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INJUSTICE IN THE LOWEST COURTS:

HOW MUNICIPAL COURTS ROB AMERICA'S YOUTH

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About the Contributors

This report was prepared by Nolan Anderson, Randy Kreider, and Kristen Schnell—law students in the Community Advocacy Lab at Columbia Law School. The report was supervised by Professor Colleen F. Shanahan, the clinic's director. The Community Advocacy Lab's collaborating partners for this project were Katrina L. Goodjoint and Jessica Feerman at Juvenile Law Center.

COMMUNITY ADVOCACY LAB AT COLUMBIA LAW SCHOOL

Community Advocacy Lab is a clinic at Morningside Heights Legal Services, Inc. at Columbia Law School focused on racial and economic justice, grounded in the needs of communities. Current students are working on criminal justice reform including advocacy related to fines and fees, public defense, and police abolition; civil justice reform including family law, public housing conditions, workers' rights, and consumer debt. The clinic's clients range from Harlem-based organizations to national advocacy campaigns. Through client representation, classroom curriculum, and personal supervision, students in this clinic become lawyers who promote social justice as problem solvers, creative researchers, and strategic planners who can employ an expansive range of lawyering strategies beyond litigation to create a more just legal system.

JUVENILE LAW CENTER

Juvenile Law Center is the first non-profit, public interest law firm for children in the country. We aim to ensure that laws, policies, and practices affecting youth advance racial and economic equity and are rooted in research, consistent with children's unique developmental characteristics, and reflective of international human rights values. Our economic justice project uses policy advocacy, litigation, and research to end the unfair practice of imposing fines and fees on youth in the justice system and their families. For more information about Juvenile Law Center, please visit www.jlc.org.

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Introduction

In 2014, A.S., a youth, appeared with her parents before a municipal court judge in Alamosa, Colorado, a small city in the southern part of the state.¹ A.S. was sentenced as a juvenile to pay fines and costs and to complete 24 hours of community service.² A.S.'s parents explained that they were unable to pay the outstanding costs, and asked that A.S.'s community service be postponed because they understood the payment had to be made first.³ Instead, the judge threatened the parents with two days in jail unless they could prove they were truly unable to pay, warning them, "You have to prove to my satisfaction and to prove to my satisfaction you better make it good."⁴

Youth and their families across the country often face consequences in municipal courts similar to those they would face in the justice system, but without the same procedural protections.⁵ Significant attention—from the public, the media, and academia—focuses on federal and state criminal and juvenile courts. Much less attention is paid to municipal courts, present in cities and towns in over half of U.S. states.⁶ These courts typically have jurisdiction over local ordinances, including those that commonly affect youth, like age-specific curfew ordinances, loitering ordinances, and ordinances proscribing possession or consumption of alcohol and tobacco by minors.⁷ The lack of attention to municipal courts creates real risks for affected youth and their families. In Casper, Wyoming, for example, it took years to discover that the city's municipal court had been illegally sentencing youth convicted of possessing alcohol to six months of probation (in addition to a fine of up to \$750), even though local ordinances limited sentencing to a fine only.⁸ This issue is also vital to addressing racial disparities in the justice system. Black, Latinx, and Indigenous youth are often policed, ticketed and fined for minor misbehavior like curfew violations and loitering at rates much higher than white youth.⁹

Columbia Law School's Community Advocacy Lab, in collaboration with Juvenile Law Center, examined the constitutions and laws of each of the fifty states plus the District of Columbia to better understand municipal courts, and specifically how they affect youth.¹⁰ We first looked at the states' constitutions to assess how municipal courts are authorized. We then reviewed state codes to understand municipal court jurisdiction. We also examined many of the statutes and ordinances that have the greatest impact on youth in municipal court, like curfew and minor-in-possession laws. Finally, we considered the consequences youth and their families face for failure to pay.

Our research reveals three key insights: First, the legal framework creates significant opportunities for state, as well as local, advocacy for reform. State legislative advocacy will be particularly important in states that mandate municipal courts. In states that provide municipalities more discretion, advocacy can also be directed at local executives. Second, municipal courts expose youth to significant harm without providing them with adequate procedural protections. And finally, while further research is needed, programs that divert youth from municipal court and provide developmentally appropriate responses to youth could provide effective alternatives.

Part I of this report examines the constitutional and statutory sources of municipal court authority. Part II reviews municipal court jurisdiction, particularly with respect to conduct by youth. Part III discusses the fines and fees that youth and their families commonly face in municipal courts and examines how failure to pay these fines and fees can result in harsh penalties including incarceration and driver's license suspensions. Part IV recommends opportunities for ongoing research and reform.

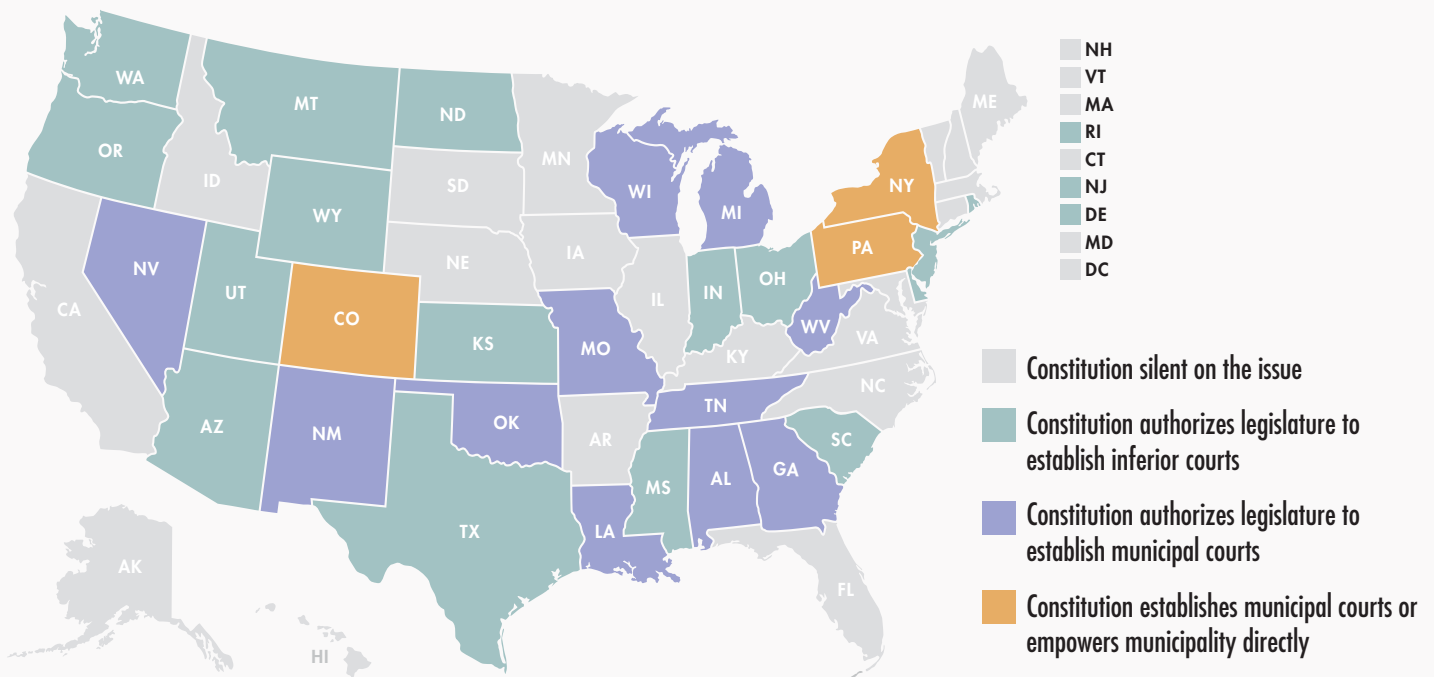
I. Municipal Court Authorization

Any discussion of municipal court reform must begin with the sources that authorize and structure their power. The nature and source of a municipal court's power and authority will affect where advocacy efforts should be directed, the level of resources required, and the procedural and institutional hurdles that advocates may face.

