts analyze the multiple impacts of assessing and collecting discretionary and waivable juvenile court debt. These impacts will be broken down into three categories for analysis:

1 Families and youth

2 Probation Officers

3 Court finances

The results of your DIY project may also help inform a clear rationale for reliable state funding of trial courts, instead of relying on the vagaries of debt assessment and collection from some of the state's poorest families. The current trial court funding reform effort could use both new momentum and some focused attention on the juvenile courts.

If you need more help?

The Michigan Center for Youth Justice has some capacity to provide brief technical assistance and support throughout your court's assessment and analysis. Please contact Mary King at maryking.mcyj@gmail.com if you would like more information about MCYJ's availability.

The Process

Completing a robust analysis will help your court make an informed decision about how to proceed regarding the assessment and collection of discretionary and waivable juvenile court debt. MCYJ recommends the following four-step process to ensure you are gathering all of the salient information needed for a 360-degree review of the current policies, practices and results, both intended and unintended.



01 Establish a Project Leadership Team

An impact analysis begins with the creation of a Project Leadership Team. The team should include the Juvenile Court Administrator and/or Deputy Administrator, the Chief Probation Officer, and a juvenile court judge or referee. They will participate in regular meetings and draft a final recommendation for the Chief Judge to approve. To do this, team members will need regular information from the person in charge of implementing assessments and collections and the subsequent record-keeping.

The Project Leadership Team should be responsible for:

- 1** Ensuring the project is staffed and coordinated, including scheduling regular meetings, creating agendas, facilitating meetings and minute-taking.
- 2** Ensuring impacted families and probation officers are interviewed.
- 3** Collecting, reviewing and analyzing critical data about assessments, collections and costs to collect.
 - Coordinating with the State Court Administrative Office (SCAO) for any additional data reports needed on assessments and payments for individual cases.
- 4** Making final recommendations to the Chief Judge based on the results of interviews and data/cost analysis.

02 Interview Impacted families

It is critical to begin an analysis of juvenile debt assessment and collection by centering the work on the impacts of juvenile debt on the most impacted families. In order to provide a comprehensive analysis of the practice, a court needs to look at any harms and compare them against any benefits of continuing the practice.

Identify a minimum of 10 families with a youth who spent time in detention and residential placement(s) to interview. *See Appendix A for proposed interview questions.*

MCYJ recommends having a third party conduct the interviews as the families will be more likely to share openly. MCYJ is offering a limited number of \$2,250 mini-grants to courts, to cover the cost of interviewing 10 impacted families. The grant includes \$100 stipends for each family interviewed (\$1,000) and funding for an interviewer (\$50/hr x 2.5 hours per family = \$1,250 to contact families, conduct interviews and type up notes from interviews to be submitted to the Project Leadership Team).

MCYJ has an experienced interviewer to recommend, or the courts may select their own third-party vendor.

02 Interview Impacted families

The interviewer should provide a summary to the Project Leadership Team that includes the following information for consideration and further discussion by the team:

- 1 What was the average debt assessed for the families interviewed?**
- 2 What has been the financial impact of juvenile court debt on the families?**
- 3 How long did families report it would take them to pay off the debt?**

Did they understand that the debt would not be discharged when their child was released from the court or turned 18?

- 4 How many of the families:**

Are on a court-determined payment plan?

Make regular payments on their own?

Have payments voluntarily deducted (or garnished) from their wages or other sources of income?

Have their state income tax refunds captured?

02 Interview Impacted families

5 Has the debt impacted the families' willingness to engage with:

The courts?

Probation officers?

Treatment providers?

6 How long did families report it would take them to pay off the debt?

03 Interview Probation Officers

Many courts believe that the assessment and collection of fines and fees will result in more accountability by the youth and families they serve. Research has found that, instead, juvenile court debt can undermine the rehabilitative purpose of the juvenile justice system, especially for youth living in poverty.

Since probation officers play a pivotal role in the rehabilitative process, it is critical that their input be considered in any evaluation of the impact of juvenile court debt on youth and families. MCYJ recommends that the interviewer be someone with whom the officers will feel comfortable being candid about their perceptions and experiences.

See Appendix B for proposed interview questions.

03 Interview Probation Officers

The interviewer should provide a summary to the Project Leadership Team that includes the following information for consideration and further discussion by the team:

1 What, if any, impacts did officers report were tied to the assessment and collection of juvenile court debt related to:

Youth and family trust in the court?

Youth and family engagement in court-ordered treatment services?

Family beliefs that the county benefits financially from placing children in residential facilities?

Family beliefs that the imposition of cost-of-care fees has a racial motivation attached?

Creating or exacerbating problems between children and their families?

Youth and family asking for help?

Family reporting of violations or risky behaviors?

