

FOUR WAYS TO IMPROVE TENNESSEE'S CRIMINAL FEE & FINE DATA INFRASTRUCTURE

Fines and fees are a central [part of Tennessee's criminal justice system](#) - both to punish criminal acts and to [fund essential government functions](#). However, incomplete data make it hard to track how much people are charged and by whom, as well as how any collected money gets used. Collecting more robust data would help Tennessee policymakers better understand and address any downsides of criminal fees and fines. This report highlights basic questions that existing information does not answer, best practices to collect better information, and other areas with potential for improvement.

KEY TAKEAWAYS

- A lack of information makes it harder to understand the costs and benefits of criminal fees and fines, their effect on broader policy goals, and the best starting points for reform.
- State and local officials should have clear rules and adequate resources for reporting data to a central, publicly accessible repository with safeguards to protect individual privacy.
- Policymakers can also expand courts' reporting requirements, tap existing information on public finances, and connect data across systems, agencies, and other relevant actors.

Defining the Problem

Tennessee's complex fee and fine framework, decentralized court system, and limited data collection obscure the full scope and impact of legal financial obligations (LFOs). Since 2005, Tennessee has added at least 50 new fees and fines to state law. (1) Yet, there is little research or available data to help answer key questions like:

Basic Landscape of Fees & Fines in Tennessee

- What is the typical amount of fees and fines people can expect to face for any given crime?
- Are fees and fines for different offenses proportional to the severity of the crime?
- What practices are typically used to determine legal financial obligations, a person's ability to pay them, and the system's ability to collect?
- To what extent are fees and fines used to fund the criminal justice system and other parts of government?
- How do each of these things vary from one jurisdiction to another?
- What groups or areas are most affected by fees and fines?

Terminology

Criminal justice fees and fines, criminal justice financial obligations, legal financial obligations, and criminal justice debt all refer to costs a person may owe as they move through the criminal justice system. These terms do not include the costs of private legal representation.

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Benefits and Costs of Fees & Fines in Tennessee

- Are fees and fines an efficient source of government revenue and a net positive for public safety?
- What impact do fees, fines and related collection methods have on people who owe them?
- How do fees and fines affect broader issues like crime, incarceration, and economic security?

This lack of information makes it harder to understand the costs and benefits of criminal fees and fines, their effect on broader policy goals, and the best starting points for reform. The rest of this report summarizes best practices for criminal justice data collection and four potential ways to accumulate the information needed to answer the questions listed above. See the **Appendix** for a longer set of questions that a more robust data system could start to answer.

Best Practices and Promising Approaches

Tennessee can look to several other states for examples of enhanced data collection and reporting in this area. According to recent research, most states do not currently collect the data required to understand the role that fees and fines play in their criminal justice systems. (2) However, states that stand out from the pack include:

- **Florida** - In 2018, Florida created a standard set of information that county governments must collect and make publicly available. These measures encompass data about pretrial release, ability-to-pay determinations, and the demographics of people involved with the criminal justice system. (3)
- **Texas** - Under Texas' Collection Improvement Program, court officials tracked costs associated with collecting court fees and fines and reported them to the state in an effort to boost collection rates - the only such statewide program in the country. While the program's general intent was to raise revenues, these data also let stakeholders evaluate the impact and efficiency of local collection practices across the state. (4) Texas ended the entire program - including the reporting on collection costs - in 2019 due in part to funding concerns. (5) (6) (7) (8)
- **Illinois** - Illinois' Access to Justice Act of 2015 created a bipartisan task force with members from across all government branches to review the state's fee and fine policies and practices. (9) The task force's report led to the Criminal and Traffic Assessment Act of 2018, which, among other things, streamlined fees and fines and clarified procedures for ability-to-pay reviews. (10) As of mid-2021, lawmakers were working to convene a new task force to evaluate the impact of the 2018 policy changes. (11)
- **Pennsylvania** - By order of the Pennsylvania Supreme Court, the state adopted a digital reporting system that collects case-level information for all criminal court proceedings. (12) Fully implemented and publicly accessible by 2006, this system sheds significant light on the role LFOs play in criminal justice and their efficiency as a revenue source. (13) (14) The state also uses the system to publish and maintain user-friendly online caseload and LFO data dashboards. (15)

As with any dataset, information like this is a tool that people can use in a wide variety of ways.

