



ROBINA INSTITUTE
OF CRIMINAL LAW AND CRIMINAL JUSTICE

Understanding the Landscape of Fines, Restitution, and Fees for Criminal Convictions in Minnesota



Kelly Lyn Mitchell

August 2023

Acknowledgements

This report was generously supported by the Minneapolis Foundation. Special thanks to our law student research assistants Lucy Chin and Madison Wadsworth for their assistance in completing extensive background research and preparing initial drafts of several sections of the report.

Table of Contents

Introduction	1
Financial Obligations Imposed on People Convicted for Criminal Offenses.....	2
Fines.....	2
Restitution.....	3
Fees	4
How Fines, Restitution, and Fees are Collected, and Consequences for Nonpayment	10
Changes to Fines and Fees Over Time.....	12
Changes to State Law.....	12
Changes at the Local Level.....	14
Fees to be Eliminated in the Future.....	15
Conclusion and Policy Recommendations	16

Introduction

When a person is charged and convicted of a criminal offense in Minnesota, a number of consequences flow from that conviction. The person may experience arrest and booking into the county jail. They may have to post bond or bail to gain pretrial release from jail while the case is pending. And if convicted, they may be sentenced to a period of incarceration in prison or jail or they may be ordered to serve a period of time on probation, during which they will have numerous court-ordered conditions to comply with. Each of these touchpoints with the criminal justice system may incur additional challenges for the person, such as potential loss of employment, and impacts on family members who may have to post bail or oversee care for their children.

One area that is less visible is the financial side of the experience. There are three different types of financial obligations a person may be required to pay following conviction for a criminal offense: fines, restitution, and fees (Table 1). Fines serve as a form of punishment for the offense committed, while also generating revenue for the system. Restitution, on the other hand, is a financial obligation that aims to compensate the victim for any losses sustained as a result of the crime. Fees are different, in that their primary function is revenue generation. Fees are financial obligations that are used to fund specific aspects of the criminal legal system, such as public defender representation, or to provide funding for the state, county, or city's general budget.

Table 1. Financial Obligations in the Criminal Justice System

Fines	Restitution	Fees
<ul style="list-style-type: none">• Part of the sentence or punishment for a criminal offense.• Imposed by the court.• Paid to the court.• Generate revenue for the system, including victim services, drug treatment programs, highway maintenance, and state and local governments.	<ul style="list-style-type: none">• Part of the sentence for a criminal offense.• Imposed by the court.• Paid to the court and distributed to the victim or designated restitution fund.• Aims to compensate the victim for any losses sustained as a result of the offense.	<ul style="list-style-type: none">• Imposed at the time of the sentence or at multiple touchpoints in the criminal justice system.• Paid to the court, sheriff, corrections department, or service providers.• Used to fund specific aspects of the criminal legal system.• Primary purpose is revenue generation.

This report provides a broad overview of the fines, restitution, and fees that are imposed in Minnesota upon conviction for a criminal offense. The goal is to document and explain the financial obligations that are well-defined, and for which information is readily accessible, as well those that are less defined or left to local discretion, and for which information is harder to access. This report does not detail other financial obligations that may be imposed prior to conviction such as bail, costs associated with pretrial supervision, or fees to engage in a diversion program. Moreover, this report does not discuss whether financial obligations should be imposed upon conviction for a criminal offense. Rather, the goal is to help people understand the landscape of the fines, restitution, and fees that are currently imposed.

Financial Obligations Imposed on People Convicted for Criminal Offenses

When a person is convicted of a criminal offense, the court will impose a sentence, or punishment for having committed the crime. Under Minnesota law, the main components of a sentence are incarceration in jail or prison, a fine, and restitution.¹ Alternatively, the court can sentence a person to probation and order “intermediate sanctions,” which are requirements the person must comply with in order to successfully complete probation. “Intermediate sanctions” are defined to include things like electronic monitoring and substance use treatment, as well as the traditional components of the sentence, including incarceration in jail and payment of a fine and restitution.² Thus, virtually any sentence for a criminal conviction in Minnesota can include financial obligations in the form of a fine and restitution. In addition, there are numerous fees that can be imposed at multiple points in the criminal justice system, including when a person is booked into jail, at the point of conviction, and while serving their sentence.

Fines

Fines are a common component of the sentence imposed in individual cases.³ The Minnesota Legislature establishes maximum fine amounts for criminal offenses. For misdemeanor offenses, the maximum fine is \$1,000 and for gross misdemeanor offenses, the maximum fine is \$3,000.⁴ For felony offenses, the Minnesota Legislature sets high maximum fine amounts for each criminal offense, and this is one of the ways that the legislature indicates the seriousness of the offense. For example, simple robbery—taking property from another by force or with the threat of force—is defined as being punishable by “imprisonment for not more than 10 years or to payment of a fine of not more than \$20,000, or both.”⁵ In contrast, aggravated robbery—using a weapon to take property by force—is punishable by “imprisonment for not more than 20 years or to payment of a fine of not more than \$35,000, or both.”⁶ The higher incarceration time and fine for aggravated robbery indicate that it is a more serious crime than simple robbery.

It is rare, however, for a person to receive the maximum fine stated in statute. For most crimes, the general rule is that fine should be at least 30 percent of the maximum fine authorized by law.⁷ For certain petty misdemean-

¹ Minn. Stat. §§ 609.10, subd. 1; 609.125, subd. 1 (2022).

² Minn. Stat. § 609.135, subd. 1 (2022).

³ Minn. Stat. §§ 609.10, subd. 1; 609.125, subd. 1 (2022).

⁴ Minn. Stat. §§ 609.02; 609.03 (2022).

⁵ Minn. Stat. § 609.24 (2022).

⁶ Minn. Stat. § 609.245, subd. 1 (2022).

⁷ Minn. Stat. §§ 609.101 (2022).

ors and misdemeanors, the Minnesota Judicial Branch may set the fine lower than the 30 percent threshold by adding it to the Statewide Payables List, which is a list of offenses—primarily traffic offenses—for which a person may choose to simply pay the fine rather than make a court appearance.⁸ Beyond these parameters, the court has broad discretion to determine the actual fine amount imposed.

While the court cannot forego imposing the minimum fine altogether,⁹ the court can take one's ability to pay into consideration when setting the fine amount. Specifically, if the court makes a finding that the defendant qualifies for a public defender, that the defendant is indigent, or that the required payment would create “undue hardship” for an individual or the individual's immediate family, the court can reduce the fine to \$50, order community service in lieu of the fine, or authorize a payment plan.¹⁰ However, appellate courts have repeatedly held that there is no requirement for the court to base the fine amount on the person's ability to pay.¹¹ This means the court also has no duty to make an inquiry about the person's ability to pay before imposing the fine, and that, practically, the court will not resort to any of these accommodations—reducing the fine, ordering community service as an alternative to the fine, or authorizing a payment plan—unless the defendant asserts the need for one.