Constitutional Authority

States have almost universally modeled their judicial systems on Article III of the Federal Constitution.¹¹ After establishing a supreme court and certain intermediate courts, state constitutions will typically vest the legislature with discretion to establish inferior courts by statute.¹² These legislative bodies possess broad flexibility to create, alter, or abolish municipal courts by an act of law. Consequently, municipal courts are primarily creatures of state statutory law. However, as will be discussed below, some state constitutions either explicitly or implicitly grant municipal courts a higher constitutional status.

Figure 1: Constitutional Authority for Municipal Courts



Sixteen state constitutions provide their legislatures with general discretion to establish inferior courts, without specifying that such courts must be municipal.¹³ Eleven constitutions narrow that discretion by explicitly authorizing the legislature to establish municipal courts.¹⁴ As an example, the Wisconsin Constitution directs that the “legislature by law may authorize each city, village and town to establish a municipal court.”¹⁵ While this language is permissive in that the legislature may or may not establish local courts, it is also restrictive because it specifies the type of court.

Three other states—Pennsylvania, Colorado, and New York—have constitutional provisions that may limit state legislative authority over municipal courts. By endowing these courts with constitutional status, these states create significant procedural hurdles for municipal court reformers. Pennsylvania, for example, granted Philadelphia’s municipal courts constitutional status when it vested “[t]he judicial power of the Commonwealth” in the “municipal courts of the City of Philadelphia.”¹⁶ New York constitutionally established city courts in New York City and then grandfathered city courts in other jurisdictions.¹⁷ While the legislature does have the ability to abolish these courts, a majority of the town’s voters must concur with the legislature.¹⁸ Finally, Colorado’s constitution grants municipalities of over 2000 individuals the “power to legislate upon, provide, regulate, conduct and control: . . . The creation of municipal courts; the definition and regulation of the jurisdiction, powers and duties thereof, and the election or appointment of the officers thereof....” The provision explicitly establishes that municipal charters or ordinances “shall supercede within the territorial limits and other jurisdiction of said city or town any law of the state in conflict therewith.”¹⁹ On its face, this provision would seem to grant municipalities near plenary control over their municipal courts.²⁰ In apparent contravention to the plain meaning of this provision, however, Colorado’s legislature has passed a statute requiring every city to establish a municipal court.²¹ Glossing over this conflict, the Colorado Supreme Court has interpreted this statute to be “[c]onsistent with the constitutional grant of authority” to the municipalities.²² Consequently, it remains an open question as to whether a municipality can exercise its power to *abolish* municipal courts in contravention to the statute requiring their existence.²³ Colorado offers a stark example of how the mixing of permissive and mandatory language can easily lead to interpretive difficulties.

The implications of the courts’ constitutional status are clear. In states where municipal courts are purely creatures of statutory law, legislative campaigns will be particularly effective. In states where the Constitution requires the establishment of one or more municipal courts, advocates will be limited in what they can accomplish by statute. And the nuances of authority within the state constitution, state statutes, and municipal statutes will further inform the advocacy strategy in each state.

Statutory Authority

The mosaic of state law becomes even more pixelated as one zooms in on the disparate statutes that authorize and detail the creation of municipal courts. This underscores that there can be no one-size-fits-all approach to municipal court reform. By understanding the different authorizing statutes and how they apportion control, advocates can tailor their reform efforts to the particular jurisdiction in which reform is sought.

Indiana is a notable outlier. In that state, “[d]uring 2022 and every fourth year after that, a second or third class city or a town may by ordinance establish or abolish a city or town court.”²⁹ This provision is especially noteworthy because it places unique temporal restrictions on campaigns that might be aimed at creating or abolishing municipal courts in a given municipality. It underscores the importance of a thorough understanding of the structure and source of authority of the municipal courts in which an advocate seeks to effect change.

The patchwork of state municipal court authorizing statutes highlighted above demonstrates the opportunities for varying approaches to municipal court reform. Other than in the few states that pose constitutional obstacles to reform, there are opportunities for state legislative advocacy across the country. This centralized approach aimed at the state legislature will be efficient, since statutorily created municipal courts ultimately derive their power from state law and not municipal ordinance. In states with any discretion granted to the municipality, however, advocates may choose to engage in advocacy at the local level. This may be particularly useful in states where a municipality is ripe for reform but the state as a whole may not be.

Intermunicipal Resource Pooling

Fifteen jurisdictions allow for the consolidation of courts across jurisdictions. From an advocacy perspective, this poses opportunities and challenges. In New Jersey, “[t]wo or more municipalities, by ordinance, may enter into an agreement establishing a single joint municipal court and providing for its administration.”³⁰ Even where two or more municipalities wish to keep separate courts, they may still “agree to provide jointly for courtrooms, chambers, equipment, supplies and employees for their municipal courts and agree to appoint judges and administrators without establishing a joint municipal court.”³¹ While New Jersey likely represents the apogee of intermunicipal resource pooling, it is not alone in this approach. In Washington, for example, even where a municipality is required by law to establish a municipal court it “may terminate that court if the municipality has reached an agreement with the county . . . under which the county is to be paid a reasonable amount for costs associated with prosecution, adjudication, and sentencing in criminal cases filed in district court as a result of the termination.”³²

The resource pooling statutes provide for an *economies-of-scale* approach to judicial reform. It may be that courts run more efficiently both in terms of taxpayer costs and the administration of justice when resources are shared amongst a larger collective. This approach may also pose unique risks, however, as localities may minimize expenditures on courts at the expense of litigants while maximizing court-based revenue.³³ Advocates working for reform should take a careful look at the potential opportunities and pitfalls of resource pooling.

A Note Regarding States Without Municipal Courts

Just because a state has no “municipal” courts does not mean there are no other local courts with similar concerns. Some states, like Nebraska and Utah, do not ever appear to have had “municipal” courts. Nebraska confers jurisdiction over ordinance violations to county courts, which are considered more of an arm of the state.³⁴ Unlike Nebraska, however, Utah allows for the creation of “justice courts,” which are akin to municipal courts in that they are an arm of the municipalities rather than arms of the state.³⁵ Described as “entry-level courts,” Pennsylvania’s Magisterial District Courts are also relevant here.³⁶ These courts exist on a highly localized level and play a significant role in issuing fines and fees on youth.³⁷ Other such courts can include police courts, mayors’ courts, justices of the peace, and district courts. While these courts are not the subject of this project, further research into such courts would benefit advocates of local court reform.

Some states have chosen to abolish municipal courts altogether. Within this subset of states, some have transferred jurisdiction to the state trial courts while others have merely repealed and replaced the municipal courts with other comparable courts. A dive into the legislative history behind these reforms might reveal interesting lessons that could be helpful to advocates down the road.

Discussed further below, other states permit alternative structures for local problem-solving instead of municipal courts. Michigan, for example, allows municipalities to replace municipal courts with an “administrative hearings bureau to adjudicate and impose sanctions for violations of the charter or ordinances designated in the charter.”³⁸ Without further research, it is unclear how these local administrative courts function.

Where a state does not have municipal courts or has abolished municipal courts, reformers and advocates should determine whether that traditional municipal court jurisdiction has been shifted elsewhere and assess whether similar advocacy is needed.

II. Municipal Court Jurisdiction

This section lays out the various ways state law grants criminal and civil subject-matter jurisdiction to municipal and local courts. To start, the section discusses general grants of jurisdiction, i.e. general municipal court jurisdiction and the legal and ethical concerns accompanying municipal court adjudication. The remaining subsections provide an overview of municipal juvenile jurisdiction and municipal ordinances that directly target youth.

General Jurisdiction

Subject-matter jurisdiction of municipal courts varies widely by state. All states that authorize municipal courts grant jurisdiction over municipal ordinance violations (or a subset of the municipal code, in the case of Delaware). These violations can include anything from zoning and traffic laws to misdemeanors and petty offenses, such as theft and public intoxication.

Twenty states also allow concurrent jurisdiction over some limited class of state law offenses. Concurrent jurisdiction over state offenses granted to municipal courts varies based on some combination of the following factors:

- the type of offense;
- the punishment associated with the offense under state law;
- the location where the crime was committed; or
- the amount of recovery sought in civil claims.