While better LFO data would create significant opportunities for research and evaluation, there is also potential for it to affect the actions of judges, law enforcement, policymakers, and other relevant parties. For example, North Carolina publishes data each year on how often judges waive courts costs for people deemed unable to pay them. (16) Some local advocates and judges have criticized these reports as a “shaming” effort meant to pressure judges to grant fewer waivers. (17) (18)

Recent research suggests that key aspects of a fee and fine data system should include: (19) (2) (20)

- **Clear Standards** - Complete data will require the participation of hundreds of local officials across the state. To lower the burden of their participation, officials should be equipped with standardized measures, clear guidelines for how to collect and record them, and explicit requirements for making the data available.
- **Available and Accessible** - A centralized data repository would reduce the burden of reporting for local authorities while also making the data available and accessible to researchers and the public. Ideally, data would be available in downloadable, machine readable formats and be maintained by staff with the time, training, and expertise to ensure systems run properly.
- **Adequate Support** - Local authorities will need the necessary resources, training, and infrastructure to comply with any new reporting requirements.
- **Evaluation and Flexibility** - Evaluating the rollout of any data infrastructure programs and pivoting as needed would help to ensure that data collection programs are effective, efficient, and useful. Clear protocols from the start for monitoring new systems and requirements would help avoid complications, bottlenecks, or blind spots that might undermine the goals of data collection.

Four Ways to Gain More Insight into Fees & Fines

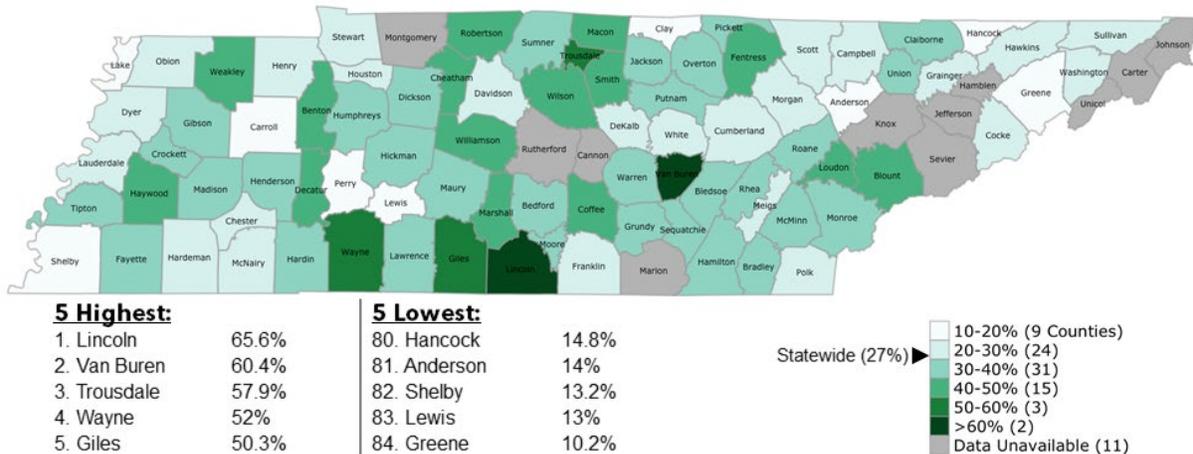
Expand and Standardize Court Data

The decentralized nature of Tennessee's court system makes it difficult to evaluate court fees and fines across the state. Tennessee's judicial system is a mix of state and local courts. (21) The state has 31 judicial districts that hear criminal cases. All 95 counties also have their own courts of limited jurisdiction that hear criminal cases, and the types of cases any given court (e.g. general sessions, circuit, etc.) has jurisdiction over varies from county to county. (1) (21) The result is a court system with overlapping authorities, diverse funding sources, and disparate reporting capabilities.