A 1991 Minnesota law directed the Minnesota Sentencing Guidelines Commission to develop a system of day fines, which are fines that are proportional to both the seriousness of the offense and the individual's financial circumstances.¹² Unlike flat fines, the purpose of day fines is to balance the impact of fines so that people with more financial resources experience the same punishment impact as people with fewer financial resources. However, it does not appear that the Commission ever developed or piloted day fines.

Restitution

Restitution is a financial obligation imposed by the court to compensate the victim of a crime for injury or loss resulting from the offense. Technically, the purpose of restitution is “to restore crime victims to the same financial position they were in before the crime.”¹³ But restitution is often expected to serve several additional purposes, including making victims whole from a psychological perspective, promoting a sense of responsibility and accountability in individuals convicted of crime, and reducing recidivism.¹⁴

In Minnesota, restitution can be paid to the victim, which is defined to include not only a person affected by the crime but also a corporation or government entity.¹⁵ For example, in one case, restitution was ordered to reimburse both the owner of a home that was destroyed by arson as well as the homeowner's insurance company.¹⁶ In another case, restitution was ordered to compensate an assault victim for out-of-pocket medical costs as well as the victim's health insurance company for the portion of medical costs covered by insurance.¹⁷ Additionally, restitution can be paid to a victim's family or to a victim assistance program if the victim is deceased or already fully compensated.¹⁸

8 See Minn. Stat. § 609.101, subd. 4 (2022); Minn. R. Crim. P. 23; Minnesota Judicial Branch Statewide Payables List, <https://www.mncourts.gov/GovernmentPartners/Statewide-Payables-Lists.aspx>.

9 Minn. Stat. § 609.101, subd. 5 (2022).

10 Minn. Stat. § 609.101, subd. 5 (2022).

11 See *State v. Patterson*, 511 N.W.2d 476 (Minn. Ct. App. 1994); *Perkins v. State*, 559 N.W.2d 678 (Minn. 1997); *State v. Kujak*, 589 N.W.2d 290 (Minn. 1999).

12 Minn. Stat. § 244.16 (2022).

13 *State v. Currin*, 974 N.W.2d 567, 572 (Minn. 2022).

14 S. H. Haynes, A. C. Cares, & R. B. Ruback, *Reducing the Harm of Criminal Victimization: The Role of Restitution*, 30(3) *Violence & Victims* 450-469 (2015).

15 Minn. Stat. § 611A.01(b) (2022).

16 *State v. Wigham*, 967 N.W.2d 657 (Minn. 2021).

17 *State v. Miller*, 842 N.W.2d 474 (Minn. Ct. App. 2014).

18 Minn. Stat. §§ 609.10, subd. 2; 609.125, subd. 2 (2022).

Victims may request payment for “any out-of-pocket losses resulting from the crime.” This includes things like medical and therapy costs, lost income, and funeral expenses, but the court can consider any other losses the victim can demonstrate and justify.¹⁹ While the victim is allowed to request the amount they think is appropriate, the court has discretion to grant or deny any elements of the restitution request.²⁰ Additionally, the defendant can challenge the amount of restitution or specific items of restitution requested by the victim.²¹

Though restitution is a common component of the sentence, as a practical matter, at the time of sentencing, the court often reserves (puts on hold) the issue of restitution to allow adequate time for the victim to request and document the need for restitution.²² The court can later amend the sentencing order to add the restitution requirement or issue a separate order for restitution.²³ This ability to add restitution at a later date appears to extend to any point during the active sentence; that is, while the person is on probation, in prison, or on supervised release.²⁴ In one case, the Supreme Court upheld a restitution order issued six years after the conviction.²⁵

Because the goal of restitution is to reimburse victims for losses incurred as a result of the crime, if the court determines that restitution is appropriate, restitution cannot be waived.²⁶ Unlike fines, the court is required to consider the defendant’s “income, resources, and obligations” when setting the amount of restitution.²⁷ However, this seems to be a weak standard because it requires only that the court consider the person’s resources but does not require that the amount of restitution actually bear any relationship to those resources. Instead, most cases in which the amount of restitution has been challenged have treated the requirement to consider resources as an obligatory step with no real requirement to determine if the person has the ability to pay the restitution amount imposed.²⁸ For example, in one case, the defendant had an annual income of \$4000 and annual debts of \$4800, but the court of appeals found that because the court had considered ability to pay, the court did not abuse its discretion in ordering the individual to pay just over \$16,000 in restitution to reimburse a car dealer for damage to a stolen car.²⁹ In two other cases, it was adequate to show that the individual had an income stream from wages earned in prison, even though in one case the individual was documented as making just \$1.25 an hour at their prison job.³⁰ In all of these cases, it appeared it would be difficult for the individual to pay restitution; however, it was sufficient that the court had looked at the individual’s financial resources prior to ordering it. Thus, restitution functions more like a placeholder for a debt that must be paid eventually, even if it is clear it cannot be paid currently.

Fees

In addition to fines and restitution, individuals may be subject to a variety of fees that are charged at the time of conviction or while serving their sentence. These fees are not geared towards accountability or punishment; instead, their aim is to generate revenue, either for a specific purpose or to supplement funding for state or local governments.³¹

¹⁹ Minn. Stat. § 611A.04, subd. 1(a) (2022).

²⁰ Minn. Stat. § 611A.04, subd. 1(b)–(c) (2022).

²¹ A defendant can challenge restitution either at the sentencing hearing or within 30 days after receiving notice of the amount of restitution requested. Minn. Stat. § 611A.045, subd. 3 (2022).

²² Minn. Stat. § 611A.04, subd. 1(a) (2022).

²³ Minn. Stat. § 611A.04, subd. 1(b) (2022).

²⁴ Minn. Stat. § 611A.04, subd. 1(b) (2022).

²⁵ *State v. Anderson*, 871 N.W.2d 910 (Minn. 2015).

²⁶ Minn. Stat. § 611A.04, subd. 1(c) (2022).

²⁷ Minn. Stat. § 611A.045, subd. 1 (2022).

²⁸ *State v. Miller*, 842 N.W.2d 474, 479 (Minn. Ct. App. 2014). Further, this is no requirement that the court make any findings on the record regarding ability to pay. *State v. Jola*, 409 N.W.2d 17, 20 (Minn. Ct. App. 1987).

²⁹ *State v. Alexander*, 855 N.W.2d 340, 344–45 (Minn. Ct. App. 2014).