04 Gather Data and Analyze Collections

It is important to analyze the net revenue generated by juvenile debt assessment and collections. That means factoring in the actual amount your court keeps 1) after reconciliation with the Child Care Fund and, 2) after accounting for the total cost to collect. There are also other data points that courts should consider in a 360 analysis, including if there is a disproportionate impact on youth and families of color, the length of time families can be kept in debt to the court, the amount of debt the court continues to hold, and the percent collected versus the assessed amount, especially for discretionary and waivable fines and fees.

04 Gather Data and Analyze Collections

To get a total picture, please complete the following steps:

1 Determine if your county is charging a disproportionate amount of juvenile debt to youth of color.

If you are not gathering race/ethnicity data for youth who are being assessed debt, you can review the Racial and Ethnic Disparities Data for your county using the Michigan Commission on Juvenile Justice website.

- a. Select your county
- b. Open the "Stacked 100" tab

What is the percentage of Black and Hispanic youth (Population) in your county?

Because cost-of-care reimbursements typically represent the largest amount of outstanding debt, determine the percentage of youth of color in detention and confinement compared to their representation in your county's population.

What is the percentage of Black and Hispanic youth in detention?

What is the percentage of Black and Hispanic youth in residential placement?

04 Gather Data and Analyze Collections

2 Determine the total amount of outstanding debt as of today.

What percentage is for cost-of-care?

How much more outstanding debt is added each year, on average?

3 Determine the gross amount assessed each year, for the past five complete years of data (i.e. 2015 through 2019 or 2016 - 2020), by category (court-appointed attorney, probation oversight, cost of care, etc.). This will allow you to see how much of the assessed debt is for discretionary and waivable fines and fees.

What percentage is for cost-of-care?

4 Determine the gross amount collected each year, for the past five years, tied to the assessment year (e.g., total collections from 2015 through 2019 that were for 2015 assessments); then determine the percentage collected by year.

*Example: Total assessed for 2015: \$300,000
Collections for 2015 as of 6/30/20: \$50,000
Collection rate as of 6/30/20: 16.7%*

What is the gross amount collected by year?

04 Gather Data and Analyze Collections

5 Estimate the expenses your court allocates to assess and collect juvenile court debt.

Be sure and include:

Any designated staff and their entire cost-to-employ (benefits, office space, utilities, etc.).

Staff who also collect for child welfare reimbursements. Estimate the percent of their time spent on delinquency collections. Use that same percent on their total cost-to-employ to determine their cost for delinquency collections.

Court staff (judges, referees, etc.) and probation officers to account for their time spent on anything related to delinquency assessing or collecting. Estimate the percent of their time spent on these tasks. Use that same percent on their total cost-to-employ to determine their cost for delinquency assessments and collections.

What is the total cost for any designated staff plus the partial cost for all other staff who spend any part of their time on delinquency assessments and collections?

6 Determine the percentage of collections that your county keeps after reconciling with the Child Care Fund. As an example, Macomb County kept 63% of their collections.

What is the percentage that your county keeps?

04 Gather Data and Analyze Collections

- 7 Finally, take the gross amount collected for each of the past five years, multiply each year by the percentage your county keeps after CCF reconciliation and subtract the annual staff costs to collect. That will show the court's net amount.

What is your county's net amount?

⇒ What's Next?



Review the results

Now that you have interviewed families to hear directly about the impact that juvenile court debt has on the youth and families you serve, interviewed your probation officers to hear about any impacts on rapport-building and engagement in treatment/services, and determined the net revenue you are collecting and the outstanding debt that remains each year, your court will likely have some decisions to make. It is MCYJ's hope that as a result of this 360 analysis, your Project Leadership Team will have a compelling case to recommend 1) the immediate elimination of the assessment and collection of all discretionary and waivable fines and fees in delinquency cases, 2) permanently discharging all outstanding debt and, 3) notifying families/individuals that their debt has been discharged, using every means of communication available to the court.

Note: *Some courts have responded to the harms of assessments and collections by lowering the amounts assessed. If the fiscal analysis completed as part of this project shows a negligible net return, lowering amounts may put the court in a deficit position, while continuing the identified harms.*

Eliminating Assessment and Collection of Discretionary and Waivable Debt

Courts can eliminate the assessment and collection of all discretionary and waivable debt within the current Michigan State Court Administrative Office (SCAO) guidelines, including costs for detention and residential placements. Discretionary fees include fines, court-appointed attorney fees, costs for probation supervision, electronic tethering and counseling/treatment services. 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 payment¹³

If your court decides to eliminate the assessment and collection of all discretionary and waivable fines and fees in delinquency cases and permanently discharge all outstanding debt, here are the next steps:

- 1 Formally document the decision in accordance with court practice around similar court-wide changes. This will ensure that all people involved with the assessment and collection of fines and fees have a shared understanding of how practice will change. The following types of formal documentation could be used individually or in tandem:**
 - a. *Issue a new local court rule or court order describing the new practice.***
 - b. *Circulate a court-wide memo detailing the new practice and its effective date, the timeline and process for retroactive fees and fines elimination, and any guidance on how judicial officers, probation officers, and reimbursement division staff may need to change their procedures, including but not limited to making changes to standard forms.***

Eliminating Assessment and Collection of Discretionary and Waivable Debt

- c. *Train court stakeholders on how to operationalize the new practice.*

2 Communicate the new practice with court-involved families and the public.

- a. *Publish notification of the new practice, along with related guidance, on the circuit court website.*
- b. *Send a notification letter to all families with open cases and families whose past fees and fines will be eliminated.*
- c. *Notify MCYJ so they can also formally recognize your decision.*

Note: Please see the linked appendices to inform formal court documentation and communication with families.