Available data on court fees and fines show wide variation and low collection rates, but there are significant limitations (Figure 1). Several years ago, the Tennessee Administrative Office of the Courts (AOC) compiled information from 84 counties on civil and criminal courts' fee, fine, and tax assessments and collections. However, the data are from 2012 only, reflect only topline numbers, and do not include information from municipal and appellate courts. Without more details, it is impossible to answer basic questions about the typical costs people accrue from different criminal charges and how that has changed over time.

Figure 1. Tennessee Counties Collected About 1/4 of All Court-Assessed Criminal Fees & Fines in 2012

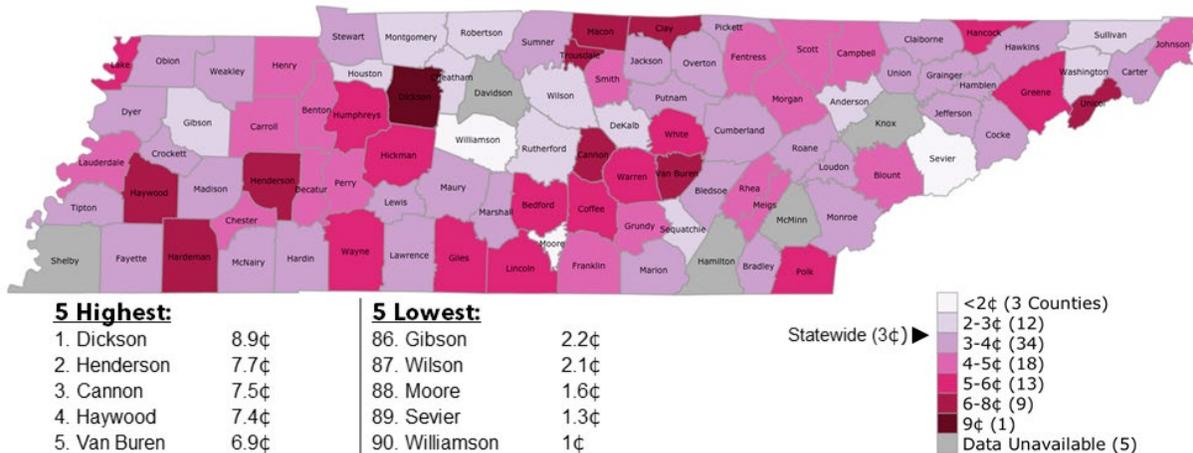
Percent of All Fees & Fines Assessed in Criminal Courts Actually Collected (FY2012)



Source: The Sycamore Institute's analysis of financial data from the Tennessee Administrative Office of the Courts (AOC) as reported by the Tennessee Advisory Commission on Intergovernmental Relations (TACIR) (1)

Figure 2. State Audited Counties Collect About 3¢ in Fee & Fine Revenue for Every \$1 of Local Tax Revenue

FYs 2017-2019 Avg. Annual Fee & Fine Revenue for Each Dollar of Local Tax Revenue (Adj. for Inflation)



Note: Includes only the 90 counties audited each year by the state. Excludes Davidson, Hamilton, Knox, McMinn, and Shelby Counties whose annual financials are independently audited. We used an average over FYs 2017-2019 to smooth out any one year spikes in fees and fines in order to offer a clearer picture of collections in a typical year. Does not include revenues from entities with jurisdiction over exclusively civil matters (e.g. Chancery Court) but includes revenues from entities with shared jurisdiction (e.g. General Sessions Court). See the **Appendix** for more details and results.