³⁰ *State v. Lindsey*, 632 N.W.2d 652, 663–64 (Minn. 2001); *State v. Palubicki*, 727 N.W.2d 662, 667–68 (Minn. 2007).

³¹ See, e.g., *State v. Lopez-Solis*, 589 N.W.2d 290 (Minn. 1999) (stating the purpose of prosecution costs is to reimburse the state).

Fees can be imposed by the court, the county sheriff, corrections agencies, and treatment or service providers (i.e., substance abuse or sex offender treatment providers). Table 2 provides a list of fees that are currently defined by statute in Minnesota, including a description of each fee's purpose, the amount, whether ability to pay must be considered prior to imposition of the fee, and whether the fee can be reduced or waived (meaning the person would not have to pay the fee). These fees cover a range of purposes, including generating revenue for public defender representation and probation supervision, payment for the cost of remote electronic alcohol monitoring, and payment of room and board while serving a sentence in the county jail.

Only four of the fees listed have the amounts set by statute: chemical dependency assessment fee and surcharge, criminal and traffic surcharge, and public defender co-pay. In all other cases, the statute authorizes creation of the fee, but leaves the amount to the discretion of the entity collecting it, in most instances, the courts or counties. As a result, many of the fees can vary by county or by which agency or service provider is imposing the fee.

One of the most prolific fee categories authorized by law is the correctional fee. This one category authorizes corrections agencies to establish a fee schedule covering multiple aspects of being on supervision for probation or supervised release (i.e., Minnesota's version of parole). For example, in Anoka County, the correctional fee schedule includes a fee for being on probation supervision (\$145 to \$335, depending on offense level), for participating in work release while serving a sentence in the local jail (\$23/day), as well as fees for drug testing (\$90 per case), electronic monitoring (\$18/day), and cognitive skills programming (\$120).³² In Nicollet County, the schedule includes fees for cognitive skills and driving classes (\$100).³³ Correctional fees are significant because the services to which they are applied are often requirements set by the court or Commissioner of Corrections as part of the person's sentence. Thus, certain components of a person's sentence come at a cost that the individual ordered to complete them may or may not be able to pay.

The Minnesota Department of Corrections (DOC) is required to report annually to the Legislature on how much the DOC collects for the correctional fees it imposes. The DOC supervises adult felony probation and supervised release in 52 counties, and juvenile and misdemeanor supervision in 30 counties,³⁴ so the correctional fees collected by DOC are not the only fees collected in the state. Local corrections agencies in the other counties also collect correctional fees. In 2023, the DOC reported that in 2022, it had assessed about \$4.7 million in correctional fees and collected about \$1.7 million. Of that, nearly three-quarters went to the state while the other quarter was returned to counties where the DOC provided misdemeanor probation services.³⁵

Another category of fees that can result in multiple different charges is the jail room and board fee. State law authorizes counties to set fees for being booked into jail, room and board, clothing, and medical and dental care.³⁶ In Crow Wing County, for example, sheriff's fees include \$25 for booking, \$55/day for room and board, a \$10 co-pay for dental or medical care, and a \$2 fee for each dose of over-the-counter medication.³⁷

A common thread across all of the identified fees is that there is no requirement to assess a person's ability to pay the fee before imposing it. Instead, most of the statutes do not say anything about ability to pay. In 1999, there was a legal dispute over whether there might be an implied requirement to assess one's ability to pay

³² Anoka County Community Corrections 2023 Fee Schedule, <https://www.anokacountymn.gov/DocumentCenter/View/31895/2023-Community-Corrections-Fee-Schedule?bidId=>.

³³ 2023 Nicollet County Fee Schedule at 2, <https://www.co.nicollet.mn.us/DocumentCenter/View/6796/2023-Fee-Schedule-and-Resolution>.

³⁴ Minnesota Department of Corrections, *Fact Sheet: Correctional Delivery Systems*, https://mn.gov/doc/assets/Correctional%20Delivery%20Systems_tcm1089-461952.pdf.

³⁵ Minnesota Department of Corrections, 2022 Supervision Fees Report, https://mn.gov/doc/assets/2022%20DOC%20Supervision%20Fee%20Report_tcm1089-578191.pdf.

³⁶ Minn. Stat. § 641.12, subd. 3 (2022).

³⁷ Crow Wing County Sheriff's Office Fee Schedule, <https://www.crowwing.gov/DocumentCenter/View/19470/Sheriff-Office-2023-PDF?bidId=>.

prosecution costs even though the statute did not say anything about ability to pay. However, the Minnesota Supreme Court refused to read such a requirement into the statute when it was silent on the matter.³⁸ Thus, it is likely that all fee statutes that are similarly silent would be interpreted as having no requirement to assess a person's ability to pay before imposing the fee.

The only statutorily defined fee with any language regarding ability to pay is the correctional fee. The language in the correctional fee statute requires the fee to be “reasonably related to defendants’ ability to pay.”³⁹ However, in the only court case to examine whether this language required an individual determination of one’s ability to pay, a federal district court found that the language merely “mandates that [corrections agencies] create a fee schedule, for probationers as a group, that is not arbitrary.”⁴⁰ Thus, the fee schedule may be based on an overall perception about what people on probation as group can pay, but there is no requirement to make an individualized assessment of each probationer’s ability to pay before imposing correctional fees.⁴¹

Only about half of the statutorily defined fees permit the reduction or waiver of the fee. For fees that are imposed by the court, the standard for waiver generally requires a showing of indigency or that the fee would cause an undue hardship on the person or their family. For fees that are imposed by the correctional agencies and sheriffs, the standard for waiver generally requires a showing that the person does not have the ability to pay the fee, or that the prospects for payment are poor, or that there are other extenuating circumstances. However, none of these terms are defined, so judges, correctional agencies, and sheriffs have considerable discretion in determining whether waivers should be granted. As an example, in 2023, the DOC reported that of 10,413 correctional fees imposed, it waived 338, for a waiver rate of 3.8%. However, of these, nearly 40% were waived due to the death of the person upon which the fees were originally imposed. DOC also reported that by policy, the department limits the availability of waivers, preferring instead to require that the person work off the debt by performing community work service.⁴²

Table 2. Criminal Justice Fees in State Law

Type	Source	Purpose	Amount	Ability to Pay Consideration Required? Y/N	Waivable? Y/N	Standard for Waiver
Booking Fee	Minn. Stat. § 641.12, subd. 1	Fee for being booked for confinement in the county or regional jail.	Varies by jurisdiction, but most common amount appears to be \$25 (see, e.g., Beltrami, Olmsted, and Stearns County). ⁴³	N	N	N/A
Chemical Dependency Assessment Surcharge	Minn. Stat. § 169A.284	No stated purpose.	\$25 paid to court.	N	Y	The court may waive the fee or authorize payment in installments if it finds that “the convicted person is indigent or that the assessment charge and surcharge would create undue hardship for the convicted person or that person’s immediate family.”

