



Bench Warrant Fees

A 50-State Survey of Another Hidden
Tax in America's Courts

Fines & Fees
Justice Center

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About Us

The **Fines and Fees Justice Center (FFJC)** is catalyzing a movement to eliminate the fines and fees that distort justice. Our goal is to create a justice system that treats individuals fairly, ensures public safety and community prosperity, and is funded equitably. We work together with affected communities and justice system stakeholders to eliminate fees in the justice system, ensure that fines are equitably imposed and enforced, and end abusive collection practices. Visit ffjc.us and follow [@FinesandFeesJC](https://twitter.com/FinesandFeesJC) on Twitter to get the latest updates on local, state and national fines and fees reforms.

Contact

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Introduction

A bench warrant is a legal mechanism courts can use to secure the arrest of someone who has allegedly violated a court order. In some states, it may go by some other name—such as a “writ of attachment” or a “capias”—but for the purpose of this report, we refer to them all as bench warrants. Whatever it is called, the warrant is not proof of a violation. It is solely authorization by the court to take a person into custody so they may be brought before the court. Bench warrants are often related to nonpayment of a fine or fee in the criminal legal or traffic court systems. In fact, in some jurisdictions, failing to pay some underlying court cost makes up the majority of bench warrants.¹

Courts may issue bench warrants when a person fails to pay a fine or fee on time or when a person misses a court appearance related to payment. Depending on the jurisdiction and the reason it was issued, bench warrants may be criminal warrants or—as in the case of some traffic offenses, contempt allegations, or other local ordinance infractions—civil warrants. However they are classified, their result is to take a person into custody, often including jail time.

In many states, courts impose a warrant fee on people for whom they issue bench warrants, regardless of whether the person was ultimately at fault. And, like with other fees in the criminal legal system, those facing bench warrants are often people who can least afford the fees, which can expose them to additional fees and potential incarceration for nonpayment.

For purposes of this report, we are excluding statutes that address warrants issued solely for unpaid civil child support orders. While bench warrants due to missed child support can be equally devastating in terms of potential jail time and added costs, we do not examine them in this report as they are not related to criminal, traffic, municipal, or juvenile offenses.



To better understand when and how warrant fees are authorized and how they might contribute to the growing problem of funding the government through hidden taxes on select people, the Fines and Fees Justice Center has examined the statutes and regulations related to fees imposed on bench warrants in all 50 states and the District of Columbia and compiled this report.