Source: The Sycamore Institute's analysis of financial data from the Tennessee Comptroller of the Treasury and the U.S. Bureau of Economic Analysis (24) (25)

Policymakers could expand courts' existing reporting requirements to information related to fee and fine assessments and collections. Current state law requires court clerks to send the AOC monthly case-level data, which include charges and case outcomes for each defendant. (22) Broader rules might cover defendant characteristics (e.g. demographics, income), the amount of fees and fines assessed to each person, amounts collected, costs of collection, and the basis for decisions on pretrial release, ability to pay, and sentencing. (23)

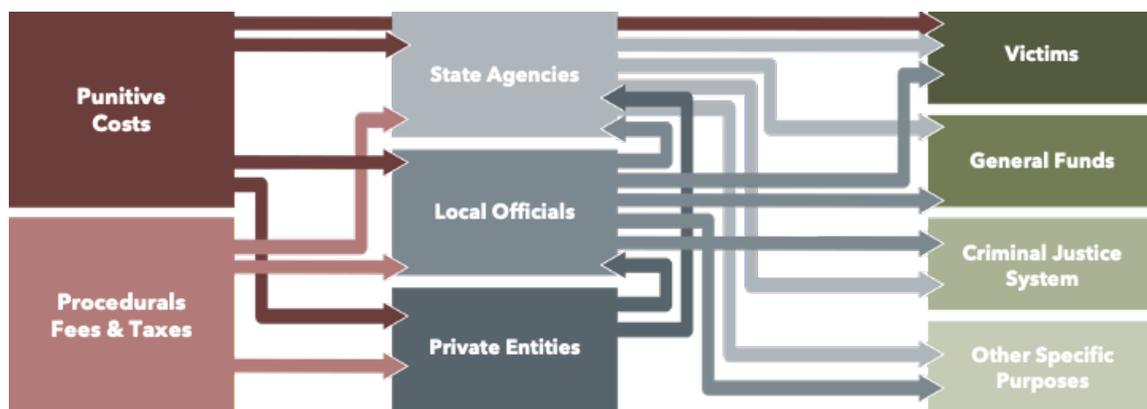
Tap Existing Public Accounting Info

Tennessee makes public some data on the extent to which state and local budgets rely on legal financial obligations, but important gaps remain. The state comptroller audits, compiles, and reports standardized financial information for 90 counties - which shows wide variation in local revenue from fees and fines (**Figure 2**). However, these data likely include significant revenue from civil cases and do not shed any light on the state's municipalities or most populous counties.

Policymakers could leverage existing accounting systems related to state and local budgets to get more clarity on criminal fine and fee revenues and how they are allocated. Tracking the flow of money can be hard because both state and local entities collect LFOs, and the formulas for allocating these funds are often complex (**Figure 3**). (26) (1) Clear state and local-level reporting of how each dollar collected gets distributed would help policymakers evaluate the role of fees and fines as a revenue source and the likely effect of any reforms.

Figure 3. The Complexity of Tennessee's Criminal Fees & Fines Creates Challenges for Counting and Following the Money

The Flow of Criminal Fees and Fines in Tennessee



Meanwhile, clear accounting of the costs of fee and fine collection would shed light on their net financial impact. Attempts to collect unpaid LFOs often require staff time, court hearings, and physical resources. Tennessee has no statewide data on these costs, but some information does exist at the local level. For example, a 2020 study found Davidson County spent nearly \$725,000 in FY 2018 on personnel and postage costs related to LFO collection efforts. (27) Some agencies also pay to retain private debt collectors. Research from other states has even found jurisdictions that spent more trying to collect fees and fines than they ultimately took in as revenue. (20)

