

## COURTS

# Court fees and fines loom for many, but for some, the burden has been lifted



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PROVIDENCE — The Nonviolence Institute buzzed last week as Rhode Islanders by the dozens made their way to the South Providence institution to get their chance to ask a judge to reduce their court debt.

Fees and fines owed to the courts, often mandatory and in the thousands of dollars, loom for many people long after they have served their sentences. A missed court date comes with the threat of being picked up on a warrant and landing back behind bars.

“It’s hard when you get out of jail. People have a lot of stuff going on,” said Juan Turbidez, 31, a communications specialist with Direct Action for Rights and Equality, an advocacy group that works for social, political and economic justice.

People are searching for jobs and housing, re-establishing relationships and managing mental illness and substance-use disorders. They are looking to buy a cellphone and get their feet on the ground, Turbidez says.

Turbidez got relief Tuesday from the lingering and persistent worry that he will be locked up for failing to pay court debts, some of which stretch back to his teen years. District Court Judge Pamela Woodcock-Pfeiffer, appearing virtually, agreed to forgive about \$1,200 in court debt after she questioned him about his financial status. He relies on food stamps and pays child support; the court fees add to his hardship, he says.

A Superior Court judge in November agreed to waive another \$6,000 for Turbidez after a similar, first-of-its kind session in Rhode Island, a Superior Court Debt Review program.

“I’m so happy. It’s like a burden. It’s lifted,” Turbidez said.

## Several types of relief proposed

State lawmakers are fielding several bills this session aimed at providing relief to financially struggling people facing court debt.

Senate Majority Leader Michael J. McCaffrey sponsored a proposal on behalf of the judiciary dictating that a judge waive court costs for people who are indigent and can prove they rely on food stamps, Social Security or disability payments or other public assistance.

If a person is not indigent, the proposal would give the judge discretion to waive court costs based on that person’s financial circumstances as established through testimony under oath.

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McCaffrey, former chairman of the Senate Committee on the Judiciary, emphasized Thursday that a judicial officer would determine indigency, and that he has requested a financial analysis of the impact.

According to the court's figures, a total of \$10.8 million in fees and fines were imposed in 2021 alone, with about \$6.1 million, or roughly 57%, collected. That leaves about \$4.7 million remaining — a sum that is less likely to be paid as time passes.

"There are thousands of people paying \$10 a month. They're never going to get their case closed," McCaffrey said, adding, "It's got the end result of letting people re-enter society, and hopefully they get back on their feet and don't re-offend again."

Rep. Jason Knight, vice chairman of the Committee on the Judiciary, is the lead sponsor on three bills also aimed at providing relief. They range from a proposal to repeal mandatory court costs associated with felony and misdemeanor convictions to legislation requiring judges to assess a person's ability to pay before imposing fees, in essence giving more teeth to a law already on the books that judges have unevenly applied.

## **RI Supreme Court:** People serving life in prison can no longer be considered 'civilly dead'

A third bill, the Sensible Court Assessment, Review, and Costs Extinguishment Act, or SCARCE Act, would require that people sentenced to prison for six months or more or to pay \$250-plus in restitution be spared from paying fees, and dictate that any remaining debt be wiped out three years after it is imposed. That measure would apply retroactively, easing the debt owed by hundreds of Rhode Islanders.

None of the legislation would impact court-imposed restitution to victims or for property damage.

The bills are all designed to end the state's decades-old practice of essentially imposing "a crime tax on those people convicted of crimes, above and beyond the penalty ascribed in the law," Knight, D-Barrington, told the committee Feb. 10.

Michael DiLauro, legislative liaison for the Rhode Island Public Defenders' office, put it more bluntly.

"It's an inefficient and unfair way to raise money for the state off the backs of the poor," he said.

## **Taking ability to pay into account**

Knight ticked off costs associated with the Superior Court calendar dedicated to collecting court fines, fees and restitution: a magistrate, at a \$170,000-plus salary; deputy sheriffs to provide courtroom security; a stenographer and a clerk. Add to that the costs of incarceration if a person is arrested for a missed court date.

"We're spending a boatload of money just to extract little tiny drops of blood from very small stones who we could easily throw back in the river and let them live their lives," Knight said.

Craig N. Berke, spokesman for the judiciary, said that the courts support the SCARCE Act in concept, but have reservations about a provision requiring the the court to erase any remaining debt in three years.

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The judiciary supports the bills submitted on its behalf by McCaffrey and Knight as delineating firm criteria for establishing indigency.

"This is not a waiver of all court debt. For the most part these measures are aimed at people who demonstrably do not have the money," Berke said. "There has been growing recognition among government officials that unrealistic fines and costs keep many litigants in a vicious cycle of debt that has a cost to society in other areas, such as unemployment, crime, substance-use disorders. For many, the money is simply not collectible."