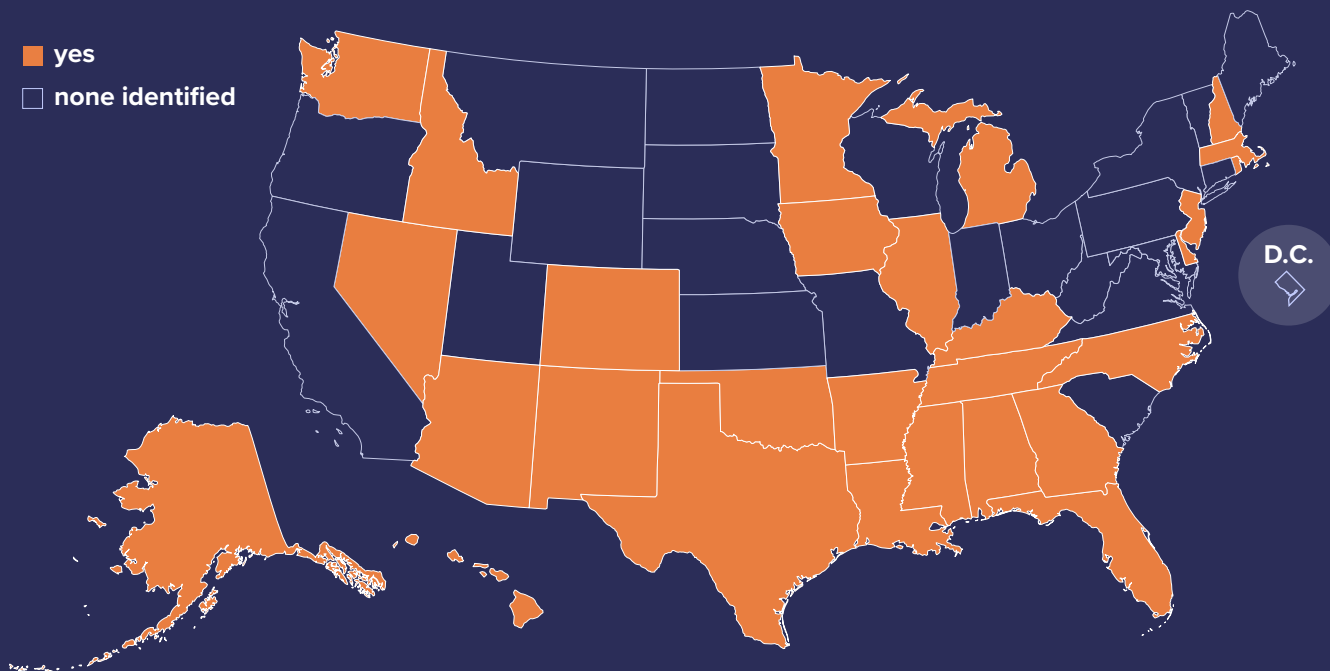
Authorized Costs for Bench Warrants

Courts across the country impose fees for issuing, processing, executing, or even recalling warrants. Although technically only a judge or magistrate may order a bench warrant, court clerks often process the warrants. Hence, many states allow clerks to charge or collect an administrative fee for that processing. In many states, law enforcement officers who arrest an individual on a bench warrant are also granted the ability to seek fees for anything from making the arrest to physically escorting the person to court at a later date. Still, other states have statutes allowing for fees simply for recalling, clearing, or canceling a warrant because the person has paid their debt, come to court on their own, fulfilled some other obligation, or because the warrant was wrongly issued.

Warrant Fees Across the Country

While some states explicitly authorize the imposition of warrant fees, others are silent on whether fees may be imposed. Our research did not find statutory or regulatory language authorizing warrant fees in

23 states or the District of Columbia. This, however, does not necessarily mean fees for warrants are not being charged under some other authority. Our statutory analysis revealed:



States That Authorize Warrant Fees

27 States Authorize Warrant Fees by Statute or Rule:

Alabama, Arizona, Arkansas, Colorado, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Iowa, Kentucky, Louisiana, Massachusetts, Michigan, Minnesota, Mississippi, Nevada, New Hampshire, New Jersey, New Mexico, North Carolina, Oklahoma, Rhode Island, Tennessee, Texas, and Washington.²

» **Delaware** is the only state to prohibit fees if the warrant is based on nonpayment of a fine, fee, or other court-imposed costs,³ although the state’s court rules allow for warrant (capias) fees on other grounds.

» **10 states** mandate courts impose warrant fees: Alabama, Arizona, Arkansas, Georgia, Illinois, Iowa, New Mexico, Oklahoma, Rhode Island, and Tennessee.⁴

» **11 states** allow some discretion on whether to impose warrant fees: Florida, Hawaii, Idaho, Louisiana, Mississippi, Nevada, New Jersey, Texas, and Washington;⁵ although **Massachusetts** and **New Hampshire** use mandatory language in their statutes, there are provisions that allow waivers for “a good cause,” which is at the courts’ discretion.⁶

» **6 states** are silent or unclear on whether the fees are discretionary or mandatory: Colorado, Delaware, Kentucky, Michigan, Minnesota, and North Carolina.

Other Fees

- » **8 states** authorize warrant fees specifically for failure to pay a fine or fee: Arizona, Florida, Massachusetts, New Jersey, Oklahoma, Rhode Island, Tennessee, and Texas.⁷
- » **11 states** authorize warrant fees specifically for failure to appear at a court hearing: Alabama, Florida, Hawaii, Illinois, Massachusetts, New Hampshire, New Jersey, Rhode Island, Tennessee, Texas, and Washington.⁸
- » **4 states** authorize fees to recall, clear, or cancel a warrant: Alabama, Louisiana, Massachusetts, and Oklahoma.⁹

Warrant Costs Vary Widely

Nationally, there is a broad range of warrant fee amounts. In some places the amount is set by statute, while in others local jurisdictions can determine different amounts.

- » Fees defined by statute range from \$2 to \$125.¹⁰
- » **6 states**—Alabama, Arizona, New Jersey, New Mexico, Rhode Island, and Washington—charge warrant fees of \$100 or more.¹¹
- » **5 more states**—Arkansas, Hawaii, Louisiana, Massachusetts, and Oklahoma—charge a warrant that can be \$50 or more,¹² an amount that is not insignificant to hardworking people living paycheck-to-paycheck.

But not all statutes authorizing warrant fees set a fee amount. In Florida, the statute simply allows for recouping the “costs of processing bench warrants and pickup orders” without setting a specific amount,¹³ leaving it to local entities to decide how much that process should cost.¹⁴ Some states set a base warrant fee but authorize additional mileage costs for any distances law enforcement must travel to execute the warrant, often without any cap.¹⁵ Along with mileage costs, some courts may allow additional charges for the amount of time it takes to execute a warrant at an hourly rate.¹⁶

Even when a state authorizes a specific fee, other authorities may lead to significant variations in costs passed to individuals. In Nevada, for example, the statewide statute authorizes a \$15 warrant fee but case law in that state has given courts authority to set any fee amount they want.¹⁷ Courts in Henderson and Las Vegas charge warrant fees of \$178 and \$200, respectively.¹⁸

The Problem with Warrant Fees

The imposition of fees for bench warrants further entangles individuals in contact with the criminal legal system, often driving them deeper into debt and subject to greater sanctions. An investigative report found that there are at least 5.7 million open warrants in the U.S., 96% of which are for minor, nonviolent, or non-criminal offenses.¹⁹ In Michigan, there was one open warrant for every 10 people in the state.²⁰ Even, when it is for a minor infraction or nonpayment of a debt, a warrant allows—and in many states compels—a police officer to arrest an individual and bring them to court. In St. Louis, Missouri, and Louisville, Kentucky, arrests involving bench warrants made up one-third of all arrests in 2019,²¹ with over a combined 50,000 outstanding bench warrants at the end of the year in both cities.²² Once a person is taken into custody, if the court is not in session, the individual may spend multiple nights in jail before appearing in front of a judge. This can have devastating impacts on families, child care,

and employment, which may make ultimately paying the fees that much more difficult.