The following examples demonstrate how state law grants municipal courts jurisdiction and the many small variations that exist:

In Louisiana, criminal jurisdiction of municipal courts (except in New Orleans) is limited to non-felony offenses committed within their respective territorial jurisdictions, including state law violations, municipal ordinance violations analogous to a certain class of state felony offenses (defined by state law), and the violation of any other municipal ordinance violations.³⁹ Municipal courts also have concurrent jurisdiction with state trial courts over state laws or municipal ordinances that criminalize driving while intoxicated.⁴⁰ New Orleans municipal courts are granted markedly broader subject-matter jurisdiction than other Louisiana municipalities.⁴¹

In Oregon, municipal courts are granted concurrent jurisdiction with state circuit courts and justice courts over all state and municipal violations/misdemeanors committed or triable in the city where the court is located.⁴² Municipal courts, however, have no jurisdiction over felonies or designated drug-related misdemeanors, as defined by statute.⁴³ Cities may choose to limit the exercise of municipal court jurisdiction over misdemeanors, but municipal courts *must* retain concurrent jurisdiction with state trial courts over violations/misdemeanors created by the city's own charter or ordinances, as well as traffic crimes punishable by a jail sentence.⁴⁴

In New Jersey, municipal courts have broad subject-matter jurisdiction over offenses committed within their territorial jurisdiction, such as violations of municipal ordinances, motor vehicle and traffic laws, and a limited class of state law crimes (crimes of the fourth degree as defined by state law or crimes where the term of imprisonment does not exceed one year), if the person charged under the state law waives indictment and trial by jury in writing and the county prosecutor consents in writing.⁴⁵

There are a few variations of municipal court jurisdiction not covered by the above categories. Some states choose to substantially limit municipal court criminal jurisdiction. States that have abolished municipal courts entirely often also choose to grant jurisdiction over civil offenses to an administrative bureau that collects fines and fees for traffic violations and other civil ordinance violations, such as nuisance or zoning ordinances, while retaining jurisdiction for criminal offenses at the state trial court level.⁴⁶ Some examples of the above variations include:

Limiting criminal jurisdiction of municipal courts: In Delaware, local courts (including mayor or alderman tribunals and Justice of the Peace Courts) have exclusive jurisdiction over criminal matters arising from municipal ordinance and state law violations where incarceration cannot be imposed and the maximum fine is under \$100.⁴⁷ In any other criminal matter, the state trial court has concurrent jurisdiction and an individual may elect to have the case tried in state court.⁴⁸

Code enforcement boards: Under Kentucky state law, the violations of all city ordinances prescribing a criminal penalty are prosecuted in the state trial courts.⁴⁹ For civil ordinance violations, an individual may pay the prescribed fine to a municipal code enforcement board.⁵⁰ If the individual fails to pay the associated civil fine, however, the city may, through its city attorney, institute a civil action in the appropriate court (depending upon the amount at issue) and collect the penalty from the individual as it would any other civil debt owed to the city. There are no formal municipal courts in the state.⁵¹

Statutes that grant municipal courts concurrent jurisdiction over state offenses are problematic for a number of reasons. Municipal courts tend to lack the legal formalities and procedural protections associated with state trial courts. Some municipal judges are appointed and have their salaries set by local authorities or mayors, which can create a sense of allegiance to municipal political leaders.⁵² Other states do not require municipal judges to be lawyers, sometimes requiring just a high school degree.⁵³ Municipal prosecutors may serve only part-time and have private practices with ties to municipal government or city business.⁵⁴ In some cases, police officers serve as municipal prosecutors.⁵⁵ Defense attorneys may or may not be appointed depending on the state, and appellate procedures are frequently wanting or nonexistent.⁵⁶ The Supreme Court has sanctioned the lack of jury trials, counsel, and legally trained judges that are characteristic of municipal courts.⁵⁷ Allowing the same offense to be prosecuted in state and municipal courts can therefore lead to wildly disparate outcomes for defendants, whose procedural protections depend on where their case is prosecuted.

Municipal courts can also have perverse incentives to adjudicate state offenses, criminal or civil, as often as possible due to competition with the state for the fines and fees collected from defendants. In New York, for example, there have been documented incidents where charging and pleading decisions were manipulated in municipal court to retain what would otherwise be state fine revenue.⁵⁸ Even where offense fines are remitted to the state, however, municipal courts may still collect fees for adjudicating state offenses to cover the operational costs of the municipal court, jail, and police. The role of fines and fees in city budgets is discussed in greater detail in Part III.

Given these drawbacks, reform efforts should consider the appropriate jurisdiction for municipal courts, taking into account the procedural protections needed and the incentives at issue.

Jurisdiction over Youth

Youth cases are typically heard in juvenile court in each state.⁵⁹ Many states, however, also make jurisdiction concurrent with municipal courts for a limited number of non-serious juvenile offenses. In total, twenty-six states give municipal courts some form of jurisdiction over youth, either via concurrent grants of jurisdiction or waiver of jurisdiction from juvenile courts. Youth may also be tried in adult criminal court for certain serious offenses.⁶⁰

Juvenile Court Jurisdiction

Juvenile court jurisdiction is generally created in state juvenile codes by: (1) defining the range of covered youth and offenses, and then (2) assigning jurisdiction over those youth to a specific court (e.g. specialty juvenile courts).

States tend to define the range of covered youth either by creating categories of youth using terms of art in the state juvenile code, such as “delinquent child,” “unruly child,” or “child in need of supervision,” or by simply defining a range of covered youth based on their age and offense committed. Examples of how these methods work in practice include:

Creating categories of youth using terms of art: In Mississippi, the youth court (specialty division of state trial court) is granted exclusive original jurisdiction in all proceedings concerning a “delinquent child,” a “child in need of supervision,” a “neglected child,” an “abused child” or a “dependent” child, except in serious crimes.⁶¹ The state code provides separate definitions for all five of these youth categories. Definitions for both “delinquent child” and “child in need of supervision” encompass youth who have violated criminal municipal or county ordinances.⁶²

Defining juvenile court jurisdiction by age range and offense type: Colorado simply grants the state juvenile courts exclusive original jurisdiction in proceedings concerning any person under eighteen who has committed a delinquent act, defined as the violation of federal and state statutes, as well as county or municipal ordinances for which the penalty exceeds ten days in jail.⁶³

Municipal Court Authority Over Youth Offenses

As noted above no state grants municipal courts exclusive original jurisdiction over youth offenses. Thirty-two out of thirty-three states that authorize municipal courts do however, grant such courts concurrent jurisdiction over offenses that would otherwise be tried in juvenile court or allow waiver of jurisdiction from juvenile to municipal courts in a limited number of cases, either explicitly or implicitly.⁶⁴ Most of the explicit grants of jurisdiction involve violations of municipal ordinances or “offenses against the municipality” (generally defined as misdemeanors committed within city limits). In these cases, children who violate either a municipal ordinance, e.g. curfew, or commit a misdemeanor while in city limits, e.g. petty theft, could have their cases brought before the municipal court.

