

January 29, 2024

Virginia House Courts of Justice Committee, Criminal Subcommittee

Re: Public Comment to Urge Subcommittee Endorsement of House Bill 1264

Dear Members of the Subcommittee,

On behalf of Juvenile Law Center, we thank you for the opportunity to submit this public comment. We write to urge the subcommittee to endorse House Bill 1264, which provides our judges the necessary discretion to issue the appropriate accountability for youth who commit traffic infractions and violations. Juvenile Law Center fights for rights, dignity, equity, and opportunity for youth. Founded in 1975, Juvenile Law Center is the first non-profit public interest law firm for children in the country. Juvenile Law Center's legal and policy agenda is informed by—and often conducted in collaboration with—youth, family members, and grassroots partners. We regularly work with partners around the country, including in Virginia, to eliminate financial burdens on youth and their families while addressing the harmful consequences.

Currently, the Commonwealth's judges are hamstrung in their ability to develop tailored responses in traffic cases, even though in other circumstances they are trusted to use their judgment in evaluating the particular circumstances of the defendant and the offense. With a traffic offense, they are forced to impose certain fines and fees without regard to one's ability to pay, or how those costs might interfere with rehabilitative options. Fines do not provide accountability nor increase public safety. Youth do not have their own financial resources, and children old enough to legally work should not be forced to do so to make a court payment as this takes time away from their education and other developmentally appropriate activities. When children are issued fines, it is most often their families who pay the bills.ⁱ This does little to better the welfare of the child in question, and it burdens families who are often already struggling financially.ⁱⁱ Furthermore, studies have demonstrated that placing these financial burdens on youth increases recidivism instead of deterring repeat offenses.ⁱⁱⁱ

It's even less appropriate for children and their families to pay court costs and fees. Fees and court costs are not intended to "punish" or teach a lesson; they're intended to raise money and pay for government services. For example, a report from the Commonwealth Institute demonstrated how a \$30 fine for a U-turn can easily balloon into total costs of \$218 once additional mandatory fees are included.^{iv} Forcing judges to impose these costs just ends up wasting government resources. Our system of charging fines, court costs, and fees is wildly

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inefficient. Last year, Virginia Court Clerks assessed \$351.2 million in fines and fees.^{vi} Of that money, they only collected \$199.7 million total. When fines and fees go unpaid, it falls on Commonwealth Attorneys to collect payments through local enforcement, the Virginia Department of Taxation, or through private debt collectors. One national study of fines and fees collections found that it was 121 times less efficient than general taxation.^{vii} The same study reported that one county in New Mexico actually spent \$1.17 to collect every dollar it raised through fines and fees, thus losing money in its attempts to raise revenue.

HB 1264 simply allows judges to be judges, to exercise their judgment in determining the appropriate disposition or sentence when youth are involved in a traffic case. Fines and fees have proven to be counterproductive and harmful, so judges should have the discretion to impose them only as a last resort. We urge the subcommittee to support this commonsense reform, and vote to recommend reporting HB 1264.

Respectfully,

Christopher Lin

Christopher Lin, Staff Attorney
JUVENILE LAW CENTER
1800 JFK Blvd., Ste. 1900B
Philadelphia, PA 19103

ⁱ A national study found that 63% of respondents reported that family members were responsible for paying their conviction-related costs, not the defendant, themselves. Of those family members, 83% were women. See Saneta deVuono-Powell, Chris Schweidler, et al., *Who Pays? The True Cost of Incarceration on Families*. Oakland, CA: Ella Baker Center, Forward Together, Research Action Design, 2015, available at <https://www.prisonlegalnews.org/media/publications/Who%20Pays%20-%20The%20True%20Cost%20of%20Incarceration%20on%20Families%2C%20Ella%20Baker%20Center%20for%20Human%20Rights%2C%202015.pdf>.

ⁱⁱ Two-thirds of all defendants in Virginia last year were represented by court-appointed counsel. Joint Legis. Audit & Rev. Comm., *Indigent Criminal Defense and Commonwealth's Attorneys*, 2023, at 5, <https://jlarc.virginia.gov/pdfs/reports/Rpt581.pdf>.

ⁱⁱⁱ See Alex R. Piquero & Wesley G. Jennings, Research Note, *Justice System–Imposed Financial Penalties Increase the Likelihood of Recidivism in a Sample of Adolescent Offenders*, 15 *Youth Violence & Juv. Just.* 325 (2016).

^{iv} Phil Hernandez, Laura Goren, and Chris Wodicka, *Set Up to Fail: How Court Fines & Fees Punish Poverty and Harm Black Communities in Virginia* (Richmond, VA: The Commonwealth Institute, 2021), 2, <https://perma.cc/N9SY-46C2>.

^{vi} Comp. Bd., *FY23 Fines & Fees Report*, <https://www.scb.virginia.gov/docs/fy23finesandfeesreport.pdf>.

^{vii} Matthew Menendez, Michael Crowley, et al., *The Steep Costs of Criminal Justice*, https://www.brennancenter.org/sites/default/files/2019-11/2019_10_Fees%26Fines_Final4.pdf.

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