There are significant racial and economic disparities in bench warrants, meaning these disparities extend to how and on whom the fees are imposed. The earlier cited study of bench warrants in St. Louis and Louisville revealed that Black people were significantly more likely to be arrested on warrants than white people: over 4-to-1 in St. Louis and nearly 3-to-1 in Louisville.²³ In Las Vegas, Nevada, Black residents make up about 12% of the city's population yet account for approximately 46% of the warrants issued for failure to pay a traffic warrant.²⁴ While limited in scope, these studies show that racial disparities in bench warrants follow similar patterns of well documented disparities at nearly every level of the criminal legal system.²⁵

With respect to economics, adults living in poverty are three times more likely to be arrested than those who are not.²⁶ Once in the criminal legal system, people can accrue all kinds of fees at every point of

the system, such as arrest fees, prosecution fees, crime lab fees, defense attorney fees, jury fees, probation fees, jail fees, and generic "court costs."²⁷ Additional warrant fees, particularly when the warrant is due to missing payments or court appearances related to debt, only exacerbate the problem. For example, clerks in New Mexico estimate that 50 to 60 percent of people on payment plans in that state miss payments and are issued bench warrants.²⁸

Simply alleging that someone missed a payment can lead to a bench warrant in some jurisdictions, regardless of whether the person has the ability to pay.²⁹ Low-income families and individuals are also less likely to be able to hire an attorney. This can be particularly problematic in situations where the right to a lawyer is not guaranteed, like in some misdemeanors, most traffic cases, or cases involving alleged violations of local ordinances. Even if the person is in jail, they still may not be entitled to a lawyer, depending on the charge. The court process can be confusing and daunting for people who cannot afford an attorney to help them navigate the

In some places, a warrant is the only way to get the court to revisit your payment plan.

Oklahoma is a prime example of how warrants and warrant fees can be abused to enforce outstanding court debt. Many people assessed fines and fees in Oklahoma are unable to pay the entire sum immediately and are placed on a payment plan. In some counties, being on a payment plan requires the person to be on the "cost docket," a financial enforcement arm of local courts. Being on the cost docket can require people to make regular court appearances until the money is paid off, but it may also lead to adjustments to their payment plan if the scheduled amounts have become too burdensome.³⁰ Missing any single court date,

however, can result in a warrant. Worse yet, in some counties, the cost docket is so overwhelmed that it is reserved exclusively for those who have already failed to pay and who have outstanding warrants against them for nonpayment.³¹ In those jurisdictions, the only practical way for someone to get the court to reconsider a payment amount is to default and wait for the court to issue a warrant. People can avoid arrest if they get to court first and pay their outstanding bill, but that comes with an additional administrative fee equal to 30% of what is owed in order to get the warrant canceled.³²

system. Without an attorney to appear on their behalf, many people lack the skill, knowledge, or wherewithal to advocate for necessary accommodations for attending their hearings or establishing an achievable payment plan that would have avoided the original warrants.

Identifying which entity a person must pay can sometimes be complicated too. While the majority of bench warrant fees are paid to the court that imposes the fee, a few states—such as Colorado and Nevada—complicate the process by allowing payments to be collected by the sheriff’s department responsible for executing the warrant.

Depending on the state, once collected, the fee can be directed into any number of government funds benefiting law enforcement, court clerks, or the state general fund.³³ In some states, however, fees associated with warrants can be used to support programs that add even more penalties on people. For example, in Texas, fees that municipalities place on failure-to-pay or failure-to-appear traffic warrants can be used to pay for administration and data sharing costs aimed at keeping people with outstanding warrants from renewing their car registrations.³⁴



The Constitutionality of Warrant Fees Is Questionable

In *Connally v. Georgia*, the US Supreme Court found that when a magistrate has a pecuniary interest in the issuance of a warrant, there can be a conflict of interest that rises to a violation of due process and of the Fourth Amendment.³⁵ In *Connally*, the magistrate received no salary and was only paid if the warrant was issued. Although some may argue that salaried judges have less of a pecuniary interest in warrants that carry fees, there could still be a conflict that violates due process, especially if the judge or court gains some benefit from the ultimate use of the fee, even if it is a non-monetary benefit. The 5th Circuit has held that when a judge “has a direct and personal interest in the fiscal health of the public institution [and] benefits from the fees his court generates and that he also helps allocate,” this can create a conflict of interest that violates due process.³⁶ Where judges issue warrants that generate income, where judicial staff or efficiency benefit from the income generated by warrant fees, and where a local judge has some say over how those funds are spent, there may be serious concerns about the constitutionality of warrant fees.³⁷

Conclusion

More than half of the states have explicit statutory authorization to charge fees to individuals who have bench warrants. In the remaining states, fees may also be charged even without that authorization. These fees simply compound the financial burden far too many people in the criminal legal system face. The fact that a large percentage of warrants are related to unpaid fines, fees, or other court costs creates a vicious circle of debt and strains the meaning of “justice.” Warrant fees are simply another revenue-generating tax that disproportionately impacts communities of color and low-income earners. Our nation’s court system is designed to serve everyone and it should be equitably funded. Government should not be paid for by only a select segment of society.