38 *State v. Lopez-Solis*, 589 N.W.2d 290 (Minn. 1999).

39 Minn. Stat. §§ 244.18, subd. 2; 241.272, subd. 2 (2022).

40 *Little v. Arrowhead Regional Corrections*, 2010 WL 11643515, *15 (D. Minn. 2010).

41 *Id.*

42 Minnesota Department of Corrections, 2022 Supervision Fees Report, https://mn.gov/doc/assets/2022%20DOC%20Supervision%20Fee%20Report_tcm1089-578191.pdf.

43 Beltrami County 2023 Fee Schedule, <https://www.co.beltrami.mn.us/Document%20Center/Documents%20Forms/Fee%20Schedule.pdf>; Olmsted County Fee Finder, <https://www.olmstedcounty.gov/i-want/pay/fees>; Stearns County 2023 Services and Fees, <https://content.civicplus.com/api/assets/2e3546bf-6164-4fd4-8d10-e0447ded887a?scope=all>.

Type	Source	Purpose	Amount	Ability to Pay Consideration Required? Y/N	Waivable? Y/N	Standard for Waiver
Chemical Dependency Assessment Additional Surcharge	Minn. Stat. § 169A.284	No stated purpose.	\$5 if convicted of a DWI within five years of a prior impaired driving conviction.	N	Y	The court may waive the fee or authorize payment in installments if it finds that "the convicted person is indigent or that the assessment charge and surcharge would create undue hardship for the convicted person or that person's immediate family."
Chemical Dependency Assessment	Minn. Stat. § 169A.284	To cover the cost of an assessment to determine if a person is chemically dependent and if so, to recommend appropriate treatment services.	Cost varies and is set by the entity conducting the assessment.	N	N	N/A
Correctional Fee (County Corrections Agencies)	Minn. Stat. § 244.18	To fund correctional services such as supervision, restitution collection, community work service placement and supervision, and court-ordered services.	Varies by corrections agency (e.g., Ramsey County eliminated correctional fees; Olmsted County charges \$500 for supervised release and felony probation, \$200 for misdemeanor probation, \$400 for gross misdemeanor probation, and an additional \$240 annual fee for sex offender supervision). ⁴⁴	Unclear – Statute requires the fees to be "reasonably related to defendants' ability to pay."	Y	Fees may be waived if the chief executive officer of the local correctional agency determines the person "does not have the ability to pay the fee, the prospects for payment are poor, or there are extenuating circumstances justifying waiver of the fee." Alternatively, the local correctional agency can require the person to perform community work service as a means of paying the fee.
Correctional Fee (DOC)	Minn. Stat. § 241.272	To fund correctional services such as supervision, restitution collection, community work service placement and supervision, and court-ordered investigations.	Unknown.	Unclear – Statute requires the fees to be "reasonably related to defendants' ability to pay."	Y	Fees may be waived if the Commissioner of Corrections determines the person "does not have the ability to pay the fee, the prospects for payment are poor, or there are extenuating circumstances justifying waiver of the fee." Alternatively, the Commissioner can require the person to perform community work service as a means of paying the fee.
Correctional Fee (Counties Providing Misdemeanor and Juvenile Probation Services)	Minn. Stat. § 241.272, subd. 6	To fund correctional services such as supervision, restitution collection, community work service placement and supervision, and court-ordered investigations.	Varies.	N	N	N/A

⁴⁴ See Shannon Prather, *Ramsey County Eliminates Nearly \$700,000 in Criminal Fines and Fees*, Star Tribune, April 14, 2020, <https://www.startribune.com/ramsey-county-eliminates-nearly-700-000-in-criminal-fines-and-fees/569640712/>; Olmsted County Fee Finder, <https://www.olmstedcounty.gov/i-want/pay/fees>.

Type	Source	Purpose	Amount	Ability to Pay Consideration Required? Y/N	Waivable? Y/N	Standard for Waiver
Costs of Prosecution	Minn. Stat. § 631.48	Reimbursement to the county prosecutor for costs associated with the criminal case. ⁴⁵	Varies by case.	N ⁴⁶	N	NA
Criminal and Traffic Surcharge	Minn. Stat. § 357.021, subd. 6	No stated purpose. Fee imposed on all criminal and traffic diversions and convictions.	\$75 (criminal conviction or diversion). \$12 (traffic offense). \$1 (Ramsey County surcharge for parking offenses).	N	Y	"The court may reduce the amount or waive payment of the surcharge required under this subdivision on a showing of indigency or undue hardship upon the convicted person or the convicted person's immediate family. Additionally, the court may permit the defendant to perform community work service in lieu of a surcharge."
Jail Room and Board	Minn. Stat. § 641.12, subd. 3	Covers the cost of the person's room, board, clothing, medical, dental, and other correctional services for people convicted of a crime and confined in the county jail, workhouse, or correctional or work farm.	Varies by county (e.g., Crow Wing County charges a jail boarding fee of \$55/day and a \$10 fee for each consultation with a doctor or nurse). ⁴⁷	N ⁴⁸	Y	Fees may be waived if the chief executive officer of the local correctional agency or sheriff determines that "the person does not have the ability to pay the costs, payment of the costs would create undue hardship for the person or the person's immediate family, the prospects for payment are poor, or there are extenuating circumstances justifying waiver of the costs."
Law Library Fee (Hennepin and Ramsey Counties)	Minn. Stat. § 134A.09	To support the county law library.	Hennepin \$12. ⁴⁹ Ramsey \$0. ⁵⁰	N	N	NA
Law Library Fee (All Other Counties)	Minn. Stat. § 134A.10	To support the county law library.	Varies by county (e.g., Beltrami County \$10; Olmsted County \$15). ⁵¹	N	N	N/A
Public Defender Co-Pay	Minn. Stat. § 611.17	Co-payment for representation provided by a public defender.	\$75	N	Y	None specified. Can be reduced or waived by the court.

45 There has been considerable litigation regarding allowable and unallowable costs under this statute. Allowable costs have included witness fees and drug task force fees. *State v. Niemczyk*, 400 N.W.2d 401, 404 (Minn. Ct. App.1987); *State v. Kujak*, 639 N.W.2d 878, 885 (Minn. Ct. App.2002), *review denied* (Minn. Mar. 25, 2002). Unallowable costs have included mandated sex offender assessments, juror fees, and costs to change the venue of the case. *State v. Duffy*, 2022 WL 90278 (Minn. Ct. App. 2022); *State v. Wallat*, 1997 WL 193914, *5 (Minn. Ct. App. 1997); *State v. Morin*, 1999 WL 17676, *1 (Minn. Ct. App. 1999).

