

117TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

To amend the State Justice Institute Act of 1984 to provide technical assistance and training to State and local courts to improve the constitutional and equitable enforcement of fines and fees, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

Mr. SCHATZ (for himself, Mr. WYDEN, Mr. BLUMENTHAL, Mr. MERKLEY, Mr. BOOKER, Ms. SMITH, and Mr. KAINE) introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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**A BILL**

To amend the State Justice Institute Act of 1984 to provide technical assistance and training to State and local courts to improve the constitutional and equitable enforcement of fines and fees, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “State Justice Improve-  
5 ment Act”.

6 **SEC. 2. FINDINGS; PURPOSE.**

7 (a) FINDINGS.—Congress finds the following:

1           (1) The Supreme Court of the United States  
2           has repeatedly held that the government may not in-  
3           carcerate an individual solely because of the inability  
4           of the individual to pay a fine or fee.

5           (2) In 2019, the United States Court of Ap-  
6           peals for the Fifth Circuit ruled that it is unconsti-  
7           tutional to imprison people for failing to pay fines  
8           and fees without inquiring into their ability to pay.  
9           The Fifth Circuit also ruled that it is unconstitu-  
10          tional for judges to determine ability to pay when  
11          court debts help pay court budgets.

12          (3) Under section 3142 of title 18, United  
13          States Code, Federal judicial officers may not im-  
14          pose a financial condition that results in the pretrial  
15          detention of an individual.

16          (4) In 2017, a report by United States Com-  
17          mission on Civil Rights evaluated evidence that—

18                 (A) 47 states increased their fines and fees  
19                 in recent years, including fines and fees im-  
20                 posed on juveniles;

21                 (B) in Virginia, 1 in 6 drivers had license  
22                 revoked as a result of an inability to pay court  
23                 fines and fees;

1 (C) in New Jersey, 42 percent of sus-  
2 pended drivers lost their jobs as a result of the  
3 suspension;

4 (D) in the 50 cities with the highest pro-  
5 portion of revenues from fines, the median size  
6 of the African American population in each city  
7 was greater than 5 times the median in the  
8 United States;

9 (E) in Washington, Latinos received higher  
10 fine assessments than non-Latino whites for  
11 similar offenses;

12 (F) 10 counties in California detained ap-  
13 proximately 700 people per month for an aver-  
14 age of 3 days as a result of a failure to pay and  
15 driving with a suspended license; and

16 (G) according to the Department of Jus-  
17 tice on the investigation of the Ferguson Police  
18 Department, revenue collection, not public safe-  
19 ty, was the primary impetus behind the collec-  
20 tion of fines and fees.

21 (5) There is no clear evidence that fines and  
22 fees are an effective crime deterrent.

23 (6) Defendants released from custody with no  
24 financial penalty return to court at the same rate as  
25 defendants released on financial bond.

1           (7) The burden of fines and fees is disproportion-  
2           tionately shouldered by low-income communities and  
3           communities of color, which in turn aggravates and  
4           perpetuates poverty and racial inequalities.

5           (8) Cities with larger black populations fine  
6           residents more on a per capita basis and are more  
7           reliant on fines. A 1 percent increase in a black pop-  
8           ulation is associated with a 5 percent increase in per  
9           capita revenue from fines and a 1 percent increase  
10          in share of total revenue from fines.

11          (9) In addition, data on the extent to which in-  
12          dividuals are jailed or otherwise penalized because of  
13          their inability to pay fee-only offenses are insuffi-  
14          ciently developed, preventing a full picture of the  
15          pervasiveness of targeted fees, as well as the repet-  
16          itive impact on individuals from both low-income  
17          communities and communities of color.

18          (10) Individuals gave up necessities like rent,  
19          food, medical bills, car payments, and child support,  
20          in order to pay down their court debt.

21          (11) Thirty-eight percent of people surveyed  
22          committed a crime to pay off their court debt.

23          (12) Driver's licenses are often suspended auto-  
24          matically when cases are transferred to private col-

1 lectors and are not restored until debts are paid in  
2 full.

3 (13) Thirty States continue to require payment  
4 of all legal financial obligations before voting rights  
5 are restored, effectively disenfranchising individuals  
6 because of an inability to pay.

7 (14) Many jurisdictions across the country rely  
8 on fines and fees as a primary revenue source.