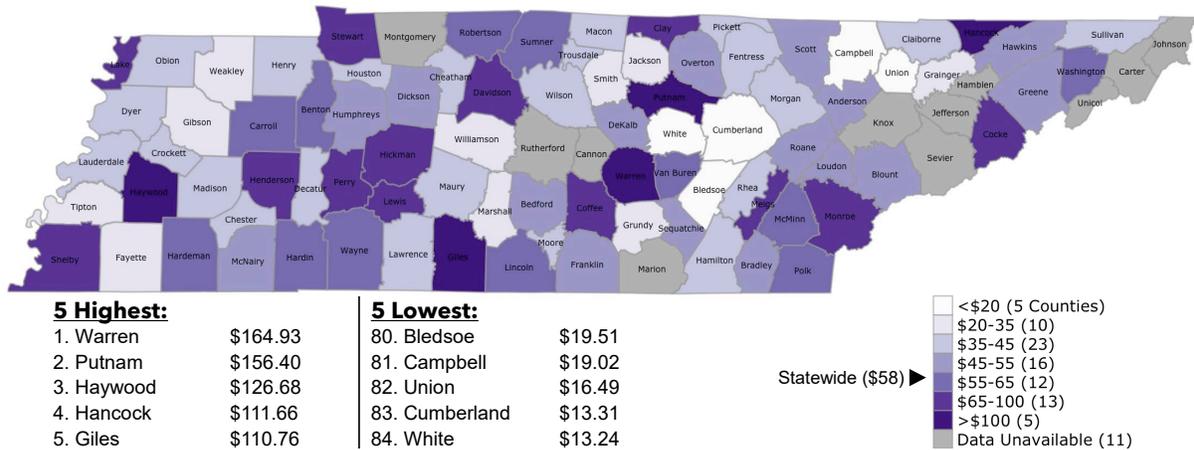
Figure 4. Many People Influence When and How Fees and Fines Apply in Tennessee, Creating Wide Variation



Source: The Sycamore Institute

Figure 5. Tennessee Counties Assessed Nearly \$58 in Criminal Court Fees & Fines per Resident in 2012

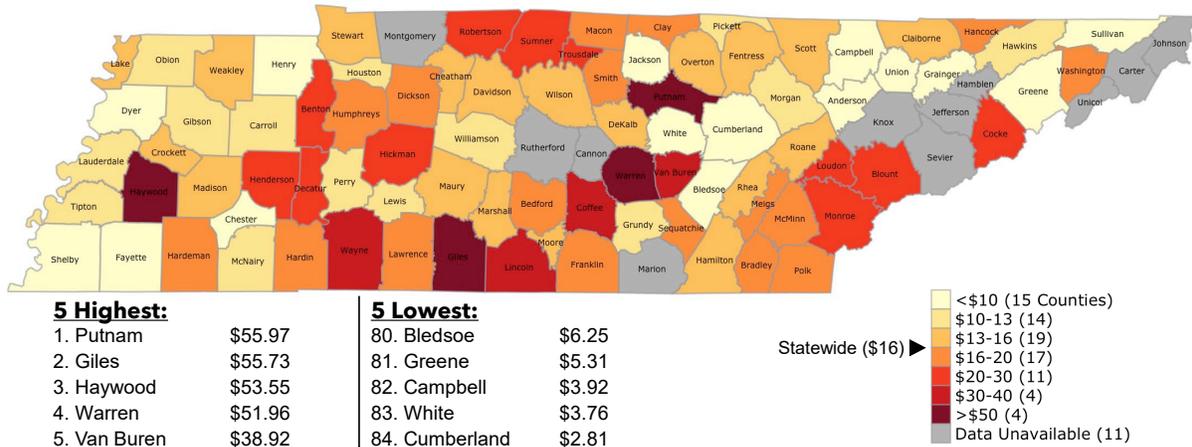
Per Capita Dollar Amount of Fees & Fines Assessed in Criminal Courts (FY 2012)



Source: The Sycamore Institute's analysis of financial data from the Tennessee Administrative Office of the Courts (AOC) as reported by the Tennessee Advisory Commission on Intergovernmental Relations (TACIR) (1)

Figure 6. Tennessee Counties Collected About \$16 in Criminal Court Fees & Fines per Resident in 2012

Per Capita Fees & Fines Collected in Criminal Courts Collected (FY 2012)



Source: The Sycamore Institute’s analysis of financial data from the Tennessee Administrative Office of the Courts (AOC) as reported by the Tennessee Advisory Commission on Intergovernmental Relations (TACIR) (1)

Connect Data Across Systems and Actors

Additional information from multiple parts of the criminal justice system would help explain what and who drives differences in fees and fines across the state. State law creates the framework under which all jurisdictions assess LFOs, but many local entities help determine what a given person ultimately owes (Figure 4). There are also large differences in how local officials assess fees and fines (Figure 5) and how much they collect (Figure 6) - variation that differing crime rates generally do not explain. (21) (27) (28) More transparency around these actors’ decisions and practices could help to clarify what drives different outcomes across Tennessee.