46 The Supreme Court has held the court is not required to assess ability to pay before imposing prosecution costs because the statute does not expressly direct an assessment. *State v. Lopez-Solis*, 589 N.W.2d 290 (Minn. 1999).

47 Crow Wing County Sheriff's Office Fees, <https://www.crowwing.gov/DocumentCenter/View/19470/Sheriff-Office-2023-PDF?bidId=>.

48 See *Christianson v. Markquart*, No. 16-cv-1034, 2018 WL 461134 (D. Minn. Jan. 17, 2018) (commenting that although the statute requires waiver procedures, it is unclear whether ability to pay—and therefore the need for a waiver—must be determined before or after the assessment is made).

49 See <https://www.mncourts.gov/Help-Topics/Court-Fees/District-Court-Fees.aspx?c=hennepin&cookieCheck=true>.

50 Ramsey County eliminated the law library fee in 2020. Shannon Prather, *Ramsey County Eliminates Nearly \$700,000 in Criminal Fines and Fees*, Star Tribune, April 14, 2020, <https://www.startribune.com/ramsey-county-eliminates-nearly-700-000-in-criminal-fines-and-fees/569640712/>.

51 See <https://www.mncourts.gov/Help-Topics/Court-Fees/District-Court-Fees.aspx?c=beltrami&cookieCheck=true>; <https://www.mncourts.gov/Help-Topics/Court-Fees/District-Court-Fees.aspx?c=olmsted>.

Type	Source	Purpose	Amount	Ability to Pay Consideration Required? Y/N	Waivable? Y/N	Standard for Waiver
Remote Electronic Alcohol Monitoring	Minn. Stat. § 169A.73	Covers the cost of a program to use breath analyzer units to monitor impaired driving offenders who are ordered to abstain from alcohol use.	Varies (e.g., in Dakota County, the cost is \$19/day). ⁵²	N	Y	Individuals must pay the per diem cost of the program "unless they are indigent."
Sentencing to Service Fee	Minn. Stat. § 641.12, subd. 4	To support the Sentencing to Service program, for which convicted individuals serve on work crews for community improvement projects. ⁵³	Varies by county (e.g., in Crow Wing County a person in the Sentencing to Service program must pay a \$5 card fee as well as a \$40 drug testing fee before beginning the program, as well as additional drug testing fees while serving). ⁵⁴	N	N	N/A
Sex Offender Treatment Fee	Minn. Stat. § 241.272, subd. 8	Co-pay charged to individuals to fund the cost of sex offender treatment.	Varies by provider but must be approved by the Commissioner of Corrections.	N	N	N/A

52 See <https://www.anokacountymn.gov/DocumentCenter/View/29349/HEM-Brochure-1-2022>.

53 See <https://mn.gov/doc/staff-partners/local-government/sts/>.

54 See <https://www.crowwing.gov/434/Sentence-to-Service-STS>.

How Fines, Restitution, and Fees are Collected, and Consequences for Nonpayment

One of the most common ways that fines, restitution, and fees are collected is payment to the court. When the court imposes any fine, restitution, or fees as part of the sentence, the court will also set a due date for payment. If the person needs time to pay the debt, the court may set up a payment plan.⁵⁵ If the person fails to pay the debt by the due date, the court may refer the outstanding balance to a public or private agency for collection.⁵⁶ If the person has set up a payment plan but fails to pay an installment when due, the entire remaining amount becomes due and may be referred for collection.⁵⁷ The person has the right to contest the referral for collection based on inability to pay; however, the challenge must be made before the due date of the payment.⁵⁸

The obligation to pay court debts remains for 10 years after the due date has passed, so the court can pursue collection for 10 years.⁵⁹ After that point, if the debt still has not been paid, the court will write it off.⁶⁰ The court primarily uses Revenue Recapture as its means of collection. Revenue Recapture means that the debt is logged with the Minnesota Department of Revenue, and if the person owing the debt has a tax refund, the amount owed to the courts will be deducted from the tax refund before the refund is paid to the person.⁶¹

In addition to the collections process described above, there are several other mechanisms in the law to encourage payment of fines, restitution, and fees. If a person is serving a period of incarceration in prison or jail, the person may be authorized for work release, which allows the person to obtain or maintain employment outside of the facility for part of the day, and to serve off-work hours in the facility or on electronic monitoring or home confinement. The person's earnings from this employment can be collected and used to satisfy multiple debts, including fines, restitution, and fees.⁶² Similarly, for those serving time in prison, fines, restitution, and fees can be deducted from any earnings from work performed during incarceration.⁶³

⁵⁵ Minn. Stat. §§ 609.10, subd. 1(b); 609.125, subd. 1(b) (2022).

⁵⁶ Minn. Stat. §§ 480.15, subd. 10; 609.104(1)(a) (2022). For offenses that are payable without a court appearance, the court will impose a \$5 penalty if the ticket is not paid within 30 days, and a second penalty of \$25 if it is not paid within 60 days. See Minnesota Judicial Branch, *Pay Fines: FAQs*, <https://www.mncourts.gov/Pay-a-Fine.aspx>.

⁵⁷ Minn. Stat. § 609.104(1)(a) (2022).

⁵⁸ Minn. Stat. § 609.104(b) (2022).

⁵⁹ Minn. Stat. § 609.104(2)(a) (2022); Minnesota Judicial Branch Policy 209, https://www.mncourts.gov/mncourtsgov/media/Judicial_Council_Library/Policies/200/209-Collection-and-Distribution-of-Revenues-Policy.pdf.

⁶⁰ Minnesota Judicial Branch Policy 209, https://www.mncourts.gov/mncourtsgov/media/Judicial_Council_Library/Policies/200/209-Collection-and-Distribution-of-Revenues-Policy.pdf.

⁶¹ See Minn. Stat. ch. 270A.

⁶² Minn. Stat. §§ 241.26, subd. 5; 631.425, subd. 5 (2023).

⁶³ Minn. Stat. §§ 243.23 (2022).