9 (15) A 2019 analysis of fine revenues found  
10 that—

11 (A) fines are a critical source of funding,  
12 at times accounting for more than half of all  
13 general revenues;

14 (B) fines and fees account for more than  
15 10 percent of general fund revenues for nearly  
16 600 jurisdictions, and in at least 284 of those,  
17 the share exceeded 20 percent, while another 80  
18 governments reported even higher fines ac-  
19 counting for more than half of general reve-  
20 nues;

21 (C) annual revenues exceeding \$100 for  
22 every adult resident, while 363 exceeded \$200  
23 per adult in all the governments analyzed;

1 (D) the States with the highest fines and  
2 fees revenue are Arkansas, Georgia, Louisiana,  
3 New York, Oklahoma, and Texas; and

4 (E) jurisdictions where fines and forfeit-  
5 ures accounted for more than 20 percent of  
6 general fund revenues recorded a median house-  
7 hold income of only \$39,594.

8 (16) The dependency on fines and fees creates  
9 a harmful incentive for courts to levy fines and fees  
10 on indigent individuals regardless of the severity of  
11 the crime.

12 (17) However, some jurisdiction spent more  
13 than the revenue they raised collecting fees, there-  
14 fore losing money through this system.

15 (18) In some jurisdictions like New Orleans the  
16 cost of incarcerating individuals unable to pay fines,  
17 fees, and monetary bail exceeded the revenue gen-  
18 erated from those practices.

19 (19) Some jurisdictions in Texas and New Mex-  
20 ico spent 41 cents of every dollar of revenue they  
21 raise from fees and fines on in-court hearings and  
22 jail costs alone.

23 (20) In almost every State and the District of  
24 Columbia, juvenile courts impose court costs, fines,  
25 and fees on youth, their families, or both. These

1 costs may increase recidivism, increase the potential  
2 of future jail or prison time, exacerbate racial in-  
3 equality, and increase the economic and emotional  
4 distress of low-income families.

5 (21) Imposing fines and fees on minors and  
6 their families is ineffective as a revenue-generating  
7 measure, often because minors in the criminal jus-  
8 tice system come from indigent families. Imposing  
9 these fines and fees increases recidivism and eco-  
10 nomic and emotional hardship on families.

11 (b) PURPOSE.—The purpose of this Act is to create  
12 a grant program to provide technical assistance and train-  
13 ing to State and local courts to—

14 (1) improve the constitutional and equitable en-  
15 forcement of fines and fees;

16 (2) improve practices regarding the use of fines  
17 and fees and their equitable enforcement when used;  
18 and

19 (3) collect data to better understand the re-  
20 search and best practices of State and local courts  
21 on a Federal level.

22 **SEC. 3. DEFINITIONS.**

23 Section 202 of the State Justice Institute Act of 1984  
24 (42 U.S.C. 10701) is amended—

1           (1) in paragraph (7), by striking “and” at the  
2           end;

3           (2) in paragraph (8), by striking the period at  
4           the end and inserting a semicolon; and

5           (3) by adding at the end the following:

6           “(9) ‘constitutionally adequate notice’ means a  
7           citation or summons that adequately informs an in-  
8           dividual of—

9                   “(A) the precise offense with which the in-  
10                  dividual is charged;

11                   “(B) the amount currently owed by the in-  
12                  dividual and other possible penalties;

13                   “(C) consequences for nonpayment;

14                   “(D) the method and means for accepting  
15                  payments;

16                   “(E) the date of any court hearing;

17                   “(F) the availability of alternate means of  
18                  payment;

19                   “(G) the rules and procedures of the court;

20                   “(H) the rights of the individual as a liti-  
21                  gant; and

22                   “(I) whether the individual is required to  
23                  appear in court in person;

24                  “(10) ‘fees’—

1           “(A) means monetary fees that are im-  
2           posed for the costs of fine surcharges or court  
3           administrative fees; and

4           “(B) includes additional late fees, pay-  
5           ment-plan fees, interest added if an individual  
6           is unable to pay a fine in its entirety, collection  
7           fees, and any additional amounts that do not  
8           include the fine;

9           “(11) ‘fines’ means monetary fines imposed for  
10          punishment; and

11          “(12) ‘surcharge’ means a monetary amount  
12          added to a fine as a flat amount or a percentage.”.