[NCJFCJ resolution](#)

[Orleans Parish chief judge's order](#)

[Sample letter to families](#)

Conclusion

Thank you for reviewing this DIY guide. We encourage your court to engage in an assessment of the full impact of juvenile court debt and calculate the “real” net revenue it generates. As a reminder, the Michigan Center for Youth Justice can provide:

Brief technical assistance and support throughout your court’s assessment and analysis;

A limited number of \$2,250 mini-grants to cover the cost of interviewing 10 impacted families; and,

An experienced interviewer to recommend.

Please contact Mary King at maryking.mcyj@gmail.com if you have questions or would like more information about MCYJ’s availability.

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 Fairfax 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 Puzanchera, “Juvenile Court Statistics 2018,” National Center for Juvenile Justice (2020), <https://ojdp.ojp.gov/sites/g/files/xyckuh176/files/media/document/juvenile-court-statistics-2018.pdf>.
5. Ibid.
6. Ibid.
7. Supra note 22.
8. 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.
9. 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>.
10. Revises provisions relating to juvenile justice (2019), <https://legiscan.com/NV/text/AB439/2019>.
11. 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>.
12. 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>.
13. 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.

Appendix A

Interview Questions for Families*

Contact Information

Name:

Youth:

Address:

Phone Number:

Email:

Best Method of Contact:

Discussion Questions

1. Can you share a bit about your child's experience with the justice system (i.e. what led to involvement and subsequent supervision, detention and/or residential placement)?
2. What did the court and/or your probation officer ask your child to do as part of the case/cases? For example, counseling, classes like anger management, community service, or wearing an ankle monitor?
3. During what months and years was the child involved with the juvenile justice system (approximate information is okay)?
4. How many months/years total was the child involved with the system?

Demographic Information

1. If you are comfortable sharing, how do you and your child identify in terms of race/ethnicity and gender?
2. How old is your child?
3. How old was your child when they first got involved with the juvenile court?

Juvenile Justice Fees & Ability to Pay

1. Were you aware that there would be costs associated with juvenile court involvement at the first time of involvement?
 - a. When did you find out that you owed money to the court?
 - b. How did you find out?

Appendix A

Interview Questions for Families*

Juvenile Justice Fees & Ability to Pay (cont.)

2. Have you ever been charged money for any of the following things? (Check all that happened)
 - Probation supervision
 - Ankle or other GPS monitor
 - Testing (Drug, DNA, etc.)
 - Counseling
 - Cost of detention or other residential placement
 - Diversion program or cost of community service
 - Payment to victim (restitution)
 - Lawyer costs (circle whether private attorney or court-appointed)
 - Anything else? _____
3. As of today, how much is the total that has been assessed by the court? (you can estimate)
4. Could you estimate how much money you have already been able to pay to the juvenile court of the [insert amount] you estimate you owe?
5. Has your family been able to afford these costs?
6. Are you allowed to pay a little at a time, versus paying everything at once?
7. Are you on a monthly payment plan? If so, what is the monthly amount that you are supposed to pay?
8. What do you think will happen if you can't pay? Why do you think that?
9. If you are unable to make payments, have you had any of the following experiences: has your state income tax refund been intercepted, wages garnished, or any other benefits been affected?

* Prepared by the National Center for Youth Law and the Michigan Center for Youth Justice.

Appendix A

Interview Questions for Families*

* Prepared by the National Center for Youth Law and the Michigan Center for Youth Justice.

Appendix A

Interview Questions for Families*



* Prepared by the National Center for Youth Law and the Michigan Center for Youth Justice.

Appendix B

Interview Questions for Juvenile Court Probation Officers

Contact Information

Name:

Position Title:

of Years in Position:

What, if any, impacts did officers report were tied to the assessment and collection of juvenile court debt related to:

1. Rapport-building with the officer?
2. Youth and family trust in the court?
3. Youth and family engagement in court-ordered treatment services?
4. Family beliefs that the county benefits financially from placing children in residential facilities?
5. Family beliefs that the imposition of cost-of-care fees has a racial motivation attached?
6. Creating or exacerbating problems between children and their families?
7. Youth and family asking for help?
8. Family reporting of violations or risky behaviors?