Figure 3: Municipal Juvenile Jurisdiction by State

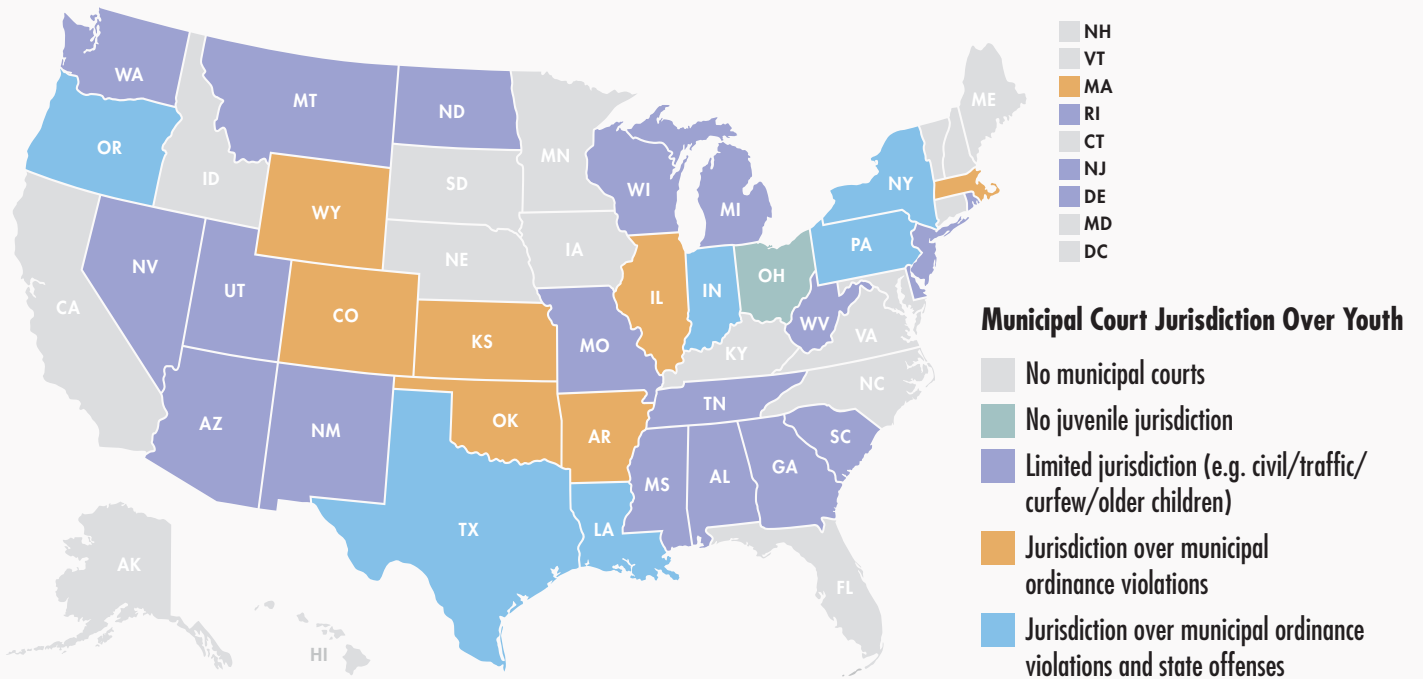


Fig. 3: Although Louisiana appears to grant some municipal courts with broad authority over youth, Louisiana’s municipal courts are required to follow all rules of juvenile court procedure, thus acting more like juvenile courts than typical municipal courts.

States that explicitly grant municipal courts jurisdiction over youth tend to limit the subject-matter jurisdiction to certain kinds of offenses, like traffic offenses, or to certain classes of youth, such as children over fifteen years old. The following examples typify how states explicitly grant municipal courts jurisdiction over youth:

In Missouri, the state juvenile court (or family court in state trial courts that have a family court) is granted exclusive original jurisdiction in proceedings involving any person under eighteen years of age who is alleged to have violated a state law or municipal ordinance, except for any juvenile over fifteen years of age who has violated a municipal traffic ordinance or regulation.⁶⁵ The municipal courts also have concurrent jurisdiction over any child who has violated a municipal curfew ordinance.⁶⁶

Oregon allows for even greater municipal court jurisdiction by waiver. Juvenile courts are granted exclusive original jurisdiction of all cases involving youth under eighteen, but are permitted to waive jurisdiction to municipal courts for violations of motor vehicle and recreation laws, ordinance violations, and certain types of misdemeanors, if the municipal court agrees to accept cases from the latter two categories.⁶⁷

States that implicitly grant municipal courts jurisdiction in the juvenile code generally do so through omission, with the implication that areas carved out of state juvenile court jurisdiction may be adjudicated in municipal courts. The following is an example of these implicit grants:

Kansas state law is an example of a particularly opaque grant of jurisdiction over youth offenses. Kansas state law dictates that the state trial courts shall have exclusive jurisdiction over “juvenile offenders.”⁶⁸ However, the state law defines “juvenile offender” as any person between the ages of ten and eighteen years old who has committed an offense that would constitute a felony or misdemeanor as defined by Kansas state code.⁶⁹ That modifying phrase, “as defined by [Kansas state code],” has been interpreted to allow municipal court jurisdiction over youth who violate any penal ordinance that is not prohibited by state law.⁷⁰ As a result, Kansas municipal courts have jurisdiction over youth violations of civil municipal ordinances as well as a limited class of criminal municipal ordinances that do not duplicate state law.

Criminalizing Youthful Behavior

Criminal and civil municipal ordinances that punish certain actions by youth because of their status as minors, often referred to as “status offenses” can further widen court involvement for youth. Examples include age-specific curfew, loitering, and ordinances proscribing possession or consumption of alcohol and tobacco by minors. Because this conduct is generally only punishable as a misdemeanor or civil infraction, most states grant municipalities the ability to regulate such conduct via ordinances, even if there are already applicable state laws.⁷¹

It is widely recognized that criminalizing adolescent behavior undermines youth wellbeing. Municipal ordinances targeted at youth can heighten this problem by bringing more youth into contact with courts for normative adolescent behavior.⁷²

Many states grant municipalities the ability to regulate conduct such as curfew violations, truancy, and underage alcohol or tobacco use via ordinances, even if there are already applicable state-level laws.⁷³ Under New Jersey state law, for example, violations of ordinances such as curfew restrictions, truancy, and underage possession or consumption of alcohol are handled by municipal courts.⁷⁴ These courts have authority to order fines, community service, and even imprisonment in a juvenile facility as sanctions for young people.⁷⁵

When states target youth behavior through municipal courts, the risks to youth are heightened because these courts typically fail to provide the same level of protection youth would be granted in juvenile court. Youth in municipal courts tend to appear without counsel, with minimal process, and without the benefit of the youth-specific protections of juvenile court.⁷⁶ In contrast, juvenile courts retain many of the same due process rights afforded to adults in typical criminal proceedings, including the right to counsel, the right against double jeopardy, and cases overseen by legally trained judges.⁷⁷ Although the right to jury trial in juvenile court is not guaranteed by the federal Constitution, several states have chosen to afford this right in juvenile court, either legislatively or judicially.⁷⁸ Juvenile courts are also often closed to the general public, with criminal records made confidential to protect children from social stigma later in life.⁷⁹ Similarly, municipal courts typically have limited sentencing options, while juvenile courts often have broad discretion to provide youth with treatment and services.

III. Fines and Fees in Municipal Court

In all thirty states that have municipal courts,⁸⁰ fines and fees may be imposed for at least some local law violations that might typically affect youth, including curfew, and minor-in-possession laws. These fines and fees can have serious implications for affected youth and their families, causing stress and leading to deeper justice system involvement.⁸¹ Even seemingly small fines can overwhelm families living in poverty.⁸² These fines also risk exacerbating the justice system's already problematic racial and economic inequities.⁸³

City budgets often rely on revenue raised from ordinance fines and fees to fund municipal operations, including funding the courts and administrative bureaus themselves. In particularly egregious cases, municipalities budget as much as ten to thirty percent of revenue from municipal fines and fees.⁸⁴ Over-reliance on fines and fees for municipal operations incentivizes systemic overcriminalization and aggressive ordinance enforcement, with devastating effects on the affected communities.⁸⁵ Failure to pay these fines and fees can also result in incarceration, suspension of driver's licenses, or civil judgment enforcement mechanisms such as wage garnishment.⁸⁶ These harsh penalties are especially concerning in light of the fact that, in practice, municipalities target poor residents and communities of color for fines and fees.⁸⁷

Figure 5: Examples of Fines/Fees

| | |
|--|----------------------------------|
| ARIZONA | |
| Not more than \$2,500 | ARIZ. REV. STAT. § 22-301 |
| COLORADO | |
| Not to exceed \$2,650 | COLO. REV. STAT. § 13-10-113 |
| INDIANA | |
| No more than \$500 | IND. CODE ANN. § 33-35-2-4 |
| KANSAS | |
| No statutory limit on fines; various fees, none exceeding \$45 | KAN. STAT. ANN. § 12-4305 |
| LOUISIANA | |
| Maximum penalty of \$500 | LA. REV. STAT. § 33:362 |
| MICHIGAN | |
| Not more than \$500 | MICH. COMP. LAWS § 117.3 |
| MISSISSIPPI | |
| Not to exceed \$1,000 | MISS. CODE ANN. § 21-13-1 |
| MISSOURI | |
| Up to \$1,000 | MO. REV. STAT. §§ 66.080, 49.272 |

| | |
|-----------------------|---------------------------------------|
| MONTANA | |
| Not to exceed \$500 | MONT. CODE ANN. § 7-5-4207 |
| NEVADA | |
| Not more than \$1,000 | NEV. REV. STAT. § 193.120 |
| NEW JERSEY | |
| Not more than \$2,000 | N.J. STAT. § 40:49-5 |
| NEW MEXICO | |
| Not more than \$500 | N.M. STAT. ANN. § 3-17-1 |
| NORTH DAKOTA | |
| No more than \$1,500 | N.D. CENT. CODE § 40-05-06 |
| PENNSYLVANIA | |
| Not more than \$2,300 | 53 PA STAT. § 13131 |
| RHODE ISLAND | |
| No more than \$500 | R.I. GEN. LAWS § 45-6-2 |
| SOUTH CAROLINA | |
| Not to exceed \$500 | S.C. CODE § 5-7-30 |
| TENNESSEE | |
| Not more than \$500 | TENN. CODE ANN. §§ 6-54-306, 6-54-308 |
| TEXAS | |
| Not more than \$500 | TEX. LOCAL GOV. CODE § 54.001 |