13 **SEC. 4. CONSTITUTIONAL ENFORCEMENT OF FINES AND**  
14 **FEES.**

15          (a) DUTIES OF THE INSTITUTE.—Section 203(b) of  
16 the State Justice Institute Act of 1984 (42 U.S.C.  
17 10702(b)) is amended—

18           (1) in paragraph (3), by striking “and” at the  
19          end;

20           (2) in paragraph (4), by striking the period at  
21          the end and inserting “; and”; and

22           (3) by adding at the end the following:

23           “(5) assist State and local courts in the con-  
24          stitutional and equitable enforcement of fines and  
25          fees.”.

1 (b) PURPOSES OF GRANTS.—

2 (1) IN GENERAL.—Section 206(a) of the State  
3 Justice Institute Act of 1984 (42 U.S.C. 10705(a))  
4 is amended—

5 (A) in paragraph (6), by striking “and” at  
6 the end;

7 (B) in paragraph (7), by striking the pe-  
8 riod at the end and inserting “; and”; and

9 (C) by adding at the end the following:

10 “(8) provide technical assistance and training  
11 to State and local courts to develop and implement  
12 best policies and practices for the constitutional and  
13 equitable enforcement of fines and fees that incor-  
14 porate guidance that—

15 “(A) courts should not incarcerate or issue  
16 an arrest warrant for an individual for the non-  
17 payment of a fine or fee without first con-  
18 ducting an ability-to-pay determination and es-  
19 tablishing that the failure to pay was inten-  
20 tional;

21 “(B) courts should consider alternatives to  
22 incarceration for defendants who are currently  
23 unable to pay fines;

24 “(C) courts should not condition access to  
25 a judicial hearing on the prepayment of a fine

1 or fee or a promise of future payment of a fine  
2 or fee;

3 “(D) courts should provide constitutionally  
4 adequate notices and counsel in cases in which  
5 a fine or fee will be imposed;

6 “(E) courts should not initiate driver’s li-  
7 cense suspension procedures for nonpayment of  
8 a fine or fee;

9 “(F) if courts choose to issue an arrest  
10 warrant or suspend a driver’s license as a  
11 means of coercing an individual to pay a fine or  
12 fee owed to the court, courts should not do so  
13 if the individual has not been afforded constitu-  
14 tionally adequate procedural protections;

15 “(G) courts should determine the ability to  
16 pay of an individual at sentencing prior to de-  
17 termining a constitutional and equitable fine  
18 and fee;

19 “(H) courts should reduce and waive fines  
20 and fees if the court has discretion in cases  
21 where the imposition of fines and fees would be  
22 unconstitutional and inequitable or cause undue  
23 hardship to the individual;

24 “(I) courts should avoid adopting manda-  
25 tory fines and fees for misdemeanors and traf-

1           fic-related and other low-level offenses and in-  
2           fractions;

3           “(J) courts should grant judges the au-  
4           thority and discretion to modify sanctions after  
5           sentencing if the circumstances of the defend-  
6           ant change, including that the ability of the de-  
7           fendant to pay a fine or fee becomes a hard-  
8           ship;

9           “(K) courts should adopt education re-  
10          quirements for judges and court personnel on  
11          issues related to all relevant constitutional and  
12          procedural principles relating to fines and fees;

13          “(L) courts should not impose a fine, fee,  
14          or any other penalty for the participation of an  
15          individual in community service programs or  
16          other alternative sanctions;

17          “(M) if courts utilize community service  
18          programs or alternative service sanctions, best  
19          practice and standards for those programs  
20          should be used, including fair wage attribution,  
21          caps on number of hours performed, and per-  
22          missible activities of service;

23          “(N) courts should not order or extend  
24          probation or other court-ordered supervision ex-

1 exclusively for the purpose of collecting fines, fees,  
2 or costs;

3 “(O) courts should not charge interest on  
4 payment plans entered into by a defendant, re-  
5 spondent, or probationer; and

6 “(P) courts should consider the use of  
7 community service credits such as completing  
8 community service hours, domestic violence  
9 counseling, and drug treatment programs, as an  
10 alternative to payments.”.

11 (2) REGULATIONS.—Not later than 90 days  
12 after the date of the enactment of this Act, the Ex-  
13 ecutive Director of the State Justice Institute shall  
14 promulgate regulations to implement the amend-  
15 ments made by paragraph (1), including—

16 (A) the information that shall be included  
17 in an application for funding under section 206  
18 of the State Justice Institute Act of 1984 (42  
19 U.S.C. 10705); and

20 (B) any other requirements applicable to  
21 grantees under that section.