If a person fails to pay the criminal and traffic surcharge, in addition to it being sent for collection, a person may be held in contempt of court for nonpayment.⁶⁴ If so, the court can punish the contempt with incarceration or a \$50 fine.⁶⁵

There are also several provisions that are unique to restitution.⁶⁶ First, if a person is serving a probation sentence but has not paid the restitution in full by 60 days before the end the sentence, the prosecutor or probation officer can request that the court hold a probation violation hearing.⁶⁷ The court can extend the person’s probation sentence for up to one year if the court finds that the defendant “has not paid court-ordered restitution in accordance with the payment schedule or structure” and that the defendant “is likely to not pay the restitution...before the term of probation expires.”⁶⁸ The one-year extension may be extended again by another year, if the court finds that the defendant still hasn’t paid the restitution owed.⁶⁹ Similarly, payment of restitution is an explicit condition of intensive supervised release (ISR), which is a program of post-prison supervision for individuals identified as very high risk. Failure to comply with any of the conditions of ISR can result in sanctions, including revocation.⁷⁰

Once a restitution order is issued, the court can order that it be docketed as a civil judgment.⁷¹ This makes the order enforceable by any civil means of collection, including garnishing a person’s wages. It also places a lien on any property owned by the person owing restitution.⁷² Moreover, when restitution is docketed as a civil judgment, the court administrator must also refer it to Revenue Recapture.

Finally, payment of restitution is often prioritized over other criminal fines and fees when a person is unable to pay all of their debts at once. For example, a person must be making steady payments on restitution before being required to pay correctional fees.⁷³ Money from wages earned by people in prison must go first to satisfying support obligations for dependents. But after that, restitution must be satisfied before any other fines and fees.⁷⁴ The same is true for any debts referred for collection through Revenue Recapture.⁷⁵

As detailed in Table 2, some fees are collected outside of the courts, by sheriffs, county corrections agencies, and treatment providers. Correctional fees and jail room and board fees can be collected by “any available civil means of debt collection.”⁷⁶ But there is otherwise no explicit direction in the law about how these fees are collected. Similar to the courts, most government agencies likely utilize Revenue Recapture if the fees are not paid within a reasonable amount of time.

64 Minn. Stat. § 588.01, subd. 3(11) (2022).

65 Minn. Stat. § 588.02 (2022).

66 This report covers restitution imposed at the time of or soon after conviction. But it should be noted that the law authorizes pretrial diversion solely for the purpose of monitoring payment of restitution. Minn. Stat. § 401.065 (2022).

67 Minn. Stat. § 609.135, subd. 1b (2022).

68 Minn. Stat. § 609.135(2)(g)(1)–(2) (2022).

69 Minn. Stat. § 609.135(2)(g).

70 Minn. Stat. §§ 244.05, subd. 6; 244.14 (2022).

71 Minn. Stat. § 611A.04, subd. 3 (2022).

72 See, e.g., John Fossum, Rice County Attorney, *Civil Judgments from Criminal Restitution Orders and Collecting Civil Judgments*, <https://www.ricecountymn.gov/DocumentCenter/View/936/Civil-Judgment>.

73 See Minn. Stat. §§ 244.18, subd. 5; 241.272, subd. 5 (2022).

74 Minn. Stat. § 243.23, subd. 3 (2022).

75 Minn. Stat. § 270A.10 (2022).

76 Minn. Stat. §§ 244.18; 241.272; 641.12, subd. 3 (2022).

Changes to Fines and Fees Over Time

Though individuals in Minnesota can incur a host of financial obligations when convicted of a criminal offense, there have been changes in recent years that arguably lessen their impact on individuals. Some consequences for nonpayment have been stricken from law, while in other cases, the legislature has authorized waiver of criminal fees. This section details changes to state law as well as some efforts being made at the local level to reduce the impact of financial obligations.

Changes to State Law

There have been various changes over time to the imposition and collection of criminal fines and fees in Minnesota law. The majority of changes occurred in 2021 and 2009. Many were focused on easing financial and other burdens for people in the criminal justice system, while some changes were aimed at increasing the efficiency of the courts by limiting or eliminating court hearings for nonpayment of fines and fees. The changes are set forth chronologically from newest to oldest.

Ending Driver's License Suspension for Failure to Pay Fines (2021)

More recently, the legislature removed a significant sanction for nonpayment of fines and the criminal and traffic surcharge: drivers' license suspension. Prior to 2021, a person's license could be suspended if they were charged with a law regulating "the operation or parking of motor vehicles," had been sentenced to pay a fine and the criminal and traffic surcharge, and had not paid the fine or fee.⁷⁷ A finding that these three conditions were satisfied, regardless of whether the person had the ability to pay, resulted in a license suspension for 30 days or until the debt was paid.⁷⁸ Beginning in 2021, the law was changed to state that suspending a person's driver's license based solely on nonpayment of the fine and surcharge is expressly prohibited.⁷⁹ Proponents of the law change emphasized that "suspending a driver's license for unpaid traffic tickets often leads to job loss and mounting debt without improving public safety."⁸⁰ In this manner, the license suspension likely undercut both the ability of the individual to pay the debt and the ability of the court to collect it. In addition to prohibiting suspension for nonpayment of the fine and surcharge, the law now requires that traffic citations include language informing individuals that they can request waiver of the fine if they are indigent or if payment of the fine would cause undue hardship for them or their families.⁸¹ The net effect of the law change is that individuals can no longer have their licenses revoked for failure to pay the fine and criminal and traffic surcharge; instead, the debt may be referred for collection like other fines, restitution, and fees, which could negatively affect the person's credit.

⁷⁷ Minn. Stat. § 171.16, subd. 3 (2008).

⁷⁸ *Id.*

⁷⁹ Minn. Stat. § 171.16, subd. 3 (2023).

⁸⁰ Tim Walker, *No Driver's License Suspension Proposed for Failure to Pay Fine, Parking Ticket*, Session Daily (Feb. 19, 2019), <https://www.house.mn.gov/SessionDaily/Story/13618>.

⁸¹ Minn. Stat. § 169.99, subd. 1d (2023).

Making the Criminal and Traffic Surcharge Waivable (2021)

The criminal and traffic surcharge was originally enacted in 1998.⁸² At the time, the surcharge was \$25, and the law expressly provided that the surcharge was not waivable, though the court could authorize the fee to be paid in installments.⁸³ This ban on waiver was so firm that the law also included a provision requiring the court administrator to impose the fee if the court did not.⁸⁴ Though other minor changes were made to the law over time, the surcharge continued to be non-waivable for more than two decades, until the legislature reversed course in 2021.⁸⁵ That year, the legislature amended the law to remove the requirement that the court administrator impose the fee, and to permit the court to waive or reduce the fee for those who are indigent or facing financial hardship. The law also permitted individuals to satisfy the debt by performing community work service in lieu of the fee.⁸⁶

Solidifying Waiver for the Public Defender Co-Pay (2003, 2007, 2012)