Including information from local officials and service providers outside the courthouse would show a fuller picture of the financial obligations people face. Court data alone may not capture all financial obligations. For example, some fees may go to private service providers (e.g. bail bondsmen, jail phone providers), and sheriffs and jail administrators may charge fees for commissary items.

Storing this data in a central repository could also help officials decide if and when to assess additional LFOs. Tennesseans can accumulate fees and fines at each stage of an interaction with the criminal justice system (Figure 7). A statewide system to track on an ongoing basis what individuals already owe and to whom could be a useful tool for actors such as judges, law enforcement agencies, and district attorneys when they determine whether to assess or waive new financial obligations.

Figure 7. People Can Accrue a Multitude of Financial Obligations as They Move Through Tennessee’s Criminal Justice System

Examples of Criminal Justice Fees and Fines Authorized in Tennessee (2019)

 Pre-Trial	 Trial & Other Court	 Conviction & Incarceration	 Community Supervision
<ul style="list-style-type: none"> • Booking & Processing Fee • Daily Jail Fee • Cash Bail or Bail Bond Fee • Public Defender & Indigent Counsel Fees • Electronic Traffic Citation Fee • Public Record Search Fee • BAC Test Fee • Transportation Fee • Citation in Lieu of Arrest Fee • Petition, Warrant, & Citation Issued Fees • Credit Card Processing Fee 	<ul style="list-style-type: none"> • State & Local Litigation Taxes • Institution of Criminal Case Fee • Record Fees • Victim-Offender Mediation Center Litigation Tax • Victim Assistance Program Fee • Jail/Courtroom Construction/Renovation Tax • General Sessions Judge Tax • Courthouse Security Tax • Judge/Clerk Training Fee • Failure to Appear Fees • Cert. of Criminal History Fee • Drug Testing Fees • Criminal Contempt Fee • Subpoena Issuance Fee • Continuance Request Fee • Filing Fee • Filing Subscription Fee • Copy Fees • Certification Fees • Service of Process Fees • Data Processing Fees • Jury Security Fees • Court Case Fee • Law Library Fees • Prisoner Escort Fee 	<ul style="list-style-type: none"> • Fines • Restitution • Offense-Specific Conviction Fees & Contributions • Property Seizures • Property Seizure Fee • Property Seizure Storage Fee • Jailers’ Fee • Fees for Incidentals (uniforms, soap, etc.) • Medical Co-Pays • Telephone Fees • Transportation Costs • Work Release Fees • Education Testing Fees (e.g. GED) 	<ul style="list-style-type: none"> • Supervision Fee • Electronic Monitoring Fee • Ignition Interlock Fee • Technology Fee • Drug Testing Fee • DNA Testing Fee • Transaction Fee • Sex Offender Registry Fee • Supervision Violation Proceedings Fee • Behavioral Health Treatment Costs • Records Expungement Fee • Drivers License Reinstatement Fee

This list is not comprehensive.

Source: The Sycamore Institute’s review of Tennessee state law

Connecting information about fees and fines with data from other state systems would help to understand the full costs and benefits of LFOs in Tennessee. Cross-systems data from courts, corrections, and other agencies would allow for a more meaningful assessment of any relationships between financial obligations, criminal involvement, public safety, recidivism, and long-term post-release outcomes like financial security.