22 (c) RECORDS AND REPORTS.—Section 211(a) of the  
23 State Justice Institute Act of 1984 (42 U.S.C. 10710(a))  
24 is amended—

1 (1) by striking “The Institute” and inserting

2 “(1) IN GENERAL.—The Institute”; and

3 (2) by adding at the end the following

4 “(2) REPORT ON FINES AND FEES.—

5 “(A) IN GENERAL.—The Institute shall re-  
6 quire that a recipient of a grant awarded for  
7 the purpose described in paragraph (8) of sec-  
8 tion 206(a) shall submit to the Institute an an-  
9 nual report that includes, for the previous 12-  
10 month period—

11 “(i) the number of new admissions to  
12 jail or prison due to failures to pay fines  
13 or fees;

14 “(ii) the number of new admissions to  
15 jail or prison due to failure to appear when  
16 the underlying offense is a failure to pay  
17 a fine or fee;

18 “(iii) the number and type of alter-  
19 natives considered for defendants who are  
20 unable to pay fees and fines;

21 “(iv) the number of times a judicial  
22 hearing was contingent upon the prepay-  
23 ment of fines and fees, including hearing  
24 fees if the court deems the defendant ineli-  
25 gible for a fee waiver;

1           “(v) the number of times constitu-  
2           tionally adequate notices were provided to  
3           counsel in cases in which a fine or fee will  
4           be imposed;

5           “(vi) the number of times an arrest  
6           warrant or driver’s license suspension was  
7           used as a means of coercing an individual  
8           to pay a fine or fee owed to the court;

9           “(vii) the number of additional fees  
10          imposed by the department of motor vehi-  
11          cles to get a driver’s license reinstated or  
12          suspension lifted;

13          “(viii) the number of times monetary  
14          bail practices were used that caused de-  
15          fendants to stay incarcerated due to their  
16          inability to pay a fine or fee;

17          “(ix) the number of times voter dis-  
18          enfranchisement was used as a result of an  
19          individual’s inability to pay a fine or a fee  
20          owed to the court;

21          “(x) a disaggregation of the data de-  
22          scribed in this subparagraph by race, gen-  
23          der, and disability status; and

1                   “(xi) any other additional statistical  
2                   data that the Director determines should  
3                   be collected and reported.

4                   “(B) WAIVER.—The Director shall have  
5                   discretion to waive statistical data reporting re-  
6                   quirements under subparagraph (A) that are  
7                   not available to a recipient of a grant.

8                   “(C) REPORT TO CONGRESS.—The Insti-  
9                   tute shall submit to the Bureau of Justice Sta-  
10                  tistics and to the Committee on Appropriations  
11                  and Committee on the Judiciary of the Senate  
12                  and the Committee on Appropriations and the  
13                  Committee on the Judiciary of the House of  
14                  Representatives an annual report on the data  
15                  submitted under subparagraph (A).”.

16                  (d) STUDY.—

17                  (1) IN GENERAL.—Not later than 3 years after  
18                  the date on which grants are first awarded for the  
19                  purpose described in paragraph (8) of section 206(a)  
20                  of the State Justice Institute Act of 1984, as added  
21                  by subsection (b) of this section, the Executive Di-  
22                  rector of the State Justice Institute shall conduct a  
23                  study on the effectiveness such grants on the con-  
24                  stitutional enforcement of targeted fines and fees by  
25                  State and local courts.

1           (2) REPORT.—Not later than 180 days after  
2           the date on which the Executive Director of the  
3           State Justice Institute completes the study under  
4           paragraph (1), the Executive Director shall submit  
5           to Congress a report on the study and any policy  
6           recommendations that the Executive Director deter-  
7           mines are appropriate.

8           (e) AUTHORIZATION OF APPROPRIATIONS.—Section  
9           215 of the State Justice Institute Act of 1984 (42 U.S.C.  
10          10713) is amended, in the first sentence by striking  
11          “\$7,000,000 for each of fiscal years 2005, 2006, 2007,  
12          and 2008” and inserting “\$27,000,000 for each of fiscal  
13          years 2022 through 2027, of which \$20,000,000 shall be  
14          authorized to be appropriated for grants under paragraph  
15          (8) of section 206(a)”.