As the chart above shows, youth in municipal courts face significant fines for adolescent behavior. Take Texas which generally permits a fine of up to \$500 for municipal ordinance violations.⁸⁸ In San Antonio, Texas, for example, youth between the ages of 10 and 16 are prohibited by the local curfew ordinance from being out in public between 11 p.m. and 6 a.m. on any day, as well as between 9 a.m. and 2:30 p.m. on school days, with certain exceptions.⁸⁹ Parents and guardians of children alleged to be in violation “shall be guilty of a misdemeanor” and ordered to pay up to \$500.⁹⁰ Youth alleged to be in violation may be referred to the “Juvenile Case Management Section of the San Antonio Municipal Court/Truancy Court.”⁹¹ The harm to youth can be compounded still further; Texas law provides that if youth fail to obey a municipal court order, the court may either (1) refer the youth to juvenile court for delinquent conduct for contempt of the municipal court order; or (2) hold the youth in contempt and order either (A) another fine not to exceed \$500 or (B) the suspension or ban of the youth’s driver’s license or permit.⁹²

And in Colorado, youth found in possession of alcohol or other substances like marijuana can be criminally tried in municipal court.⁹³ With certain exceptions, “underage” youth face fines of up to \$100 and/or mandatory participation in a substance abuse education program upon conviction of a “first offense”; another fine of up to \$100, mandatory participation in a substance abuse education program, and 24 hours of community service upon conviction of a “second offense”; and a fine of up to \$250, mandatory substance abuse assessment, and up to 36 hours of community service upon a “third offense.”⁹⁴ The substance abuse education programs and assessments add to the cost even further; according to the municipal codes of several Colorado towns and cities, those come at the youth’s own expense.⁹⁵ According to online reports by defense attorneys there, youth often face an additional slew of potential add-on fines that “generally accompany” minor-in-possession violations, including \$100 fines for littering, possession/consumption of alcohol in public, and urinating in public.⁹⁶

Perhaps most importantly, serious consequences often follow for youth and their families who are unable to pay the fines and fees. In a host of states, municipal courts can convert outstanding debt to a civil judgment, refer the debt to a collection agency, hold the defaulting party in contempt, or even order incarceration.⁹⁷ Some municipal court judges impose “fines or time” sentences requiring individuals to either pay fines immediately upon being convicted or face incarceration.⁹⁸ When youth and their families are unable to pay, like A.S.,⁹⁹ the punishment can fall upon parents or guardians.

In addition, most states allow driver’s license suspensions for individuals, including youth, who fail to pay fines and fees in traffic cases.¹⁰⁰ In Mississippi, for example, youth found to have purchased alcohol can have their driver’s license suspended and kept “in the custody of the court for a period of time not to exceed ninety (90) days” and placed on probation during that time.¹⁰¹ The municipal judge also has the power to issue a fee of up to \$50 when suspending the youth’s license.¹⁰²

While some states provide for protections for youth in municipal court, these protections tend to reduce the harshest consequences rather than to create developmentally appropriate responses for youth. In Texas, for example, municipal courts may not order the “confinement of a child” for:

- (1) the failure to pay all or any part of a fine or costs imposed for the conviction of an offense punishable by fine only;
- (2) the failure to appear for an offense committed by the child; or
- (3) contempt of another order of a justice or municipal court.¹⁰³

Some states also explicitly permit or require their municipal courts to determine whether individuals are able to pay and adjust accordingly. Colorado law, for example, allows municipal courts to incarcerate minors for 48 hours for “failure to comply with a lawful order of the court, including an order to pay a fine.”¹⁰⁴ The law specifies, however, that the municipal court is only empowered to do so “[n]otwithstanding any provision of law to the contrary.”¹⁰⁵ And another provision of the law prohibits incarceration for failure to pay fines and fees when the person lacks the present ability to pay the monetary amount due.¹⁰⁶ It is worth noting that the U.S. Constitution prohibits incarcerating an individual for failing to pay a fine because they cannot afford to do so.¹⁰⁷ Because youth, as a class, typically have little to no access to funds to pay fines, this reasoning should likewise categorically prohibit confinement for failure to pay in all cases involving youth. Nonetheless, state statutes do not uniformly require these determinations.¹⁰⁸

IV. Reform Opportunities

While further research is needed to identify the best approaches to reforms, we highlight here some preliminary ideas worthy of consideration.

The bulk of municipal court reforms to date have tinkered around the edges of the problem, limiting confinement or incarceration or adding procedural protections. For example, Kansas allows municipal adjudication of juvenile traffic offenses, but prohibits municipal courts from incarcerating young people in adult jail facilities if they fail to pay traffic fines.¹⁰⁹ West Virginia provides youth, including youth in municipal court, with a right to counsel, testimony, and cross-examination.¹¹⁰ These reforms do not go far enough, given the harms and consequences youth face from municipal court fees and fines.

Current efforts in the juvenile justice system provide a starting point for municipal court reform efforts. A growing number of states, for example, have recognized that youth should not be subjected to fines and fees. New Jersey, Maryland, California and Nevada all recently abolished fees, fines, or both.¹¹¹ These reforms set the stage to abolish fines and fees in municipal courts as well. The New Jersey Supreme Court, for example, has recommended examining alternatives to court-imposed punitive fines and penalties for youth as part of its 2020 action plan for reforming and eliminating disparities in the court system. While the plan does not specifically mention municipal courts, the language is broad enough to encompass reforms on municipal citations.¹¹²

More broadly, key juvenile justice reforms of recent years have recognized the benefits of minimizing court and justice system contact for youth as a means of creating a more developmentally appropriate and racially equitable justice system. New Jersey's Attorney General, for example, recently issued a directive recognizing that "for the vast majority of youthful offenders, the system works best when juveniles are diverted away from formal court proceedings and towards social or familial support." The directive instructs police officers and prosecutors to use curbside warnings and stationhouse adjustments to prevent youth from ever needing a court hearing.¹¹³ A Los Angeles County Youth Justice Work Group has recommended dramatically enhancing community supports for youth and severely restricting court contact and placement.¹¹⁴ These principles of minimizing court and system involvement and emphasizing positive and voluntary supports are equally, if not more, compelling in the context of municipal court reforms for youth.

Limiting Youth Contact with Municipal Courts

The behaviors that most often bring youth into municipal courts, such as loitering with friends, drinking alcohol, and staying out late, are a normal part of adolescent development that tend to taper off as young people mature and reach adulthood.¹¹⁵ In these cases, proper support and intervention need only come from a parent, teacher, or other mentor, not a courtroom.

To the extent that youth do engage in behavior that requires a response beyond what the child's parents or other trusted adults can provide, programs that offer support and services to youth increase their chance of success in home, school, and work environments and lead to better outcomes for youth and the community.¹¹⁶

Diversion programs offer one promising alternative to municipal courts. The Philadelphia Police School Diversion Program is a notable example of a more effective response to adolescent misbehavior than judicial intervention. Under the program, when a student with no juvenile justice history has engaged in behavior that would ordinarily result in a misdemeanor or summary offense charge, the young person is provided with voluntary access to a range of social services and counseling, rather than arrest.¹¹⁷ Notably, there is no punishment for declining services or failing to complete a program. During the first year of the diversion program, arrests within the School District of Philadelphia fell by 54 percent and schools saw a 17 percent drop in school-based behavioral incidents.¹¹⁸ The voluntary nature of the program also ensures that the intervention will not have a “net widening” effect by bringing more youth under court supervision.

