



# Civil Fines, Fees, and Penalties in NC

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# Scope of Problem

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Jailing Debtors

Permanent Debtors

Court Efficiency

# Fines and Fees as Revenue

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Forty-two percent of city finance officers said that they increased fee levels in 2015

-City Fiscal Conditions survey published by the National League of Cities

Rocky Mount, NC (pop. 60,000) budgeted for \$70,300 in Police Revenues in 2016, a twenty-seven percent increase from the city's actual police revenues in 2014

# Funding Pressures

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NC courts are centrally funded by the state

Some judges say they feel pressured on cost waivers

Source: NC Lawyers Weekly, 3/31/16

NC Constitution (Art. IX, §7) requires proceeds of local fines collected for breach of “penal laws” go to schools

Relatively easy for cities and counties to circumvent

Source: UNC School of Government blog

## Recommendation:

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Study compliance with the North Carolina Constitution's provision requiring that fines and penalties collected in counties for "breach of the penal laws" go exclusively to the schools

## *Bearden's* Willfulness Inquiry

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Jailing individuals for failure to pay fines held unconstitutional in *Bearden v. Georgia*, 461 U.S. 660 (1983)

# Willfulness Inquiry - State v. Jones, 78 N.C. App. 507 (1985)

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COURT: Well, do you want to testify about your failure to pay this money?

MR. JONES: I've just been out of work, sir. If I just had some time to catch up the payments.

COURT: Anything else?

MR. JONES: No, sir.

COURT: The Court finds that he willfully violated the terms of his probation and Orders the sentence into execution.

## Recommendation:

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Review and more closely monitor how *Bearden's* willfulness test is applied throughout the state, and consider putting statutory restrictions on its application if a review finds that abuses are occurring

# Unwaivable Public Defender Fee

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In North Carolina, courts must order convicted defendants in criminal cases to pay a fee for public defender representation

Source: N.C.G.S. § 7A-455.1

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N.C.G.S. §7A-455.1(b) (“The mandatory sixty-dollar fee may not be remitted or revoked by the court”).

## Recommendation:

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Make public defender appointment fees waivable, bringing North Carolina law on this in line with the practice used in other states

# The (Kinston, NC) Free Press - 3/27/2016

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“The only time I ever see people incarcerated for not paying money would be for child support situations,” Delbridge said. “At some point you’ve just got to do something. In other arenas there’s obviously an ability to pay, but they’ve chosen a car payment . . . instead of the court fee.” -- *Matt Delbridge, D.A., Wayne, Lenoir, and Greene counties*

# Child Support

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By 2014, there was \$812 million in child support due, a cost to NC of \$140 million

Source: 2014 State by State Data on Child Support Collections, National Conference of State Legislatures (2015)

29% of the income of parents eligible for child support are below the federal level of poverty

Source: 2013 Office of Child Support Enforcement, Annual Report to Congress

North Carolina Cost-Effectiveness Ratio in 2015 was 5.07

Source: 2015 Office of Child Support Enforcement, Preliminary Report

# Contempt & Child Support

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NC law provides the courts with remedies to enforce and secure the child support payment

Including, the possibility of a contempt order

N.C.G.S. § 110-131: Compelling disclosure of information regarding the non-supporting responsible parent of a child receiving public assistance.

Recommendation:

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Consider statutory restrictions on jailing  
defendants for failure to pay child  
support

# Driver's Licenses

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In NC, driver's license must be revoked for failure to pay a  
“fine, penalty, or court cost ordered by the court”

Source: N.C.G.S. § 20-24.1

Licenses must also be revoked for willful failure to fulfill  
probation conditions

Source: N.C.G.S. §143B-708(e)

# Driver's Licenses

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American Association of Motor Vehicle Administrators,  
Best Practices Guide to Reducing Suspended Drivers

NC Supreme Court has said suspension and revocation  
intended for public protection, not punishment, and  
suspension and revocation are meant to ensure  
compliance with traffic laws -*Honeycutt v. Scheidt*, 254 N.C. 607,  
119 S.E. 2d 777 (1961)

# Recommendation

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Don't suspend or revoke drivers' licenses for reasons unrelated to driving safety (AAMVA)

# Civil Gideon

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Lack of a “civil Gideon” may exacerbate previous problems

Role of Legal Aid

## Recommendation:

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Support private organizations that seek to fill the void left by a lack of a civil Gideon requirement in the law.



Thank you



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