



COLORADO JUVENILE DEFENDER CENTER
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Memorandum

To: Colorado State Senator Pete Lee; Colorado State Representative Leslie Herod
From: Ann Roan, Colorado Juvenile Defender Center
Re: Updated Estimate: Fiscal Impact of Abolishing Juvenile Administrative Fees in Colorado
Date: February 18, 2020

Summary

This memo, prepared by the Colorado Juvenile Defender Center in consultation with the Colorado Office of the Alternate Defense Counsel and the UC Berkeley School of Law Policy Advocacy Clinic, addresses questions about the fiscal impact of abolishing juvenile administrative fees in Colorado.

We base our estimates on publicly available data and responses to Public Access to Information and Records Rule 2 (PAIRR 2) requests from the State Judicial Branch. The State Judicial Branch provided two different sets of data on the amount of juvenile fees collected annually. We therefore provide a range for the estimated net fiscal impact.

- **We estimate the fiscal impact of eliminating juvenile fees is a potential net revenue loss statewide of approximately \$125,000 to \$147,000 per year.**
- **We estimate that the state spends at least 75 cents for every \$1.00 it collects in juvenile fees.**
- **Potential revenue losses will mostly affect state cash funds and local victim's funds.**
- **Any lost fee revenue will reduce the state's mandated TABOR refund, thereby increasing the General Fund by an identical amount.**

Background

Colorado law currently authorizes courts to charge juvenile administrative fees to youth and/or their parents. Fees do not serve punitive or rehabilitative purposes, nor do they serve as compensation for victims. Rather, they are intended solely to raise government revenue.

Research shows that juvenile fees undermine rehabilitation by imposing financial and emotional harm on families (especially low-income families and families of color), hurt public safety by increasing recidivism, and are costly to administer.¹ Abolishing juvenile fees would therefore advance the rehabilitative and public safety goals of the juvenile delinquency system with little or no net loss in government revenue.

This memo estimates the net fiscal impact on state revenues of abolishing juvenile administrative fees and describes what fee revenues fund.

I. What is the net fiscal impact on state revenues of eliminating juvenile administrative fees?

From records provided by the Colorado State Judicial branch, we estimate that eliminating juvenile administrative fees will result in a gross revenue loss of between \$555,910 to \$577,956 per year in juvenile fees. From publicly available data, we estimate the annual cost savings from eliminating juvenile administrative fees to be at least \$430,312. We therefore estimate the net fiscal impact of abolishing juvenile fees is a loss of between \$125,598 and \$147,644 per year. In other words, the state spends at least \$0.75 to \$0.77 for every \$1.00 it collects in juvenile fees. This estimate is described in more detail below.

I.1. Fee revenue (potential losses)

The Colorado State Judicial Branch reports two different sets of numbers for the amount of juvenile fee revenue collected annually from 2014-2019. Depending on which sets of data we use, we estimate that the department collects between \$555,910 to \$577,956 per year in juvenile fees. (Table 1).²

Table 1: Estimated Annual Juvenile Fees Collected Statewide (CY 2014-2018)

Year	Amount collected (low)	Amount collected (high)
2014	\$ 668,295	\$715,420
2015	\$ 640,655	\$659,970
2016	\$ 568,190	\$647,318
2017	\$ 506,269	\$543,700
2018	\$ 396,139	\$496,793
Average	\$ 555,910	\$577,956

The collection of fees assessed in recent years is ongoing.³ However, based on declining youth crime, increased diversion, and falling delinquency caseloads,⁴ the state may expect to collect less revenue in future years.

I.2. Fee costs (potential savings)

Collecting juvenile fees also imposes costs on the state. We estimate that elimination of juvenile fees will result in a total of at least \$430,312 in direct cost savings. Although we do not monetize them, we also describe indirect but tangible cost savings associated with eliminating juvenile fees, including reduced probation and recidivism costs and keeping money in the pockets of low-income families.

I.2.1. Collection costs

The Judicial Branch did not provide records on the costs associated with collecting juvenile fee accounts.⁵ However, using publicly available information and assuming that Collections Investigators across the court system spend a modest five percent of their time on juvenile fee collection, we estimate that it costs the state \$430,312 per year to collect juvenile fees (Table 2).