Diversion alternatives can be prioritized by state law. Florida’s civil citation, program, for example, requires the development of diversion programs in each circuit of the state. Unfortunately, Florida legislation permits collection of a fee for participation. A six-month follow up of youth cited under the civil citation program found that civil citation reduced the likelihood of recidivism by nearly 50% as compared with youth who faced a formal arrest, and at three years, youth who had received civil citations were still 30% less likely to reoffend.¹¹⁹ Such diversion programs should always be provided free of charge to create equal access and to ensure they don’t heighten economic stresses on youth and families.

V. Conclusion

Keeping youth out of municipal courts or, at a minimum, creating alternatives to municipal court citations and fines for youth could better serve youth and the community. While this goal is ambitious, it is also realistic. In fact, even some current municipal judges have called for a different approach. One such judge in San Antonio, Texas, for example, recommended that instead of a curfew law leading to steep fines and arrests, the focus should be on ensuring youth are placed back in school, released to a parent or guardian, or given help at a local engagement center.¹²⁰

Further research is needed to understand how fines and fees operate in practice. Advocates should particularly focus on hearing from youth and families and other system stakeholders about how the current system works. They should examine demographic information to more deeply understand the impact of young people's identity, including race, ethnicity, and financial status, on their experience of municipal courts. Advocates should also identify, lift up, and support models that keep youth out of court and protect them from harmful fines and fees.

This report highlights that shifting our approach to municipal courts need not happen only at the local level; state legislative changes hold great promise for reform.

Endnotes

- 1 ACLU COLO., JUSTICE DERAILED 10 (Oct. 5, 2017), <https://aclu-co.org/wp-content/uploads/2017/10/JUSTICE-DERAILED-web.pdf>.
- 2 *Id.*
- 3 *Id.*
- 4 *Id.*
- 5 See, e.g., *id.* at 1 (“Colorado’s municipal courts operate in the shadow of state law, with little meaningful statewide oversight or accountability. Without such oversight, Colorado municipal court judges function largely unchecked as they determine daily how their city will mete out justice.”). For a comprehensive analysis of municipal courts, see Alexandra Natapoff, *Criminal Municipal Courts*, 134 HARV. L. REV. (forthcoming 2020); see also DICK CARPENTER, RICARD POCHKHANAWALA & MINDY MENJOU, INST. FOR JUST., MUNICIPAL FINES AND FEES: A 50-STATE SURVEY OF STATE LAWS (2020), <https://ij.org/report/fines-and-fees-home>. Building upon the methods employed by the Institute for Justice, we define a municipal court as “a judicial court operated by a municipality for the primary purpose of hearing violations of that municipality’s ordinances. . . . [They] are judicial courts, a co-equal branch of [local] government.” See *id.*
- 6 See *infra* Part I.
- 7 See *infra* Part II.
- 8 See Elise Schmelzer, *Casper’s Court Has Been Illegally Sentencing Minors for Alcohol Possession for Years*, CASPER STAR-TRIB. (Oct. 15, 2016), https://trib.com/news/local/crime-and-courts/caspers-court-has-been-illegally-sentencing-minors-for-alcohol-possession-for-years/article_460d36f9-a665-5b85-8fd7-821fc61c1613.html.
- 9 See, e.g., Chad Pradelli, *Philadelphia’s Black youth arrested at alarming rate*, ABC NEWS (June 12, 2020), <https://6abc.com/action-news-investigation-data-team-journalism-philadelphia-crime/6243382/>; Tik Root, *Life under curfew for American teens: ‘it’s insane, no other country does this,’* The Guardian, (May 28, 2016), <https://www.theguardian.com/us-news/2016/may/28/curfew-laws-san-diego>.
- 10 Though the District of Columbia was included in the underlying research, it does not have municipal courts or the same underlying structures, namely a state constitution and statutes, as the fifty states. Thus it is not included in the analysis below. A coded datasheet containing the results of this research is on file with the Juvenile Law Center and available upon request.

11 Prior to the drafting of the Federal Constitution, few if any state constitutions or charters affirmatively granted their general legislative bodies the power to establish inferior courts. In fact, the New York Legislature was explicitly forbidden from establishing new courts on its own. See generally, e.g., *The Constitution of New York: April 20, 1777*, YALE LAW SCHOOL: THE AVALON PROJECT (last visited Nov. 28, 2020), https://avalon.law.yale.edu/18th_century/ny01.asp. However, it does appear that the Charter of Rhode Island granted either the governor or the general assembly the power to “erect” courts of law. *Charter of Rhode Island and Providence Plantations - July 15, 1663*, YALE LAW SCHOOL: THE AVALON PROJECT (last visited Nov. 28, 2020), https://avalon.law.yale.edu/17th_century/ri04.asp.

12 See, e.g., OHIO CONST. art. IV, § 1 (“The judicial power of the state is vested in a supreme court, courts of appeals, courts of common pleas and divisions thereof, and such other courts inferior to the supreme court as may from time to time be established by law.”); N.M. CONST. art. 6, § 1 (“The judicial power of the state shall be vested in . . . a supreme court, a court of appeals, district courts; probate courts, magistrate courts and such other courts inferior to the district courts as may be established by law from time to time . . .”).

13 In a few of these states—New Jersey, Ohio, and Arizona—there is an assumption that these “inferior courts” may be municipal courts.

14 See, e.g., NEV. CONST. art. VI, § 1 (“The Judicial power of this State is vested in a court system, comprising a Supreme Court, a court of appeals, district courts and justices of the peace. The Legislature may also establish, as part of the system, Courts for municipal purposes only in incorporated cities and towns.”)

15 WIS. CONST. art. VII, § 14. (emphasis added). It is worth noting that the Wisconsin Constitution also directs that “[a]ll municipal courts shall have uniform jurisdiction limited to actions and proceedings arising under ordinances of the municipality in which established[sic]. *Id.* Thus once a municipal court is established, the Constitution proscribes its jurisdictional boundaries.

16 PA. CONST. art. V, § 1. While the Philadelphia Municipal Court does have constitutional status, the local courts in the remainder of the state are established by a vote of the people. See Pa. Const. art. V, § 6.

17 See N.Y. CONST. art. VI, §§ 1, 17.

18 *Id.* at § 17(b).

19 See COLO. CONST. art. XX, § 6.

20 See *Town of Frisco v. Baum*, 90 P.3d 845, 847 (Colo. 2004) (“In essence, this section gives municipalities all the powers of the General Assembly with regard to local and municipal matters.”).

21 COLO. REV. STAT. ANN. § 13-10-104 (West).

22 *Baum*, 90 P.3d at 848.