Methodology and Limitation of the Findings

To develop this report, FFJC’s research staff conducted an extensive search of the criminal, traffic, and juvenile codes in all 50 states and the District of Columbia, looking for statutes and court rules that authorize imposing fees on the issuance, execution, or recalling of bench warrants. We used statutory databases (Westlaw and Lexus/Nexus) and publicly published online state codes and court rules. We then analyzed and categorized the statutes and rules, comparing authorization language to compile this report on the scope of how states impose bench warrant fees. In a few instances, we reached out to stakeholders at the state level to better understand how the statutory language played out in practice.

Although our research was thorough, we cannot claim it to be exhaustive. Identifying authorization for warrant fees posed some difficulties because statutes and rules use a wide variety of terminology when referring to bench warrants or their equivalents. For example, some states use alternative legal language, such as a writ of attachment or a *capias*, in referring to a court order authorizing law enforcement to take someone into custody for failure to comply with a court order. Different states can also use these same terms to mean entirely different legal processes. Furthermore, the section within a state’s code where a warrant fee authorization resides can also vary widely. For example, some states have overarching laws that discuss bench warrants in sections of a code concerning the authority of a judge, while others may include fee authorizations in code sections focused on court administration or law enforcement operations. Given these complications, when our research did not uncover specific authorization, we cannot be certain that authorization to impose fees does not exist. Such authorization could exist in unexpected portions of a code, or authorization could come from non-statewide sources, such as local rules, ordinances, or case law, a full examination of which was simply beyond the scope of this report. The challenge in deciphering these authorities in and of itself sheds light on the scope of the problem of warrant fees.

Additionally, the unclear language states sometimes use with respect to the collection of fees and other court costs continues to complicate the classification process and the analysis of how much can be assessed against a person. Vagueness, or even silence, leaves room for interpretation, where some jurisdictions may read statutes to provide the authorization to impose warrant fees, whereas others may not. Additionally, given that many states consider bench warrants or their equivalents to be “civil” in nature, even though they are imposed as part of or ancillary to a criminal procedure, it is sometimes difficult to discern whether the warrants being imposed are within the gray area between civil and criminal, are intended for those matters unrelated to any criminal cases, or both. Ultimately, however, this examination is useful as a starting point for understanding the breadth and scope of warrant fees across the United States.



Appendix

Authorized Warrant Fees

This chart outlines the statutory authorities FFJC identified in each state. All statutes are current as of August 31, 2022. Where we identify warrants specifically for “failure to appear” (FTA) and “failure to pay” (FTP), those terms are abbreviated accordingly.

STATE	AUTHORIZATION	FEE AMOUNT
Alabama	<p>Fee Authorized</p> <p>Ala. Code §§ 45-36-80.02, 45-19-80.30 (among other county-specific statutes)</p> <p>Ala.Code § 36-18-32</p> <p>Ala. Code §45-42A-21 (among other county-specific statutes)</p>	<p>\$100 for FTA warrant</p> <p>\$12 added to every warrant to benefit a DNA fund</p> <p>\$100 recall fee</p>
Alaska	None Identified in Statute ³⁸	
Arizona	<p>Fee Authorized</p> <p>Ariz. Rev. Stat. Ann. § 28-1525</p>	\$125 for FTP warrant
Arkansas	<p>Fee Authorized</p> <p>Ark. Code Ann. § 21-6-307</p> <p>Ark. Code Ann. § 21-6-308</p>	<p>\$50 sheriff execution fee</p> <p>\$2 for constables to execute a warrant & \$2 to take the person to jail</p>
California	None Identified in Statute	
Colorado	<p>Fee Authorized</p> <p>Colo. Rev Stat. Ann. § 30-1-104</p>	\$2 to sheriff for arrest on a warrant & at least \$0.12 per mile to transport prisoners
Connecticut	None Identified in Statute ³⁹	
District of Columbia	None Identified in Statute	
Delaware	<p>Some Fees Authorized</p> <p>Del. R. J.P. Cts. Cr. Rule 58</p> <p>Del. R. Comm. Pl. Cts. RCrP Rule 58</p> <p>But fees for warrants issued for nonpayment of fines, fees, or other court costs is prohibited.</p> <p>Del. Code Ann. tit. 11, § 4104⁴⁰</p>	<p>\$15 for capias issue in justice of the peace courts</p> <p>\$25 for capias “return” by constable</p> <p>\$20 for capias issued in common plea court; return by constable billed at constable declared rate</p>