Table 2: Estimated Annual Costs of Collecting Juvenile Fees (FY 2017)

Collections Investigator wages and benefits, FY17	\$8,031,324
Operating costs	\$574,910
Total collection costs	\$8,606,234
Percentage time spent collecting juvenile fees	5%
Total cost of collecting juvenile fees	\$430,312

The costs of collection include personnel and non-personnel items. The Judicial Branch reports in its FY20 Budget Request that the total wages and benefits for the 101.7 full-time Collections employees (FTEs) employed in FY17 was \$8,031,324.⁶ We do not have information from the Judicial Branch on operating or overhead costs associated with collecting juvenile fees. However, in 2019, Legislative Council Staff estimated standard operating costs of \$950 and capital outlay costs of \$4,703 per new judicial support staff FTE (total of \$5,653), which we use as a conservative estimate of the non-personnel costs per FTE for Collections employees.⁷

There are additional costs associated with administering juvenile fees. These costs would include tracking and maintaining fee and payment records, and holding ability to pay hearings (including the cost of increased judicial caseloads and legal representation).

1.2.2. Costs of extended probation and recidivism

Juvenile fees impose indirect but tangible costs in the form of extended probation supervision, and recidivism. Colorado law requires payment of juvenile administrative fees as an ongoing condition of probation.⁸ In addition, monetary obligations in the juvenile delinquency system are associated with increased recidivism among youth.⁹

Extended probation: If young people fail to pay fees while on juvenile probation, their probation may be extended. According to Judicial Branch data, fees are assessed in several thousand cases each year, and the collection rate averages 52 percent.¹⁰ Legislative Council Staff estimate that the average cost for probation supervision is \$2,330 per year per youth for regular supervision, and \$3,463 per year per youth for intensive supervision.¹¹ Additionally, youth are appointed counsel for probation revocation petitions. For representation alone, Legislative Council Staff estimate that the cost to the State Public Defender of providing indigent defense averages \$336 for a misdemeanor case and \$833 for a felony case, and the Alternate Defense Counsel reports that the cost of providing indigent defense for youth averages \$931 per case.¹²

System costs could be substantial if even small numbers of youth have their probation extended as a result of non-payment of administrative fees. Meanwhile, young people on probation may lose eligibility for certain schools, and lose opportunities to work, volunteer, and participate in extracurricular activities – all with long-term negative consequences for a young person’s future.

Recidivism: The costs of recidivism—in addition to the harm to youth, victims, and society—include the costs of increasing the caseloads of judges, probation officers, and public defenders. Recidivism rates for technical probation violations, including failure to pay fees and costs, are

currently at 50-60 percent in Colorado.¹³ A recent study found that, in jurisdictions that collect a greater share of their revenue from fees, law enforcement agencies solve violent and property crimes at significantly lower rates.¹⁴

We do not yet have sufficient data about the frequency and duration of extended probation and recidivism as a result of juvenile administrative fees to estimate these costs with precision. However, fee abolition would eliminate such costs.

1.2.3. Other costs

Imposing fees and costs on young people and families prevents them from investing in positive social goods such as health care and education, and could even affect the ability of families to meet basic needs. Courts in one district assessed more than \$1,000 in fees per juvenile delinquency case, while statewide, courts assessed an average of \$311.07 per case,¹⁵ or about half of the monthly food budget for a single parent with two children in the Denver metro area.¹⁶ Hundreds of dollars is a significant burden for many people—according to the most recent Federal Reserve survey data, almost forty percent of Americans cannot afford an emergency expense of \$400.¹⁷

Finally, because youth of color are over-represented and over-punished relative to White youth in Colorado’s juvenile system, families of color are disproportionately burdened by the social and economic costs of juvenile fees.¹⁸

1.3. Net impact

Accounting for both the average fee revenue collected annually and the costs of collection, we estimate the net fiscal impact of eliminating juvenile administrative fees is a revenue loss of \$125,598.

Table 3: Net Fiscal Impact of Eliminating Juvenile Fees

	Low Estimate	High Estimate
Fee revenue	(\$555,910)	(\$577,956)
Collection costs	\$430,312	\$430,312
Net fiscal impact	(\$125,598)	(\$147,644)

2. What are the potential revenue losses to state agencies and departments?

Several juvenile fees, such as the restorative justice surcharge, offender identification fee, and sex offender surcharge, are directed to state cash funds. The fee for public defender applications is directed to the state general fund (not to the Office of the Public Defender). Several juvenile fees are directed to the Judicial Branch, such as time payment and late penalty fees and costs of prosecution. Victim’s Compensation and Victim’s Assistance fees go to local victim’s funds, District Attorneys, and law enforcement. See the Appendix below for a full listing of where each juvenile fee goes.

Local responses to CORA requests revealed that the victim’s funds do not disaggregate their revenues by juvenile and adult fees.

