



Civil Fines, Fees, and Penalties in NC

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NCCALJ Civil Justice Committee - April 22, 2016



Scope of Problem

Jailing Debtors

Permanent Debtors

Court Efficiency

Fines and Fees as Revenue

Forty-two percent of city finance officers said that they increased fee levels in 2015

-City Fiscal Conditions survey published by the National League of Cities

Rocky Mount, NC (pop. 60,000) budgeted for \$70,300 in Police Revenues in 2016, a twenty-seven percent increase from the city's actual police revenues in 2014

Funding Pressures

NC courts are centrally funded by the state

Some judges say they feel pressured on cost waivers

Source: NC Lawyers Weekly, 3/31/16

NC Constitution (Art. IX, §7) requires proceeds of local fines collected for breach of “penal laws” go to schools

Relatively easy for cities and counties to circumvent

Source: UNC School of Government blog

Recommendation:

Study compliance with the North Carolina Constitution's provision requiring that fines and penalties collected in counties for "breach of the penal laws" go exclusively to the schools

Bearden's Willfulness Inquiry

Jailing individuals for failure to pay fines held unconstitutional in *Bearden v. Georgia*, 461 U.S. 660 (1983)

Willfulness Inquiry - State v. Jones, 78 N.C. App. 507 (1985)

COURT: Well, do you want to testify about your failure to pay this money?

MR. JONES: I've just been out of work, sir. If I just had some time to catch up the payments.

COURT: Anything else?

MR. JONES: No, sir.

COURT: The Court finds that he willfully violated the terms of his probation and Orders the sentence into execution.

Recommendation:

Review and more closely monitor how *Bearden's* willfulness test is applied throughout the state, and consider putting statutory restrictions on its application if a review finds that abuses are occurring

Unwaivable Public Defender Fee

In North Carolina, courts must order convicted defendants in criminal cases to pay a fee for public defender representation

Source: N.C.G.S. § 7A-455.1

N.C.G.S. §7A-455.1(b) (“The mandatory sixty-dollar fee may not be remitted or revoked by the court”).

Recommendation:

Make public defender appointment fees waivable, bringing North Carolina law on this in line with the practice used in other states

The (Kinston, NC) Free Press - 3/27/2016

“The only time I ever see people incarcerated for not paying money would be for child support situations,” Delbridge said. “At some point you’ve just got to do something. In other arenas there’s obviously an ability to pay, but they’ve chosen a car payment . . . instead of the court fee.” -- *Matt Delbridge, D.A., Wayne, Lenoir, and Greene counties*

Child Support

By 2014, there was \$812 million in child support due, a cost to NC of \$140 million

Source: 2014 State by State Data on Child Support Collections, National Conference of State Legislatures (2015)

29% of the income of parents eligible for child support are below the federal level of poverty

Source: 2013 Office of Child Support Enforcement, Annual Report to Congress

North Carolina Cost-Effectiveness Ratio in 2015 was 5.07

Source: 2015 Office of Child Support Enforcement, Preliminary Report

Contempt & Child Support

NC law provides the courts with remedies to enforce and secure the child support payment

Including, the possibility of a contempt order

N.C.G.S. § 110-131: Compelling disclosure of information regarding the non-supporting responsible parent of a child receiving public assistance.

Recommendation:

Consider statutory restrictions on jailing
defendants for failure to pay child
support

Driver's Licenses

In NC, driver's license must be revoked for failure to pay a
“fine, penalty, or court cost ordered by the court”

Source: N.C.G.S. § 20-24.1

Licenses must also be revoked for willful failure to fulfill
probation conditions

Source: N.C.G.S. §143B-708(e)

Driver's Licenses

American Association of Motor Vehicle Administrators,
Best Practices Guide to Reducing Suspended Drivers

NC Supreme Court has said suspension and revocation
intended for public protection, not punishment, and
suspension and revocation are meant to ensure
compliance with traffic laws -*Honeycutt v. Scheidt*, 254 N.C. 607,
119 S.E. 2d 777 (1961)

Recommendation

Don't suspend or revoke drivers' licenses for reasons unrelated to driving safety (AAMVA)

Civil Gideon

Lack of a “civil Gideon” may exacerbate previous problems

Role of Legal Aid

Recommendation:

Support private organizations that seek to fill the void left by a lack of a civil Gideon requirement in the law.



Thank you