STATE	AUTHORIZATION	FEE AMOUNT
Florida	Fee Authorized Fla. Stat. Ann. § 938.30	“reimbursements for the costs of processing bench warrants and pickup orders” for FTA and FTP
Georgia	Fee Authorized Ga. Code Ann. §§ 17-7-90 & 40-13-63	\$200 sanction for FTA ⁴¹
Hawaii	Fee Authorized Haw. Rev. Stat. Ann. § 607-8.5	Up to \$50 for FTA
Idaho	Fee Authorized ⁴² Idaho Code Ann. § 31-3203 Idaho. Crim. R. 42(e)(3)	\$10 to sheriff for making the arrest Payment up the total cost of underlying financial obligation in order to purge warrant short of arrest
Illinois	Fee Authorized 725 Ill. Comp. Stat. Ann. 5/110-7	\$75 for FTA
Indiana	None Identified in Statute ⁴³	
Iowa	Fee Authorized Iowa Code Ann. § 331.655	\$35 to sheriff for making arrest & other necessary costs
Kansas	None Identified in Statute	
Kentucky	Fee Authorized Ky. Rev. Stat. §§ 64.090 & 64.060 ⁴⁴	\$10-\$30 for execution of warrant
Louisiana	Fee Authorized LA. Stat. Ann. § 13:1000.13 ⁴⁵	Up to \$50 recall fee
Maine	None Identified in Statute ⁴⁶	
Maryland	None Identified in Statute ⁴⁷	
Massachusetts	Fee Authorized Mass. Gen. Law Ann. 276, § 30; Ma St. RCRP Rule 6(d) Mass. Gen. Law Ann. 276, § 31	\$50 recall fee \$50 for FTA & FTP

STATE	AUTHORIZATION	FEE AMOUNT
Michigan	Fee Authorized Mich. Comp. Laws Ann. §§ 600.2559, 600.8326, & 775.4	\$40 for executing warrant
Minnesota	Fee Authorized Minn. Stat. Ann. §§ 357.09 & 629.65	Fee amount set by individual county boards
Mississippi	Fee Authorized Miss. Code. Ann. § 25-7-27	\$55 for law enforcement arrest & mileage for conveying person to jail
Missouri	None Identified in Statute	
Montana	None Identified in Statute ⁴⁸	
Nebraska	None Identified in Statute ⁴⁹	
Nevada	Fee Authorized Nev. Rev. Stat. Ann. § 248.275	\$15 to sheriff for “executing an order of arrest” ⁵⁰
New Hampshire	Fee Authorized N.H. Rev. Stat. Ann. § 104:31 & N.H. Rev. Stat. § 502-A:19-b	\$30 for FTA
New Jersey	Fee Authorized N.J. R. Mun. Ct. R.7:8-9A N.J.S.A. §§ 22A:3-4 & 2C:46-2	\$25-\$100 in municipal court sanction for FTA ⁵¹ \$1.50 + \$0.20 to the sheriff per mile traveled & actual cost of transporting the defendant on any warrant, including FTP
New Mexico	Fee Authorized N.M. Stat. Ann. § 35-6-5	\$100 administrative fee
New York	None Identified in Statute	
North Carolina	Fee Authorized N.C. Gen. Stat. Ann. § 7A-304	\$5 fee for warrant service & FTA fee of \$200 and/or FTP fee of \$50
North Dakota	None Identified in Statute	
Ohio	None Identified in Statute ⁵²	

STATE	AUTHORIZATION	FEE AMOUNT
Oklahoma	Fee Authorized 22 Okl. St. Ann. §§ 456A & 966A 28 Okl. St. Ann. § 153 9 Okl.St.Ann. §§ 514.4 & 514.5	\$5 to issue warrant for FTP \$50 as a sheriff's warrant fee 30% of any unpaid costs to clear a warrant
Oregon	None Identified in Statute	
Pennsylvania	None Identified in Statute ⁵³	
Rhode Island	Fee Authorized R.I. Gen. Laws Ann. § 12-6-7.1	\$125 for FTA & FTP
South Carolina	None Identified in Statute	
South Dakota	None Identified in Statute	
Tennessee	Fee Authorized Tenn. Code Ann. § 8-21-401	\$40 for criminal FTA & FTP warrants \$42 for juvenile warrants
Texas	Fee Authorized Tex. Transp. Code Ann. § 702.003(e-1)	\$20 for FTA & FTP
Utah	None Identified in Statute ⁵⁴	
Vermont	None Identified in Statute ⁵⁵	
Virginia	None Identified in Statute	
Washington	Fee Authorized Wash. Rev. Code Ann. § 10.01.106	Up to \$100 for FTA
West Virginia	None Identified in Statute	
Wisconsin	None Identified in Statute	
Wyoming	None Identified in Statute ⁵⁶	