23 Cf. *id.* (implying that a municipality might be able to strip a municipal court of all jurisdiction).

- 24 MISS. CODE ANN. § 21-23-1 West 1979). See also N.J. STAT. ANN. § 2B:12-1(a) (West 2015) (“Every municipality shall establish a municipal court.”).
- 25 See OHIO REV. CODE ANN. § 1901.01 (West 2020).
- 26 OR. REV. STAT. ANN. § 221.336 (West 1999).
- 27 WASH. REV. CODE ANN. § 35.20.010 (West 2006).
- 28 WASH. REV. CODE ANN. § 3.50.010 (West 1984)
- 29 IND. CODE ANN. § 33-35-1-1 (West 2019) (emphasis added). The class of a city is based on population.
- 30 N.J. STAT. ANN. § 2B:12-1 (West).
- 31 *Id.* at § 2B:12-1(c).
- 32 WASH. REV. CODE ANN. § 35.20.010.
- 33 See generally MATTHEW MENENDEZ ET AL., BRENNAN CTR. FOR JUST., THE STEEP COSTS OF CRIMINAL JUSTICE FEES AND FINES (2019).
- 34 See NEB. REV. STAT. ANN. § 24-517(9) (West 2017).
- 35 UTAH CODE ANN. 1953 § 78A-7-102(3)(a) (West 2018).
- 36 Learn, THE UNIFIED JUD. SYS. OF PA. (last visited Dec. 8, 2020), <http://www.pacourts.us/courts/>.
- 37 Malik Pickett, *Updates on the Juvenile Justice Task Force Meeting*, JUV. L. CTR. (July 29, 2020), https://jlc.org/news/updates-juvenile-justice-task-force-meeting#_ftn1.
- 38 MICH. COMP. LAWS ANN. § 117.4q(1) (West 2014). See also KY. REV. STAT. ANN. § 65.8801 (West 1996); KY. REV. STAT. ANN. § 65.8808(1)–(2) (West 2016).
- 39 LA. STAT. ANN. 13:1894(A) (West 2001); LA. STAT. ANN. 13:1871 (West 1961).
- 40 LA. STAT. ANN. 13:1894.1 (West 2018). Note that municipal courts only have jurisdiction over first-time offenses for driving while intoxicated if the charge is based on state law. LA. STAT. ANN. 13:1894.1(B).
- 41 LA. STAT. ANN. 13:2493(A)–(C) (West 2017).
- 42 OR. REV. STAT. ANN. § 221.339(1)–(2) (West 2017).
- 43 OR. REV. STAT. ANN. § 221.339(3).
- 44 OR. REV. STAT. ANN. § 221.339(4).
- 45 N.J. STAT. ANN. § 2B:12-17 (West 1996); N.J. STAT. ANN. § 2B:12-18 (West 1994)).

46 Nine states without municipal courts allow for the creation of municipal bureaus or appointed hearing officers with some version of civil jurisdiction. Six of these states (Alaska, Illinois, Kentucky, Massachusetts, New Hampshire and Florida) allow for jurisdiction over all noncriminal ordinance violations, while three states (Connecticut, Nebraska, and Vermont) restrict jurisdiction to traffic or parking violations. See CARPENTER ET AL., *supra* note 5.

47 DEL. CODE ANN. tit. 11, § 5303 (West 2012).

48 *Id.*

49 KY. REV. STAT. ANN. § 83A.065(8) (West 1992).

50 KY. REV. STAT. ANN. §§ 65.8801, 65.8808(1)–(2).

51 KY. REV. STAT. ANN. § 83A.065(8).

52 See, e.g., ALA. CODE § 12-14-30(a) (LexisNexis 2020) (allowing the governing body of a municipality to appoint municipal court judges); ARIZ. REV. STAT. § 22-403(a) (LexisNexis 2020) (designating the presiding officer of a municipal court a magistrate, whose selection is dictated by the charter or ordinances of the city or town); LA. STAT. ANN. 33:441(B)(1) (2019) (allowing the board of aldermen in a city, town or village with a mayor’s court to appoint one or more attorneys to preside over the mayor’s court, provided that the mayor requests the appointment and that the presiding official serves at the “pleasure of the mayor”).

53 See, e.g., COLO. REV. STAT. ANN. § 13-10-106(1) (West 1977); COLO. REV. STAT. ANN. § 13-6-203 (West 2014) (requiring only that a municipal judge have graduated from high school unless the municipal charter of a Home Rule city or an ordinance states otherwise); KAN. STAT. ANN. § 12-4114 (West 1992) (requiring only that municipal judges in cities of less than 15,000 attend a training program and pass an examination); MO. REV. STAT. ANN. § 479.020(8) (2019) (requiring only completion of an instruction course for non-attorney municipal judges).

54 See, e.g., GA. CODE ANN. § 15-18-94 (West 2012) (allowing part-time prosecuting attorneys of municipal courts to engage in the private practice of law, so long as they do not practice in the municipal court or appear in any matter in which they have exercised jurisdiction).

55 See, e.g., *Easley v. Cartee*, 424 S.E.2d 491, 492 n.2 (S.C. 1992) (ruling that law enforcement officers and licensed security guards may exercise prosecutorial authority in misdemeanor within the jurisdiction of a magistrate’s or municipal court).

56 Georgia, for example, does not specify a municipal appellate process in state law. See also DEL. CONST., Art. 4, § 28; DEL. CODE ANN. tit. 11, § 5920 (West 1995) (granting *de novo* appeal of right only for cases involving sentences of more than one month in jail or fines greater than \$100).

57 *North v. Russell*, 427 U.S. 328 (1976) (holding that Due Process Clause permits trial before non-lawyer judge in police court, even when accused is facing imprisonment, so long as defendant has right to trial de novo before lawyer judge); *Argersinger v. Hamlin*, 407 U.S. 25 (1972) (holding that right to counsel applies to cases in which imprisonment may be imposed); *Duncan v. Louisiana*, 391 U.S. 145 (1968) (holding that jury trial only required for prosecution of crimes carrying potential sentence of six months or greater).

58 Ethan J. Leib, *Local Judges and Local Government*, 18 N.Y.U. J. LEGIS. & PUB. POL'Y 707, 730–31 (2016).

59 Almost every state has created specialty divisions within their state trial court systems to handle juvenile-related issues, including juvenile offenses, usually named “youth court,” “juvenile court,” or “family court.”

60 See, e.g., MONT. CODE ANN. § 41-5-206 (2020) (allowing the youth court to transfer cases for serious offenses like homicide, arson, and sexual assault to the district court for adjudication); WASH. REV. CODE ANN. § 13.04.030 (LexisNexis 2020) (excluding serious and violent offenses from youth court’s exclusive original jurisdiction).

61 MISS. CODE ANN. § 43-21-151 (West 2011).

62 MISS. CODE ANN. § 43-21-105 (West 2019).

63 COLO. REV. STAT. ANN. 19-1-104 (West 2020).

64 See *supra* note 10 and accompanying text.

65 MO. REV. STAT. § 211.031 (2021).

66 *Id.*

67 OR. REV. STAT. ANN. § 419C.005 (West 2020), OR. REV. STAT. ANN. § 419C.340 (West 1993), OR. REV. STAT. ANN. § 419C.370 (West 2003).

68 KAN. STAT. ANN. § 38-2304(b) (West 2017).

69 KAN. STAT. ANN. § 38-2302(s) (West 2016).

70 Kan. Att’y Gen. Op. No. 97-77 (Sept. 22, 1997).

71 Only four states (North Carolina, Alaska, Arkansas, and Vermont) prohibit municipalities from enacting municipal charters and codes. Sixteen states with municipal courts allow municipalities to duplicate or create similar ordinances to existing state laws. Two states are silent on the matter. See CARPENTER ET AL., *supra* note 5.

72 For an overview of the damage caused by youth “status-offenses,” see *Just Kids: When Misbehaving is a Crime*, VERA INST. FOR JUST., (August 2017) [hereinafter *Just Kids*], <https://www.vera.org/when-misbehaving-is-a-crime>.

73 Only four states (North Carolina, Alaska, Arkansas, and Vermont) prohibit municipalities from enacting municipal charters and codes. Sixteen states with municipal courts allow municipalities to duplicate or create similar ordinances to existing state laws. Two states are silent on the matter. See CARPENTER ET AL., *supra* note 5.

74 N.J. STAT. ANN. § 40:48-2.52 (West 2005); § 40:48-1.2 (West 2021).

75 N.J. STAT. ANN. § 2A:4A-23 (West).

76 See, e.g. ACLU COLO., JUSTICE DERAILED 10 (Oct. 5, 2017), <https://aclu-co.org/wp-content/uploads/2017/10/JUSTICE-DERAILED-web.pdf>.

77 *In re Gault*, 387 U.S. 1, (1967). Note that almost all appeals from municipal courts are tried entirely de novo by the state trial court, and many municipal courts are not courts of record.

78 *McKeiver v. Pennsylvania*, 403 U.S. 528 (1971).

79 For a more complete summary of the U.S. juvenile justice system, see *Youth in the Justice System: An Overview*, JUV. L. CTR., <https://jlc.org/youth-justice-system-overview>.

80 Delaware's local courts are named mayor's or alderman's courts and Justice of the Peace Courts. See *supra* notes 46-47 and accompanying text.

81 JUV. L. CTR., ANOTHER CHANCE: YOUTH PERSPECTIVE AND RECOMMENDATIONS TO CREATE POSITIVE ALTERNATIVES TO IMPOSING COSTS, FINES, AND FEES (2017); *Just Kids*, *supra* note 72.