The courts recognize the dilemma judges face when people fail to appear for a court date after they miss a payment, he said. The only option judges have is to issue a bench warrant, which comes with a mandatory \$125 cost, he said.

"We view that as counterproductive to someone returning to everyday society," Berke said.

He urged people struggling to pay their court debt to make the scheduled court date and explain the financial obstacles to the judge.

"Anybody can request an inability-to-pay hearing," he said.

## **How debt-review programs began**

OpenDoors, a nonprofit organization that serves formerly incarcerated people and their families, in 2008 successfully pushed for reforms in the law governing court fees and fines to require Superior and District court judges to assess a defendant's ability to pay. The law gives judges the discretion to waive fines and fees, but not restitution.

By the judiciary's own admission, however, judges were not uniformly assessing defendants' financial status.

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That has changed, DiLauro told the committee, with Supreme Court Chief Justice Paul A. Suttell's establishment of the state Supreme Court Committee on Racial and Ethnic Fairness in the Courts. One of the group's focuses has been on court policies and procedures, including the imposition of mandatory court costs, that could lead to unfairness and disparate impacts on racial- and ethnic-minority communities.

From that work grew the Superior Court and District Court debt-review programs.

November's Superior Court session — which also took place at the Nonviolence Institute — saw 160 people register for relief. Of those, 114 people, owing about \$382,500 in Superior Court costs, saw \$360,815 canceled, according to Sarah J. Martino, deputy director of the Center for Health and Justice Transformation at The Miriam Hospital.

## How much debt do courts forgive?

In last week's session, 75 people had \$103,385 in District Court debt waived. Another 27 had \$22,747 in debt dating back at least five years waived, according to the courts.

In Superior Court, Judge Luis Matos waived \$354,933 in debt for 114 people, according to the courts.

In District Court, judges since last year have uniformly canceled fees for people who served six months or more, which added up to \$539,018 waived for 504 defendants, Berke said. In addition, in February, the court quashed 1,185 bench warrants for failure to appear for court-related debt that the court determined had become largely uncollectible, excluding restitution. A balance of \$375,605 was canceled.

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“From my perspective, we have a tremendous number of people in Rhode Island who have thousands of dollars they just can't pay,” said Martino, who works daily with people dealing with the stress of rebuilding fractured lives after their release. “Because they have convictions, it's hard to find jobs. It's hard to find housing.”

Her organization is not backing any particular piece of legislation but embraces the concept that an already marginalized population needs relief.

“It's exciting that multiple bills have been introduced this year to finally address this issue comprehensively. Ultimately, we need policy solutions that provide relief to the people who are currently saddled with debt, and ensure that moving forward no one is given fines and fees that they won't be able to pay,” she said in an email.

The Rhode Island Center for Justice cites national criticism of policies aimed not at increasing public safety but at raising revenue “at the expense of indigent people.” Most court payments in Rhode Island head to the state's general fund.

**From local court to national court:** The Providence moment that set Ketanji Brown Jackson's path toward Supreme Court nominee

“In keeping with these findings and principles, Rhode Island should eliminate all fines, fees and assessments that funnel money into general revenue and for which there is no connection between the nature of the defendant's offense and the ultimate recipient of funding,” the center wrote to state lawmakers in submitted testimony.

“Unpaid court debt in Rhode Island creates cycles of poverty, debt, housing and employment instability, incarceration and justice involvement among our most medically and economically vulnerable community members,” the group continued.

The center cited, too, figures that show that unpaid court debt is the leading cause of incarceration in the state. Seven thousand people were sent to the Adult Correctional Institutions from January 2019 to September 2020 for court-related expenses, including 466 people who were arrested more than once.

With each incarceration comes a disruption of home, family and work life and medical care and adds a \$125 warrant fee, the center said.

Turbidez has faced that anxiety. A police officer stopped Turbidez, who served time for a drug conviction, during the pandemic and informed him there was a warrant out for his arrest after he missed a court payment.

“He didn’t lock me up. He could have. I appreciate it, but that’s not how it [usually] works,” Turbidez said.

For Cedric Huntley, executive director of the Nonviolence Institute, the debt-review forum helps change perceptions that the system is not supporting the basic needs of the community.

“That relief clears up sometimes generations of hopelessness. It seems like it gives them more air to breathe, more room to move,” said Huntley, whose organization works to provide nonviolent alternatives to youths and advocates for victims and their families.

The mood was definitely upbeat. People smiled, chatted, fist-bumped as they waited for an opportunity to meet with a judge. For some, the District Court clerk in attendance erased any debts stretching back five years or more.

“When they walk out, all I know is I see happy faces and good energy,” Huntley said. “If they’ve done their time, help them get back on their feet.”