Endnotes

- 1 See e.g., Foster Kamanga et. al., “Costs and Consequences of Traffic Fines and Fees: A Case Study of Open Warrants in Las Vegas, Nevada,” *Journal of Social Sciences*, November 2021, (Between 2012 and 2020 almost 60 percent of open warrants from the Las Vegas Municipal Court were from failure to pay tickets for administrative related offenses.) [https://www.justice.gov/crt/about/spl/nopd_report.pdf](https://www.google.com/url?q=https://www.mdpi.com/2076-0760/10/11/440/pdf&sa=D&source=docs&ust=1657125445581613&usq=AOvVaw0YPinzm-tdalO_iCB0JzIb; Department of Justice, <i>Investigation of the New Orleans Police Department</i>, 29, 2011 (finding in a single year in New Orleans, officers “made nearly 60,000 arrests, of which about 20,000 were of people with outstanding traffic or misdemeanor warrants from neighboring parishes for such infractions as unpaid tickets.”), <a href=).
- 2 See the accompanying appendix chart for specific statute citations.
- 3 The Delaware legislature passed a bill in June 2022 that will amend Del. Code Ann. tit. 11, § 4104 to read “A court may not charge a penalty, assessment, or fee to a defendant for a *capias* issued due to the defendant’s nonpayment of a fine, fee, cost, assessment, or restitution.” *An Act to Amend Title 10, Title 11, Title 21, and Title 29 of the Delaware Code Relating to Fines, Fees, Costs, Assessments, and Restitution*, HB 244, 151st General Assembly, passed June 30, 2022, <https://legis.delaware.gov/jsn/BillDetail/GenerateHtmlDocumentEngrossment?engrossmentId=24803&docTypeId=6>. While the bill had not been signed at the time this report was published, all indications are that it will become law.
- 4 Ala. Code §§ 45-36-80.02 & 45-19-80.30 (among other county-based statutes); Ariz. Rev. Stat. Ann. § 28-1525; Ark. Code Ann. §§ 14-52-110 & 21-6-307; Ga. Code Ann. §§ 17-7-90 & 40-13-63; 725 Ill. Comp. Stat. Ann. 5/110-7(i); Iowa Code Ann. § 331.655; N.M. Stat. Ann. § 34-8A-12; Okla. Stat. Ann. tit. 28, § 152A; 12 R.I. Gen. Laws Ann. § 12-6-71; Tenn. Code Ann. § 8-21-401.
- 5 Fla. Stat. Ann. § 938.30; Haw. Rev. Stat. Ann. § 607-8.; 5 Idaho Code Ann. § 31-3203; La. Stat. Ann. § 13:1000.13; Miss. Op. Atty. Gen., 1997 WL 221704; Nev. Rev. Stat. Ann. § 248.275; N.J. R. Mun. Ct. R.7:8-9A & N.J.S.A. § 22A:3-4; Tex. Transp. Code Ann. § 702.003(e-1); Wash. Rev. Code Ann. § 10.01.160.
- 6 Mass. Gen. Laws Ann. ch. 276, §§ 30 & 31; N.H. Rev. Stat. Ann. § 104:31.
- 7 Ariz. Rev. Stat. Ann. § 28-1525; Fla. Stat. Ann. § 938.30; Mass. Gen. Law Ann. 276, § 30; N.J.S.A. §§ 2C:46-2 & 22A:3-4; 22 Okl. St. Ann. §§ 456A & 966A; R.I. Gen. Laws Ann. § 12-6-71; Tenn. Code Ann. § 8-21-401; Tex. Transp. Code Ann. § 702.003(e-1); Wash. Rev. Code Ann. § 10.01.106.
- 8 Ala. Code § 45-36-80.02 (among other county-specific statutes); Fla. Stat. Ann. § 938.30(12); Haw. Rev. Stat. Ann. § 607-8.5; 725 Ill. Comp. Stat. Ann. 5/110-7; Ma St. RCRP Rule 6(d) & commentary; N.H. Rev. Stat. Ann. § 104:31 & N.H. Rev. Stat. § 502-A:19-b; N.J. R. Mun. Ct. R.7:8-9A & N.J.S.A. § 22A:3-4; R.I. Gen. Laws Ann. § 12-6-71; Tenn. Code Ann. § 8-21-401; Tex. Transp. Code Ann. § 702.003(e-1); Wash. Rev. Code Ann. § 10.01.106.
- 9 Ala. Code § 45-42A-21 (only in certain counties); La. Stat. Ann. § 13:1000.13 (statute applies only to 27th Judicial District); Mass. Gen. Laws Ann. 276, § 30; 19 Okl. St. Ann. §§ 514.4, 514.5.
- 10 See e.g. CO ST § 30-1-104 and 12 R.I. Gen. Laws Ann. § 12-6-71.
- 11 See accompanying appendix.
- 12 See accompanying appendix.
- 13 Fla. Stat. Ann. § 938.30.
- 14 Rebekah Diller, *The Hidden Costs of Florida’s Criminal Justice Fees*, Brennan Center for Justice, 15-19, (2010), https://www.brennancenter.org/sites/default/files/2019-08/Report_The%20Hidden-Costs-Florida’s-Criminal-Justice-Fees.pdf.
- 15 See e.g. Mich. Comp. Laws Ann. § 600.1735; Miss. Code. Ann. § 25-7-27.
- 16 See e.g. Mich. Comp. Laws Ann. § 600.2559(1)(n) (authorizing in addition to other warrant-related costs, “a reasonable fee per hour for the amount of time involved in executing the warrant.”).
- 17 *Blackjack Municipal Bonding v. City of Las Vegas Municipal Court*, 14 P.3d 1275, (NV 2000) (holding that municipal courts have inherent authority to set and enforce fees).
- 18 Kamanga et al, *Costs and Consequences of Traffic Fines and Fees in Nevada*, *supra* note 1 at 4; “Fee Schedule” Clark County, NV website, last visited August 31, 2022, https://www.clarkcountynv.gov/government/departments/justice_courts/jurisdictions/henderson/divisions/small_claims/fee_schedule.php.
- 19 This number uses 2018 data and includes all open warrants, both bench warrants and other arrest warrants. Mike Wagner et al., “Wanted,” *The Columbus Dispatch & GateHouse Media*, November 30, 2018, (noting that only 27 states were able to provide data on outstanding warrants and that actual numbers could be double) available at <https://stories.usatodaynetwork.com/warrants/wanted-suspects-run-free-while-authorities-drown-in-open-arrest-warrants/#>.
- 20 *Id.*
- 21 Lee Ann Slocum, Ph.D., et. al., *Warrant Enforcement in Louisville Metro and the City of St. Louis from 2006-2019: A Cross-site Analysis, Data Collaborative for Justice*, 2020, 9, https://datacollaborativeforjustice.org/wp-content/uploads/2020/12/2020_Warrants_Louisville_St-Louis_FINAL-1.pdf.
- 22 *Id.* at 11.
- 23 *Id.* at 3.
- 24 Kamanga et al., *Costs and Consequences of Traffic Fines and Fees in Nevada*, *supra* note 1.
- 25 See generally, Jessica Brand, “How Fines and Fees Criminalize Poverty: Explained,” *The Appeal* (July 2018) <https://theappeal.org/the-lab/explainers/how-fines-and-fees-criminalize-poverty-explained>; The Sentencing Project, “Report to the United Nations on Racial Disparities in the U.S. Criminal Justice System,” (April 2018), <https://www.sentencingproject.org/publications/un-report-on-racial-disparities>.