3. What will make up for the lost revenue?

The Legislative Council Economic & Revenue Forecast expects state revenue subject to TABOR to exceed the Referendum C cap by \$304 million in FY19-20, \$367 million in FY20-21, and \$453 million in FY21-22.¹⁹ Because abolishing juvenile administrative fees will reduce state revenue, it will reduce the amount of money required to be refunded under TABOR. By reducing the TABOR refund obligation without a corresponding change in General Fund revenue, the amount of money available in the General Fund for the budget will increase by an identical amount.

Appendix: Where Juvenile Administrative Fees Go

According to state law and public records, juvenile administrative fees fund the following:

State General Fund

Fee	Fund/Department	Statute(s)
Court-appointed counsel processing fee	State general fund	§21-1-103

State Cash Funds

Fee	Fund/Department	Statute(s)
Costs of prosecution	Judicial Stabilization Cash Fund Any fees collected for interpretation services for a person who is deaf go to the Colorado Commission for the Deaf, Hard of Hearing, and Deafblind (Department of Human Services)	§18-1.3-701
Useful Public Service (UPS)	Useful Public Service Cash Fund in counties where the judicial department operates the local UPS program. Fees collected may be used by the operating agency responsible for the program, or by the judicial department, to pay the cost of administering the program	§18-1.3-507
Surcharge for traffic offenses involving alcohol and drugs	Persistent Drunk Driver Cash Fund; Brain Injury Trust Fund; Rural Alcohol and Substance Abuse Cash Fund; and the	§42-4-1307

	Substance-Affected Driving Data-Analysis Cash Fund	
Restorative Justice Surcharge	State Restorative Justice Surcharge Fund (95%) – appropriated to judicial districts with restorative justice programs, as well as to the Restorative Justice Council for administrative expenses Judicial Stabilization Cash Fund (5%)	§18-25-101
Sex Offender Surcharge	State Sex Offender Surcharge Fund (95%) – appropriated by the General Assembly to various state departments for costs associated with treatment, evaluation, identification, and monitoring of adults and youth who have committed sex offenses State general fund (5%) – for administrative costs	§§18-21-103; 19-2-907
Offender Identification Fee	Offender Identification Fund – pays for genetic testing.	§§18-1.3-407; 19-2-925.6; 24-33.5-415.6
Late payment and time payment fees	State Judicial Collection Enhancement Fund – funds the Collections Investigator program	§16-11-101.6

Local Funds

Fee	Fund/Department	Statute(s)
Victim’s Compensation fee	Crime Victim’s Compensation Fund in the judicial district where the fee was assessed The fund is used to compensate victims, though up to 10% can be used by the District Attorney for administrative costs and up to 2.5% can go to the District Court Administrator for administrative costs	§§ 24-4.1-117; 24-4.1-119
Victim’s Assistance fee	Victims and Witnesses Assistance and Law Enforcement (“VALE”) Fund in each judicial district. The funds are disbursed as follows:	§§ 24-4.2-103 24-4.2-104; 24-4.2-105

Victim's Assistance fee, cont'd	<p>District Attorneys (10%) – for administrative costs and preparation of victim impact statements</p> <p>State VALE Fund (13% of remaining funds after payment of DA expenses)</p> <p>Victim's and witness services (85% of the remaining amount after payment of DA expenses and deposit to state VALE fund)</p> <p>Law enforcement and DAs (remaining funds) – training, equipment, and personnel</p>
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Other (not identified in statute)

Fee	Fund/Department	Statute(s)
Reimbursement for court-appointed legal representation	<p>Parents whose children are represented by a court-appointed attorney may be assessed a fee to “reimburse the court” (C.R.S. 19-2-706(2)(b)) if the court later determines that the parent is not indigent</p> <p>These fees appear to go to the State Judicial Branch, rather than to the Office of the State Public Defender or the Office of Alternate Defense Counsel (See C.J.D. 14-01)</p>	§19-2-702; Chief Justice Directive 14-01
Cost of care	<p>When a youth is sentenced to placement out of the home, “cost of care” fees may be assessed. C.R.S. 19-2-114 does not state where the fees go, but they may potentially go to the state or local agency responsible for a youth’s care or supervision</p> <p>The Colorado Department of Human Services confirmed in a response to an open records request that the Department does not charge or collect fees against youth, their families, counties, or courts for Department of Youth Services (DYS) services or placement of youth</p>	§19-2-114

Notes

¹ Jeffrey Selbin and Jessica Feierman, “States must abolish juvenile fees. They’re putting families in debt,” *The Washington Post*, July 19, 2019, https://www.washingtonpost.com/opinions/states-must-abolish-juvenile-fees-theyre-putting-families-in-debt/2019/07/19/d5e0e2b0-a8db-11e9-a3a6-ab670962db05_story.html.

