

Amendments to the Fines and Fees Reporting Act

Summary: The model policy below is proposed language to amend the currently existing ALEC Model Fines and Fees Reporting Act, intended to provide a more detailed definition of court imposed fees, fines, and to provide additional reporting requirements, among other remedies.

Model Policy

1. Purpose. Under municipal, county and state law, governmental entities can impose criminal and civil fines and fees. This authority can be misused to unjustly generate revenue. It is the responsibility of state legislators to monitor the use of fines and fees to ensure that they are not excessive and fees are not being used to fund essential government functions like the justice system. This reporting provides legislators the information necessary to oversee the assessment of fines and fees at the time of conviction of a crime and their subsequent collection.

2. Definitions: For the purposes of this chapter, the words defined in this section have the meaning given.

(a) "Governmental entity" means any municipal, county or state court or other governmental body that assesses fines or fees ~~for~~ related to:

- i. being charged with or convicted a conviction of a crime;
- ii. adjudication of a quasi-criminal violation; or
- iii. ~~a penalty of~~ a civil enforcement action.

(b) "Fees" are financial obligations assessed by a court or an administrative agency above and beyond a fine. Fees are costs, assessments, and surcharges imposed to access services or fund the justice system and other government services. These fees can be imposed at arrest, booking, in court, during incarceration, during diversion programs, during probation or supervision, and may include late fees, interest, and other service charges. Payment of fees may also be a condition of probation or parole. Fees include court costs, and other charges used to fund the justice system and other government services.

(c) "Fines" are punitive financial sanctions assessed by a court or an administrative agency for violating a law. Fines include financial penalties for traffic and other code violations, misdemeanors and felonies. Payment of fines ~~They also~~ may also be financial obligations assessed as a condition of probation or parole.

(d) "Commissioner" means the director of the state office of court administration or other state agency that oversees the state courts.

3. This chapter is applicable to governmental entities authorized to collect fines and fees by the following sections in the state code:

(a) Statute Section _____;

(b) Statute Section _____; and

(c) Any other section in the state code or the state constitution that authorizes the assessment of a fine or fee.

4. The Commissioner shall establish and maintain a statewide database and searchable public website that include the following information for each fine or fee assessed ~~at conviction in a criminal case or civil enforcement action~~ as of December 31 of each year, as provided by each governmental entity that assesses fines and fees.

(a) Name of the governmental entity

(b) Case number

(c) Date of the assessment

(d) Amount of the assessment

(e) Amount of the assessment that was a fine and amount of the assessment that was a fee, disaggregated by type of fee; Whether the assessment is a fine or fee

(f) Statute number for the principal crime ~~for~~ with which the defendant was charged, convicted or found in violation of

(g) The due date for the assessment ~~that do not have a payment plan~~

(h) Whether the assessment, at the time of conviction, included a payment plan

(i) The total length of the payment plan in months

(j) The date when ~~Whether~~ the assessment was has been paid in full as due, if applicable

(k) ~~Whether the assessment has a~~ The amount of any remaining balance ~~that is not due~~

(l) ~~Whether the assessment has a~~ The amount of any past due balance and by how many days

(m) The amount of the interest or penalty for failure to pay as due

(n) Whether the initial assessment has been reduced, restructured or discharged forgiven completely;

(o) Demographic information of the defendant, including race/ethnicity, zip code of residence, and indigent status; and

(p) Name of agency that is the ultimate recipient of the assessment.

5. Each governmental entity shall upload its report to the online portal no later than 30 days after the reporting deadline.

6. The Commissioner, no later than _____ days after the close of each fiscal year, shall submit to the Speaker of the House of Representatives, President of the Senate, Attorney General and Governor a written report summarizing activity in the state, for the preceding fiscal year.

7. The Commissioner may include in its aggregate report recommendations to improve statutes, rules and policies to better ensure the imposition, collection and expenditure of fines and fees are reported

and done in a manner that is fair to citizens—particularly those who are economically disadvantaged and most vulnerable to excessive fines and fees.

8. If a governmental entity that assesses [fines and fees](#) fails to submit information as required, and there is no good cause as determined by the Commissioner, the governmental entity shall be subject to a civil fine payable to the General Revenue Fund of \$500 or the equivalent of one-quarter of the fines and fees revenue collected for the fiscal year reported, whichever is greater.

9. At the request of any elected official serving in the legislature or the Governor, the State Auditor may perform a financial audit under the generally accepted government auditing standards of records related to revenue assessed and collected through fines and fees. A final copy of such audit report shall be submitted to the Commissioner no later than 90 days after the end of each fiscal year and shall be made public.

~~10. The Commissioner may recoup its costs under this chapter by charging a fee to the governmental entities. The governmental entities may use revenue from fines and fees to pay the costs of compiling and reporting data under this chapter and to pay any fees assessed by the Commissioner.~~

11. The Commissioner may adopt rules that are necessary to implement this chapter.

12. The data and reports compiled and prepared under this chapter are public information under the state's Open Records Act/Freedom of Information Act statute section _____. They are not exempted from disclosure by statute section _____.

13. This chapter is effective for the reporting period starting January 1, 20__ __.