- 26 The Fines and Fees Justice Center, “End Fees, Discharge Debt, Fairly Fund Government,” January 2022, <https://finesandfeesjusticecenter.org/content/uploads/2022/01/FFJC-Policy-Guidance-Fee-Elimination-1.13.22.pdf>.
- 27 Brand, “How Fines and Fees Criminalize Poverty: Explained,” *supra* note 25.
- 28 Matthew Menendez, Michael F. Crowley, Lauren-Brooke Eisen, & Noah Atchison, *The Steep Costs of Criminal Justice Fees and Fines*, Brennan Center for Justice, (November 21, 2019), <https://www.brennancenter.org/our-work/research-reports/steep-costs-criminal-justice-fees-and-fines>.
- 29 See e.g., Ariz. Rev. Stat. Ann. § 28-1525, N.J. Stat. Ann. § 22A:4-8 and Wash. Rev. Code Ann. § 10.01.160.
- 30 Marea Beaman, et al, *At What Cost: Findings from an Examination into Public Defense System Fees*, Nat’l Legal Aid and Defender Assoc’n, 33, (June 2022), https://www.nlada.org/sites/default/files/NLADA_At_What_Cost.pdf?v=2.0.
- 31 *Id.* at 40.
- 32 See 19 Okl.St.Ann. §§ 514.4, 514.5.
- 33 See, e.g., GA ST § 15-16-21; Okla. Stat. Ann. tit. 28, § 152A; DE R JP CTS CR Rule 58.
- 34 V.T.C.A., Transportation Code § 702.003.
- 35 429 U.S. 245 (1977).
- 36 *Caliste v. Cantrell*, 937 F.3d 525, 531 (5th Cir. 2019).
- 37 See *Cain v. White*, 937 F.3d 446 (5th Cir. 2019) (finding jailing people on bench warrants for nonpayment of fines and fees without first determining their ability to pay violated Due Process Clause where the revenue went into a judicial expense fund over which the judges exercised control and the fund supported salaries of each judge’s staff).
- 38 Although bench warrants are prohibited in Alaska (Alaska R. Min. Off. P. 9(d)), individuals who fail to appear at a court hearing will be assessed \$35 in “court costs” per case.
- 39 Although Conn. Gen. Stat. § 52-143 allows for a *capias* to be issued against any subpoenaed witness who fails to appear and imposes a \$25 fine for that failure, we are not including this as a bench warrant fee given that it is a designated penalty for noncompliance against someone who is not the target of an underlying criminal or traffic matter, rather than a fee for the *capias* issuance or execution itself.
- 40 See *supra* note 3.
- 41 Ga. Code Ann. §17-7-90 requires that any person picked up on a bench warrant for failure to appear (FTA) be held in jail until they pay a bond. Ga. Code Ann. § 40-13-63, authorizes a monetary sanction for failing to appear. Because such a penalty is for any sustained FTA warrant, it is included here.
- 42 Though the statute provides for fees related to bench warrants, the Idaho Supreme Court has ruled that courts may not issue a “warrant of attachment” for nonpayment of underlying court costs. *Beck v. Elmore County*, 489 P.3d 820 (ID 2021).
- 43 Although Ind. Code § 31-18.5-3-5 allows for bench warrants in child support matters and allows magistrates to impose reasonable fees and costs, generally, it is not clear that fees for bench warrants are allowed. Given a lack of other statutes allowing for such fees in any other non-support contexts, we read this as too attenuated to be included as authorizing a bench warrant fee in other contexts.
- 44 While these statutes do not explicitly refer to bench warrant fees and provide that the sheriff’s fees are paid by the statute treasury, a report by Kentucky’s Legislative Research Commission cites these statutes as the sources for bench warrant fees that are imposed on individuals by courts across the state. See, Greg Hager, *Improved Coordination and Information Could Reduce the Backlog of Unserved Warrants*, Legislative Research Commission, 53-4 (2005). In practice, the authors have confirmed that at least some courts in the state charge warrant fees directly against defendants, some in excess of the \$30 cited by the Legislative Research Commission.
- 45 Codified in the Louisiana Revised Statutes, but applying only to the 27th Judicial District.
- 46 Although Me. Rev. Stat. Ann. tit. 4 § 173 authorizes courts to consider costs incurred when assessing a fine amount and recognizing a daily flat fee for officers required to attend court, given its discretion and its lack of direct tie to warrant enforcement, we have not included Maine as a state that has a statute authorizing warrant fees, though we concede some might construe it as such.
- 47 Although Md. Code Family Law § 10-317 allows for bench warrants in child support matters and allows magistrates to impose reasonable fees and costs, generally, it is not clear that fees for bench warrants are allowed. Given a lack of other statutes allowing for such fees in any other non-support contexts, we read this as too attenuated to be included as authorizing a bench warrant fee in other contexts.
- 48 Although Mont. Code Ann. § 40-5-1025 allows for bench warrants in child support matters and allows magistrates to impose reasonable fees and costs, generally, it is not clear that fees for bench warrants are allowed. Given a lack of other statutes allowing for such fees in any other non-support contexts, we read this as too attenuated to be included as authorizing a bench warrant fee in other contexts.
- 49 Although Neb.Rev.St. § 42-718 allows for *capias* in child support matters and allows magistrates to impose reasonable fees and costs, generally, it is not clear that fees for bench warrants are allowed. Given a lack of other statutes allowing for such fees in any other non-support contexts, we read this as too attenuated to be included as authorizing a bench warrant fee in other contexts.
- 50 While the Nevada statute authorizes a \$15 fee for bench warrants, the Nevada Supreme Court has ruled that municipal courts have inherent power to set and impose fees they deem are appropriate. See *supra* notes 17 and 18.
- 51 N.J. R. Mun. Ct. R.7:8-9A authorizes a monetary sanction for nonappearance, with or without a warrant, but because it is a penalty for failing to appear, it is included here.