As detailed above in Table 2, the public defender co-pay is a fee collected to supplement funding for public defender representation.⁸⁷ This fee has seen numerous changes and challenges over time. In 2002, the Minnesota Legislature clearly and unequivocally established a flat \$28 fee that could be waived by the court.⁸⁸ In 2003, the law was amended to tie the amount of the fee to the offense level of the crime.⁸⁹ For example, a misdemeanor required a \$50 public defender fee, a gross misdemeanor required \$100, and a felony required \$200. The 2003 law change also eliminated the provision permitting the fee to be waived. However, there was an immediate challenge to this change, asserting that the non-waivability of the public defender co-pay violated defendants' right to counsel under the state and federal constitutions. The Minnesota Supreme Court agreed and held that the revised statute was unconstitutional.⁹⁰ In 2007, the Minnesota Legislature corrected the statute by returning it to the 2002 version, which allowed for waiver of the fee.⁹¹ Two years later, the legislature increased the fee from \$28 to \$75.⁹² Lastly, in 2012, the legislature amended the statute to provide that in addition to waiving the fee, the court can reduce the amount of the public defender co-pay.⁹³ The net result is that the public defender co-pay is now higher than when it was first enacted, but it can be reduced or waived. None of the changes, however, have addressed the fact that there is no standard for when the public defender co-pay should be reduced or waived. The same law that imposes the fee establishes a financial standard for public defender representation—the person must be receiving means-tested benefits or have insufficient assets to pay private counsel—but is silent as to what the threshold should be for reducing or waiving the public defender copay.

Removing Payment of Fines as a Condition of Probation (2009)

Prior to 2009, nonpayment of fines had the potential to trigger incarceration or to lengthen a person's probation sentence. First, state law used to permit the court to sentence a person to "payment of a fine, or to imprisonment for a specified term if the fine is not paid."⁹⁴ Additionally, if the court ordered a person to pay a fine as part of their sentence and then placed that person on probation, paying the fine could be a condition of probation.⁹⁵

82 1998 Minn. Laws ch. 367, art. 8, § 5.

83 *Id.*

84 *Id.*

85 2021 (1st Spec. Sess.) Minn. Laws ch. 11, art. 3, § 11.

86 *Id.*

87 Minn. Stat. § 611.17(c) (2022).

88 2002 Minn. Laws ch. 220, art. 6, § 13.

89 2003 (1st Spec. Sess.) Minn. Laws ch. 23, § 6.

90 *State v. Tennin*, 674 N.W.2d 403 (Minn. 2004).

91 2007 Minn. Laws ch. 61, § 4.

92 2009 Minn. Laws ch. 83, art. 2, § 47.

93 2012 Minn. Laws ch. 212, §11.

94 Minn. Stat. §§ 609.10, subd. 1; 609.125, subd. 1 (2008).

95 See 609.135, subd. 1(a) (2008).

Nonpayment of the fine could trigger a hearing to determine whether the conditions of probation should be changed or whether probation should be revoked.⁹⁶ If the hearing resulted in a finding that the person had not paid the fine in accordance with their payment schedule and they were not likely to do so before the probation was set to expire, the law allowed for the court to extend the period of probation by one year—even if that put the person above the maximum probation length allowed by law.⁹⁷ Probation could be extended for an additional year if the fine still had not been paid by the end of the initial extension.

The law as it then existed was likely unconstitutional because it permitted a person to be incarcerated for nonpayment without requiring the court to first determine if the person had the ability to pay the fine. Since 1983, it has been well-settled law that while incarceration for willful nonpayment may be appropriate, incarceration for nonpayment when the person is unable to pay violates the Equal Protection clause of the U.S. Constitution.⁹⁸

In 2009, the legislature resolved this issue by eliminating the possibility of incarceration as a consequence for nonpayment of fines, and by decoupling fines from probation conditions so that nonpayment could not trigger a probation violation hearing.⁹⁹ At the same time, the legislature enacted several laws allowing the courts to refer unpaid fines (and other court debts) for collection as described earlier in this report.¹⁰⁰ The net effect of these changes was that a person could no longer be incarcerated or have probation extended for nonpayment of fines, but they could be subject to collections actions, which could negatively affect their credit.

Changing the Chemical Dependency Assessment Fee (2009)

When a person's criminal behavior may stem from a drug or alcohol addiction, the court may require the individual to complete a chemical dependency assessment. Before 2009, there was a flat fee of \$125 (payable to the state) for the assessment.¹⁰¹ In 2009, the legislature reduced the fee to \$25, but also required the defendant to pay the provider for the cost of the assessment directly.¹⁰² The law change also created a \$5 chemical dependency surcharge for people convicted of repeat driving while intoxicated (DWI) offenses. The chemical dependency assessment fee and surcharge can be waived, but the payment to the service provider cannot be waived. These changes appear to have been part of a longer-term effort to allow individuals to choose their own providers for the assessment and any subsequent treatment.¹⁰³ Unlike other law changes that appear to have reduced the impact of fines and fees for individuals, the next effect of this change is that the cost to the individual could be higher than it was before the law change, and waiver of the cost of the assessment is less certain because it has been left to the discretion of the provider. For example, Beltrami County's Health and Human Services Department provides chemical dependency assessments at a cost of \$200 unless an individual meets certain residency and income requirements, in which case, the assessment will be done at no charge.¹⁰⁴

Changes at the Local Level

As noted above, several fees, including the correctional fee schedule and jail room and board fee schedule are set locally by the county. From 2017 to 2020, Ramsey County, which encompasses the City of Saint Paul, and is

⁹⁶ Minn. Stat. § 609.135 subd. 1a (2008).

⁹⁷ Minn. Stat. § 609.135 subd. 2(g)(1),(2) (2008).

⁹⁸ *Georgia v. Bearden*, 461 U.S. 660 (1983).

⁹⁹ See 2009 Minn. Laws ch. 83, art. 2, §§ 39, 44-46.

¹⁰⁰ *Id.* at §§ 28, 39, 42-46.

¹⁰¹ Minn. Stat. § 169A.284 (2008).

¹⁰² 2009 Minn. Laws ch. 83, § 17.

¹⁰³ See Minnesota Department of Human Services, *FAQs (Comprehensive): Substance Use Disorder Reform*, https://mn.gov/dhs/assets/faq-comprehensive-sud-reform_tcm1053-312094.pdf.

