

DE CAMPAIGN TO

END

DEBTORS'

PRISONS

We all make mistakes...



DISORDERLY CONDUCT

11 Del. C. 1301
Unclassified misdemeanor, 0-30 days in jail



TRESPASS

11 Del. C. 822/823

If in a "dwelling"-- class A misdemeanor, 0-1 year of jail

If in another building-- unclassified misdemeanor, 0-30 days jail

CRIMINAL MISCHIEF

11 Del. C. 811

If over \$1000 damage, 0-1 year of jail



Over 97% of all crimes/violations filed in Delaware in 2019 were misdemeanors

Delaware has the highest per capita arrest rate for misdemeanors in the country.

Small crimes add up...

\$100 fine

- + \$55 Non-Jury Trial Fee
- + \$10 Court Security Assessment
- + \$1 Videophone Fund
- + \$1 DELJIS Fund
- + \$15 Fund to Combat Violent Crimes
- + \$10 Volunteer Ambulance Company Fund
- + \$10 Victim's Compensation Fund
- + \$100 Public Defender Fee

+\$200 Probation Fee

=\$502

And it doesn't stop there...

- \$ 20 Capias / Arrest Warrant
(ranges from \$0-25)
- \$ 30 Bad Check
- \$ 30 Credit Card
Charge-backs

A troubling financial fact:

U.S. Federal Reserve: “Report on the Economic Well-being of U.S. Households for 2018:”

**“27% would borrow or sell something to pay for the expense,
and 12% would not be able to cover the
expense at all.”**

www.federalreserve.gov/publications/files/2018-report-economic-well-being-us-households-201905.pdf

When people can't pay...

- Their debts incur more debts in capias fees
- Their drivers' licenses are suspended
- They are issued arrest warrants
- ... they go to prison.

**In the first six months of 2018, 129 people
were sentenced to prison
ONLY for failing to pay
Delaware Court ordered fines and fees.**

<https://legis.delaware.gov/BillDetail?legislationId=47561>

In **2017** in Delaware...

20,679 licenses were suspended for failure to pay court-ordered fines and fees

44,889 warrants for failure to pay were issued for non-felony offenses

Disparate Impact

- The U.S. criminal justice system disproportionately impacts **people of color and the poor.**
 - United States Department of Justice Civil Rights Division, *The Ferguson Report: Department of Justice investigation of the Ferguson Police Department* (2015), https://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson_police_department_report.pdf (“Despite making up 67 percent of the population, African Americans accounted for 85 percent of FPD’s [the Ferguson Police Department’s] traffic stops, 90 percent of FPD’s citations, and 93 percent of FPD’s arrests from 2012 to 2014.”).
 - *New York’s Ferguson Problem* (2020) https://noprisonjustice.org/wp-content/uploads/2020/09/New_York_Ferguson_Problem_NPJ_Report.pdf.
 - Harvard Law School, Criminal Justice Policy Program, *Confronting Criminal Justice Debt: A Guide for Policy Reform*, (2016) (“More broadly, structural factors that lead to racial disparities throughout the criminal justice system will generate uneven enforcement of fees and fines. And because race intersects with class, with Black and Latino families disproportionately facing poverty, fees and fines that impose special hardships on impoverished individuals and communities will reinforce racially unequal outcomes.”)
- The **Delaware** criminal justice system disproportionately impacts **people of color and the poor.**
 - E.g., John M. MacDonald, et al., *Evaluating the Role of Race in Criminal Justice Adjudications in Delaware*, Final Report to the Delaware Access to Justice Commission’s Subcommittee on Fairness in the Adult Criminal Justice System (2016) (finding that “arrests are more common in urban areas with a greater share of residents that are African American and impoverished.”), available at https://courts.delaware.gov/supreme/docs/DE_DisparityReport.pdf.

What they say: debtors' prisons don't exist anymore.

**The Reality: failure to pay
fines and fees establishes
de facto debtors' prisons
in Delaware.**

DE Campaign to End Debtors' Prisons (CEDP)

Mission:

CEDP seeks a world where **one's poverty does not affect how they are punished** in the criminal justice system.

Goals:

Eliminate fees in the justice system.

Ensure that fines are fairly imposed and enforced.

What do we do?

1. Analyze a person's ability to pay before issuing fines and fees.
2. Cease suspending drivers' licenses for inability to pay fines and fees.
3. Get rid of all fines and fees for *children*.
4. Ban issuing late fees for unpaid fines and fees.
5. Require municipalities, law enforcement agencies, and the courts to track and disclose how much of their budgets come from fines and fees.
6. Create a consolidated system by which people can see how much they owe in court costs and easily make payments.

To read & learn more:

- ★ [The Campaign to End Debtors' Prisons Webpage](#)
- ★ [DSBA article about DE Fines&Fees by Meryem Dede](#)
- ★ [Delaware Fines/Fees Infographic](#)
- ★ [DE Public Media Article about Fines/Fees Moratorium](#)
- ★ [National Fines/Fees Backgrounder](#)
- ★ [Article from The Appeal about Fines/Fees](#)
- ★ [National Data for Progress Report](#)

Where the Fees go:

\$100 fine

- + \$55 Non-Jury Trial Fee → The Courts
- + \$10 Court Security Assessment → The Court Security Fund, In FY21, there was authority to spend up to \$2,919,100. In FY19 the actual expense was \$1,965,700.
- + \$1 Videophone Fund → CJC Videophone Fund, FY21 Spending Authority of \$212,500 and FY19 Actual Expenditure of \$124,100.
- + \$1 DELJIS Fund → DELJIS Fund, FY21 Spending Authority of \$260,000 and FY19 Actual Expenditure of \$160,100.
- + \$15 Fund to Combat Violent Crimes → 50% to State Department of Safety and Homeland Security, 50% to local law enforcement FY21 Spending Authority of \$2,125,000 and FY19 Actual Expenditure of \$2,917,900.
- + \$10 Volunteer Ambulance Company Fund
- + \$10 Victim's Compensation Fund FY21 Spending Authority of \$3,183,800 and FY19 Actual Expenditure of \$1,768,200.
- + \$100 Public Defender Fee → State's General Fund

Okay, but where do the fees *really* go?

Let's look at just one example...

Every time someone pleads guilty or is convicted of a crime or traffic violation with the help of a court-appointed attorney, they are fined a \$100 "Public Defender" fee, which goes to the State's general fund (not to the Public Defender's Office). 29 Del. C. § 4607.



The Courts' reported assessment:

	2019	2018	2017
Superior Court	\$273,401	\$306,050	\$123,055
Family Court	\$15,689.37	\$17,458.11	\$21,243.28
Court of Common Pleas	\$223,870	\$354,590.55	\$368,202
JP Court	\$0	\$0	\$22.50

And...

Chris Barrish
WHYY October 15,
2019

“Newport has been spending a portion of that money [fines and fees] on town expenses instead of sending it to the Victims’ Compensation Fund... The money Newport has been misusing comes from an 18 percent surcharge added to the cost of fines for traffic and criminal offenses statewide.”