52 Although Ohio Rev. Code § 2947.14 authorizes a court to issue a warrant, no statute expressly authorizes a fee for that process. Yet at least one state District Court of Appeals has accepted, in an unreported case, that warrant fees may be included under Ohio Rev. Code § 2949.11 as one of the costs of operating the court. *State v. Swift*, 2005-Ohio-1595, 2005 WL 742496 (Ohio App., 2 Dist., Montgomery 2005).

53 Although no statute expressly allows for a fee to execute a warrant, Pa. St. R. Crim. Pro. R 431 requires the subject of the warrant to either pay the arresting officer the outstanding sum, if the warrant is for failure to pay restitution, fines, or court cost or, if the person is unable to pay, the officer shall arrest them and bring them before the court.

54 Although Utah Code § 78B-14-305 authorizes a court to issue bench warrants in child support matters and allows magistrates to impose reasonable fees and costs, generally, it is not clear that fees for bench warrants are allowed. Given a lack of other statutes allowing for such fees in any other non-support contexts, we read this as too attenuated to be included as authorizing a bench warrant fee in other contexts.

55 Vt. Stat. tit. 32 § 1596 prohibits sheriffs from receiving fees for the execution of a capias or bench warrant. Additionally, although Vt. Stat. tit. 15B § 1305 authorizes a court to issue bench warrants in child support matters and allows magistrates to impose reasonable fees and costs, generally, it is not clear that fees for other bench warrants are allowed. Given a lack of other statutes allowing for such fees in any other non-support contexts, we read this as too attenuated to be included as authorizing a bench warrant fee.

56 Although Wyo. Stat. Ann. § 20-4-155 authorizes a court to issue bench warrants in child support matters and allows magistrates to impose reasonable fees and costs, generally, it is not clear that fees for bench warrants are allowed. Given a lack of other statutes allowing for such fees in any other non-support contexts, we read this as too attenuated to be included as authorizing a bench warrant fee. Moreover, Wyo. Stat. Ann. § 5-6-115 provides that when a court issues a statewide bench warrant, the municipality “is responsible for all costs incurred in executing the warrant, including costs of housing and transporting a person arrested under the warrant.”