¹⁰⁴ See, e.g., *Social Services – Adult Services: Chemical Use Assessment*, Beltrami County,

<http://www.co.beltrami.mn.us/departments/hhs/social%20services/Adult%20Assessment.html> (last visited Mar. 7, 2023).

part of the Minneapolis-Saint Paul Metro area, made a concerted effort to eliminate revenue-producing fees.¹⁰⁵ As part of that effort, Ramsey County was selected as one of three counties nationwide to engage in a project to reduce reliance on revenue from fines and fees. The project was sponsored by Arnold Ventures and technical assistance was provided by Public Financial Management's (PFM) Center for Justice & Safety Finance.¹⁰⁶ PFM worked with the Ramsey County Board and Ramsey County Community Corrections to: (1) phase out certain fees; (2) save costs in other areas of government; and (3) create alternative sources of revenue.¹⁰⁷

There were two main rationales for eliminating these fees. First, eliminating fees would interrupt the “cycle of debt, new charges and other penalties, including driver’s license suspensions for those unable to pay,” consequences that were disproportionately impacting people of color and those facing financial struggles. Second, eliminating fees would help build rapport and create better relationships between probation agents and people on probation. A major concern was that probation officers were acting as “impromptu debt collectors” rather than focusing on the treatment and rehabilitation needs of people on probation. Eliminating fees would allow individuals to focus on programming and also ease tensions with their probation officers.¹⁰⁸

Working within the confines of the fees that Ramsey County could control (as opposed to those imposed by the state), most of the fees that were eliminated related to corrections and incarceration. On the corrections side, Ramsey County eliminated the probation supervision fee (\$150 to \$300 depending on the offense level), the home electronic monitoring fee (\$6 to \$25 per day), and others.¹⁰⁹ Additionally, Ramsey County eliminated multiple fees related to incarceration, including booking fees (\$25 for the adult detention center; \$20 for the Ramsey County Correctional Facility), daily work release fees (\$16 per day), and medical fees including those for diabetic supplies (\$3) and over-the-counter medication (25 cents per pill).¹¹⁰

Fees to be Eliminated in the Future

In 2023, the Minnesota Legislature passed an extensive criminal justice reform package.¹¹¹ As part of the reform package, the legislature enacted a provision requiring probation agencies to develop a plan for phasing out probation supervision fees by 2027. Once the supervision fee is eliminated, probation agencies will still be able to create a schedule and charge fees for services such as drug testing, electronic monitoring, and treatment or programming, but not general probation supervision.¹¹²

¹⁰⁵ See Ramsey County, *Community Corrections Fines and Fees Elimination*, <https://data.ramseycounty.us/stories/s/43ua-msdw> (showing a dramatic drop in fee collection during this period).

¹⁰⁶ Shannon Prather, *Ramsey County Eliminates Nearly \$700,000 in Criminal Fines and Fees*, Star Tribune (Apr. 14, 2020), <https://www.startribune.com/ramsey-county-eliminates-nearly-700-000-in-criminal-fines-and-fees/569640712/>. The PFM Center for Justice & Safety Finance has a core mission to address systemic racism, and one of the core actions it advocates for local government is to reduce reliance on revenue from fines and fees. See PFM Center for Justice & Safety Finance, *Addressing Systemic Racism*, <https://justicesafetyfinance.com/addressing-systemic-racism2>.

¹⁰⁷ *Ramsey County Options to Reduce Use of Criminal Fines and Fees*, Ramsey Cnty. Bd. (Oct. 22, 2019), <https://www.ramseycounty.us/sites/default/files/Government/Leadership/Board%20of%20Commissioners/Board%20workshops%20%26%20discussions/10-22-19%20Ramsey%20County%20Options%20to%20Reduce%20Use%20of%20Criminal%20Fines%20and%20Fees%20-%20Workshop%20Packet.pdf>; Ramsey County, *Community Corrections Fines and Fees Elimination*, <https://data.ramseycounty.us/stories/s/43ua-msdw>; Shannon Prather, *Ramsey County Eliminates Nearly \$700,000 in Criminal Fines and Fees*, Star Tribune (Apr. 14, 2020), <https://www.startribune.com/ramsey-county-eliminates-nearly-700-000-in-criminal-fines-and-fees/569640712/>.

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

¹¹⁰ *Id.*

¹¹¹ See 2023 Minn. Laws ch. 52.

¹¹² 2023 Minn. Laws ch. 52, § 3.

Conclusion and Policy Recommendations

This report documents the fines, restitution, and fees that can be imposed when a person is convicted of a criminal offense as well as how they are collected and what the consequences are for nonpayment. It is important to note, however, that this report does not cover all of the potential fees that might be imposed throughout the life of a criminal case. For example, after a person has been arrested and charged with an offense, a person may have to pay bail in order to be released from jail while awaiting resolution of their case. A person who is offered diversion (a program designed to avoid conviction while holding the person accountable for the offense), may be required to pay a fee for participating in the diversion program, as well as restitution. And a person serving a probation sentence may be required to participate in a treatment program that requires a co-payment or class fee that is charged directly by the treatment provider. Thus, the financial obligations detailed in this report are just a slice of the full amount a person involved in the criminal justice system may have to pay.

Though the list of fees a person can accrue in the criminal justice system is long, Minnesota has made changes in the last decade or so to reduce the impact of fines and fees on individuals and their families. As detailed above, the revocation of drivers' licenses and extensions of probation due to nonpayment are no longer permitted by the legislature. Additionally, the legislature now permits many fees to be reduced or waived, indicating progress in this area.

Nevertheless, there is room for improvement. Most statutes do not mandate an assessment of a person's ability to pay before the financial obligation is imposed. Although courts are required to consider the defendant's "income, resources, and obligations"¹¹³ when imposing restitution, appellate courts have interpreted this language as only requiring that the person's resources be considered. There is no affirmative requirement to set the amount of restitution proportionate to the individual's resources. But this limited consideration is still more than what is required for most fines and fees. **Therefore, two needed improvements are to: 1) require a person's ability to pay to be assessed before the fine, restitution, or fee is imposed; and 2) establish or adjust the fine, restitution, or fee amounts based on the individual's ability to pay.**

Additionally, for those financial obligations that can be waived, the discretion to grant waivers lies with the court, sheriff, corrections agency, or other entity imposing the obligation. While some waiver provisions in statute include standards such as "indigency" or "undue hardship," these terms are not defined, leading to potential variation in when and how waivers are granted. **Thus, another crucial improvement would be to establish clear standards for waiver of fines, fees, and restitution, such as requiring waivers for anyone receiving means-tested benefits or public defender representation.** Doing so would make the process of imposing and collecting financial obligations arising from a criminal conviction more equitable and consistent.

Overall, although Minnesota has made strides in reducing the impact of fines and fees on individuals within the criminal justice system, if the financial obligations covered in this report remain in law, implementing a mandatory assessment of ability to pay, setting financial obligation amounts based on ability to pay, and establishing defined standards for waivers would further enhance the fairness and effectiveness of the system.

¹¹³ Minn. Stat. § 611A.045, subd. 1 (2022).



ROBINA INSTITUTE
OF CRIMINAL LAW AND CRIMINAL JUSTICE

The Robina Institute of Criminal Law and Criminal Justice is a research institute within the University of Minnesota Law School. We perform interdisciplinary research, bringing legal and social science research together with policy analysis and practice to develop policy-focused solutions to issues within the field of criminal justice.