² Colorado State Judicial Branch response to PAIRR 2 Requests by the Colorado Office of the Alternate Defense Counsel, May 2019 and February 2020.

³ The amounts provided by the State Judicial Branch refer to payments made to date on fees and costs assessed in that year. Our estimations of “amount collected” each year may not reflect the state’s actual annual revenue from fees, but we believe these figures are a suitable proxy for annual revenue.

⁴ “Colorado Juvenile Justice,” Juvenile Justice Geography, Policy, Practice & Statistics, accessed January 14, 2020, <http://www.ijgps.org/colorado>

⁵ We have requested records related to the cost of collection from the State Judicial Branch and expect a response in January, 2020.

⁶ Colorado Judicial Branch, *2020 Budget Request*, Denver, CO: Colorado Judicial Branch, 2018, [https://www.courts.state.co.us/userfiles/file/Administration/Financial_Services/FY2020%20November%201st%20Bud](https://www.courts.state.co.us/userfiles/file/Administration/Financial_Services/FY2020%20November%201st%20Budget%20Request.pdf)

⁷ Legislative Council Staff, *Memorandum on Fiscal Analysis of Bills with Criminal Justice System Impacts*, Denver, CO: Colorado General Assembly, 2019, https://leg.colorado.gov/sites/default/files/images/lcs/2019_memo_update_cj_fiscal_impacts.pdf

⁸ Colo. Rev. Stat. §19-2-925.

⁹ Alex Piquero and Wesley Jennings. “Research Note: Justice System-Imposed Financial Penalties Increase the Likelihood of Recidivism in a Sample of Adolescent Offenders.” *Youth Violence and Juvenile Justice* 15, No. 3 (July 2017): 325-340, <https://doi.org/10.1177%2F1541204016669213>

¹⁰ Colorado State Judicial Branch response to Open Records Request by the Colorado Office of the Alternate Defense Counsel, May 20, 2019 (author’s calculations).

¹¹ Legislative Council Staff, *Fiscal Analysis of Bills with Criminal Justice System Impacts*

¹² Legislative Council Staff, *Fiscal Analysis of Bills with Criminal Justice System Impacts*; Office of the Alternate Defense Counsel, *Fiscal Year 2020-2021 Budget Request*, Denver CO: Office of the Alternate Defense Counsel, 2019, https://www.coloradoadc.org/images/OADCUpload/FY20-21_OADC_Budget_Request_Final_11119.pdf

¹³ “Recidivism,” Colorado Division of Criminal Justice, accessed January 14, 2020, <https://www.colorado.gov/pacific/dcj-ors/ors-recidivism>

¹⁴ Rebecca Goldstein, Michael W. Sances & Hye Young You, “Exploitative Revenues, Law Enforcement, and the Quality of Government Service.” *Urban Affairs Review* 56, No. 1: 21-22 (August 2018) <https://journals.sagepub.com/doi/full/10.1177/1078087418791775>.

¹⁵ Colorado State Judicial Branch response to Open Records Request by the Colorado Office of the Alternate Defense Counsel, May 20, 2019 (author’s calculations).

¹⁶ “Family Budget Calculator,” Economic Policy Institute, accessed January 9, 2020, <https://www.epi.org/resources/budget/>.

¹⁷ Board of Governors of the Federal Reserve System, *Report on the Economic Well-Being of U.S. Households in 2018*, Washington, DC: Federal Reserve Board, 2019, <https://www.federalreserve.gov/publications/report-economic-well-being-us-households.htm>.

¹⁸ “Disproportionate Minority Contact,” Colorado Commission on Criminal and Juvenile Justice, accessed January 14, 2020, <https://www.colorado.gov/pacific/ccjj/ccjj-dmc>. For example, Black and Latino youth are about twice as likely to be detained compared to White youth; Black youth are arrested at nearly 4 times the rate of White youth; and Latino youth are committed to DYS at more than 7 times the rate of White youth. (Author’s calculations using CO CCJJ data files, available at <https://www.colorado.gov/pacific/ccjj/ccjj-dmc>)

¹⁹ Legislative Council Staff, *Economic & Revenue Forecast*, Denver, CO: Colorado General Assembly, 2019, <https://leg.colorado.gov/sites/default/files/images/decforecast.pdf>.