Make Data Transparent and Accessible

Tennessee will only realize the full potential of this data if it is available and accessible for research and analysis. Publicly available data - with the proper privacy safeguards - would allow stakeholders and researchers to evaluate the role LFOs play in the criminal justice system, uncover inefficiencies, and highlight opportunities for improvement. Making this data publicly available may also help to build community trust. (29)

Parting Words

Fees and fines help fund Tennessee’s criminal justice system and punish people convicted of crimes. However, wide variation in their application across the state and a lack of robust data make it hard to gauge their impact on public safety, public finances, and the personal finances of affected families and individuals. Policymakers need better data at each stage of the process to understand how this system functions and evaluate its outcomes.

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APPENDIX

Outstanding Questions about Fees & Fines in Tennessee

Tennessee's lack of transparent and detailed data on fees and fines makes it much harder to advance policy goals like better outcomes for reentry and recidivism. By answering these and similar questions, a more comprehensive dataset(s) could help to identify areas ripe for reform. Where relevant, anonymized data ideally would be reported by specific fee or obligation (e.g. TCA authority), charge or offense, jurisdiction, court, and individual.

Fees & Fines as a State/Local Revenue Source

- What proportion of each collected criminal fee and fine in each court is:
 - Remitted to the state?
 - Transferred to other parts of the local criminal justice system?
 - Transferred to unrelated parts of local government?
 - Retained by the court clerk?
- How much funding does each state agency in the criminal justice/public safety space (i.e. TBI, TDOC, DAs, etc.) receive from each criminal fine and fee each year?
 - To what activities are those revenues allocated?

Fees & Fines in Practice

- How much does each court assess each individual for each specific fee and fine (by charge or offense)?
- What is the total dollar amount of criminal fines and fees assessed and collected in each court across Tennessee?
 - What is the average amount of criminal fines and fees assessed in each court for different classes of offenses?
 - What proportion of assessed criminal fees and fines in each court get declared delinquent due to nonpayment?
 - In each court, how often do hearings related to unpaid fees and fines result in: a) payment plans; b) debt reductions/waivers; c) driver's license revocations; d) incarceration for willful non-payment?
 - In each court, what proportion of assessed criminal fees and fines are waived, reduced, and/or converted to civil debt due to a determination that a defendant is indigent?
 - At what point in the legal process are these determinations generally made?
 - Do these outcomes vary by court, class of offense, or amount of criminal debt owed?
 - Approximately how much labor and resources do local officials in each court spend to collect outstanding criminal debt?
 - If courts retain a third-party to collect outstanding criminal debt, how much does each court pay for that service and how much revenue comes in as a result?
- What costs to defendants may not be reflected in the criminal fees and fines that each court directly assesses/collects (e.g. services in jail, probation fees)?
 - How do counties, courts, and local jails across the state vary in terms of the number/types of services they fund through their budgets vs. those for which they charge defendants/detainees/probationers?

- What is the dollar amount charged for different services provided to detainees/probationers across the state?
- Is information available on determinations of pretrial release in each court across the state?
 - For a given class of offense, how often are OR bonds issued in each court as opposed to cash/surety bonds?
 - What information does each court collect and/or consider in its determinations about pretrial release?
 - In each court, what is the average bond amount for cases in which defendants: a) pay their bond in full; b) utilize a surety bond; or c) remain in pretrial detention until their trial?
 - What proportion of defendants released from pretrial detention fail to eventually appear at their specified court date?
 - How do failures-to-appear vary based on the class of offense being charged?
 - How do failures-to-appear vary based on the type of pretrial release?
 - When money bail is used, how do failures-to-appear vary based on the total dollar amount of the set bail?
 - When money bail is used, do failures-to-appear vary between cash and surety bonds?

How Fees & Fines Affect Individual Outcomes

Individual-level data could begin to answer questions about the relationship between criminal fees and fines and the characteristics and outcomes of those who owe them. These data could include information on defendants' demographic (e.g. age, race), socio-economic (e.g. income), and household characteristics.

- Do criminal fee and fine debt loads have an outsized impact on specific types or groups of individuals?
- Do criminal fine and fee debts have any relationship to a person's:
 - Duration of involvement in the criminal justice system?
 - Post-release outcomes (housing, employment, income, etc)?
 - Odds of recidivism?