82 See JESSICA FEIERMAN ET AL., JUV. L. CTR., DEBTORS PRISON FOR KIDS? THE HIGH COSTS OF FINES AND FEES IN THE JUVENILE JUSTICE SYSTEM 24 & nn.143-44 (2016), <http://debtorsprison.jlc.org/documents/jlc-debtors-prison.pdf> (finding that "some states require neither willfulness nor capacity to pay in statute, and only a few explicitly limit or prohibit incarceration for failure to pay").

83 *Id.*

84 See CARPENTER ET AL., *supra* note 5; see also Nick Sibilla, *Nearly 600 Towns Get 10% of Their Budgets (Or More) from Court Fines*, FORBES (Aug 29, 2019), <https://www.forbes.com/sites/nicksibilla/2019/08/29/nearly-600-towns-get-10-of-their-budgets-or-more-from-court-fines/?sh=74363c84c998>.

85 See, e.g., U.S. DEP'T OF JUST., INVESTIGATION OF THE FERGUSON POLICE DEPARTMENT (2015).

86 See *National Driver's License Suspension Campaign: Free to Drive*, Fines & Fees Just. Ctr. (June 25, 2019), <https://finesandfeesjusticecenter.org/campaigns/national-drivers-license-suspension-campaign-free-to-drive/> ("Forty-one states and the District of Columbia suspend, revoke or refuse to renew driver's licenses for unpaid traffic, toll, misdemeanor and felony fines and fees, resulting in more than 11 million debt-related suspensions nationwide."); see also Alexes Harris, *A Pound of Flesh: Monetary Sanctions as Punishment for the Poor* (2016).

87 U.S. COMM'N FOR CIVIL RTS., TARGETED FINES AND FEES AGAINST LOW-INCOME COMMUNITIES OF COLOR: CIVIL RIGHTS AND CONSTITUTIONAL IMPLICATIONS 4-5 (2017).

88 See TEX. LOC. GOV'T. CODE ANN. § 54.001 (West 2015) (“A fine or penalty for the violation of a rule, ordinance, or police regulation may not exceed \$500 except that: (1) a fine or penalty for the violation of a rule, ordinance, or police regulation that governs fire safety, zoning, or public health and sanitation, other than the dumping of refuse, may not exceed \$2,000; and (2) a fine or penalty for the violation of a rule, ordinance, or police regulation that governs the dumping of refuse may not exceed \$4,000.”).

89 SAN ANTONIO, TEX. MUN. CODE §§ 21-121–125 (2020).

90 *Id.* § 21-125(b).

91 *Id.* § 21-125(a).

92 TEX. CODE CRIM. PROC. ANN. art. 45.050 (West 2017).

93 COLO. REV. STAT. § 18-13-122 (West 2019).

94 See *id.*

95 See, e.g., BRECKENRIDGE, COLO. MUN. CODE § 6-3F-2(M); GREELEY, COLO. MUN. CODE § 10.24.061(c) (2020); LEADVILLE, COLO. MUN. CODE § 9-28-020(I) (2020).

96 *Minor in Possession (MIP) Lawyer in Denver*, Orr Law Firm, <https://www.orrlaw.com/resources/traffic-offense-statutes/minor-in-possession/>.

97 See, e.g., LA. REV. STAT. § 13:4206; N.M. STAT. ANN. § 31-12-3 (West 1993); 11 OKL. STAT. ANN. § 27-125.

98 ACLU, *IN FOR A PENNY: THE RISE OF AMERICA'S NEW DEBTORS' PRISONS* (Oct. 2010), https://www.aclu.org/files/assets/InForAPenny_web.pdf.

99 See *supra* notes 1–4 and accompanying text.

100 See CARPENTER ET AL., *INST. FOR JUST.*, *supra* note 5.

101 MISS. CODE ANN. § 67-3-70 (West 2020).

102 MISS. CODE ANN. § 21-23-7 (West 2020).

103 TEX. CODE CRIM. PROC. ANN. art. 45.050 (West 2017).

104 COLO. REV. STAT. ANN. § 13-10-113(4) (West 2019).

105 *Id.*

106 COLO. REV. STAT. ANN. § 18-1.3-702(2)(b) (West 2016) (“If the defendant lacks the present ability to pay the monetary amount due without undue hardship to the defendant or the defendant’s dependents, the court shall not jail the defendant for failure to pay . . .”).

107 *Bearden v. Georgia*, 461 U.S. 660, 672–73 (1983) (holding that imprisoning someone who “has made sufficient bona fide efforts to pay ... would deprive the probationer of his conditional freedom simply because, through no fault of his own, he cannot pay the fine” and that “such a deprivation would be contrary to the fundamental fairness required by the Fourteenth Amendment”).

108 See FEIERMAN ET AL., *supra* note 82 at 24 & nn.143–144 (2016), <http://debtorsprison.jlc.org/documents/jlc-debtors-prison.pdf>.

109 KAN. STAT. ANN. § 8-2117(a) (LexisNexis 2020).

110 W. VA. CODE ANN. § 49-4-701 (LexisNexis 2020).

111 See An Act Concerning Incarceration and Parole of Juveniles and Amending, Supplementing, and Repealing Various Parts of the Statutory Law, ch. 363, 2019 N.J. Laws 1; An Act Concerning Juvenile Proceedings – Fines, Fees, and Costs, H.B. 36, 2020 Sess. (Md. 2020), <https://legiscan.com/MD/text/HB36/2020>; S.B. 190, 2017-2018 Sess. (Ca 2017), https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180SB190; A.B. 439, 80th Leg. (Nev. 2019), <https://legiscan.com/NV/text/AB439/2019>.

112 See News Release, N.J. Courts, Supreme Court Outlines Action Plan for Equal Justice (July 16, 2020), <https://www.njcourts.gov/pressrel/2020/pr071620b.pdf?c=ZLA>.

113 Law Enforcement Directive No. 2020-12, N.J. Office of the Attorney General, Directive Establishing Policies, Practices, and Procedures to Promote Juvenile Justice Reform (Dec. 3, 2020), https://www.nj.gov/oag/dcj/agguide/directives/ag-Directive-2020-12_Juvenile-Justice-Reform.pdf.

114 See Sarah Donahue, LA County votes to reimagine youth justice, DT News (Dec. 7, 2020), http://www.ladowntownnews.com/news/la-county-votes-to-reimagine-youth-justice/article_3dedf12e-3682-11eb-9d7f-dfb3ddfe2177.html.

115 *Just Kids*, *supra* note 72 (“However, research shows that delinquency and misbehaving tends to peak in mid-to-late adolescence, then rapidly decline and taper off in the twenties. In other words, many kids just need time to grow up and figure things out.”).

116 OFF. OF JUV. JUST. AND DELINQ. PREVENTION, U.S. DEP’T OF JUST., KEEPING KIDS IN SCHOOL AND OUT OF COURT: PHILADELPHIA POLICE SCHOOL DIVERSION PROGRAM 4, 8 (noting that diversion programs like that in Philadelphia can help derail the school-to-prison-pipeline and reduce future misbehavior).

117 *Id.* at 6–7.

118 *Id.* at 8.

119 MELISSA NADEL ET AL., AN ASSESSMENT OF THE EFFECTIVENESS OF CIVIL CITATION AS AN ALTERNATIVE TO ARREST AMONG YOUTH APPREHENDED BY LAW ENFORCEMENT (Dec. 2019) (made available by Nat’l Crim. Just. Reference Serv., U.S. Dep’t of Justice).

120 See City Reviewing Youth Curfew Ordinance, SBG SAN ANTONIO (Feb. 27, 2018), <https://news4sanantonio.com/news/local/city-reviewing-youth-curfew-ordinance>; see also Camille Phillips, From Misdemeanor to Second Chance: San Antonio Redefines Its Youth Curfew, TEX. PUB. RADIO (Sept. 18, 2018) (“It’s still a violation of city ordinance for children between the ages of 10 and 16 to be out alone at night or during school hours. But instead of being charged with a misdemeanor, police now have the option to take them to a case manager.”). Unfortunately, these reforms have not yet been enacted. See SAN ANTONIO, TEX. MUN. CODE §§ 21-121-125 (2020).

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