



# Parole Fees & the Need for a Grace Period Criminal Justice Project Issue Brief (February 2023)

## INTRODUCTION<sup>1</sup>

Texas requires individuals on community supervision to pay fines and fees as a condition of parole. These payment obligations begin accruing immediately upon release from incarceration. The requirement for these payments to be made within the first 180 days post-release can become a stumbling block for many parolees in their efforts to successfully complete the terms of their parole. **During those first few months, many parolees are trying to find stable housing, employment, and a means to provide for their basic needs.** It is often difficult, if not impossible, for many to accomplish these goals while also trying to make payments on their legal financial obligations.

## KEY FACTS

- Texas has one of the highest imprisonment rates in the United States, with more than 200,000 people—or 455 people out of every 100,000 residents—incarcerated in the state in 2020.<sup>2</sup>
- Texas also has one of the largest populations under community supervision. In 2020, 35,197 individuals entered the parole population in Texas.<sup>3</sup> As of December 31, 2020, the Texas justice system had 110,437 people on parole and 334,353 on probation.<sup>4</sup>
- Across the U.S., the incarceration rate, and consequently those on parole after incarceration, disproportionately affects Black communities. The incarceration rate for Black individuals in the U.S. is approximately five times the incarceration rate of whites in state prisons.<sup>5</sup>
- More than 60% of women in state prisons and nearly 80% of those in jail who are, or generally will become, eligible for parole, have children.<sup>6</sup>
- The formerly incarcerated population is 10 times more likely to experience homelessness than people in the general public.<sup>7</sup>
- In 2018, more than 27% of formerly incarcerated people were unemployed in the U.S.<sup>8</sup>

## BACKGROUND

In Texas, legal financial obligations are routinely imposed for felony and misdemeanor criminal offenses. A fine is punitive in nature and is part of a defendant's sentence.<sup>9</sup> "Fines are punitive, and they are intended to be part of the convicted defendant's sentence as they are imposed pursuant to Chapter 12 of the Texas Penal Code, which is entitled 'Punishments.'" <sup>10</sup> "[W]here multiple fines are assessed in a same-criminal-episode prosecution, and they are ordered to be discharged concurrently, they discharge in the same manner as concurrent terms of confinement—the defendant pays the greatest amount of fine but receives credit for satisfying all of the multiple concurrent fines."<sup>11</sup>

Texas law stipulates maximum fines and minimum fees, provides for over 100 distinct court costs and fees,<sup>12</sup> and charges \$15 if fees are not paid in full within 30 days of a judgment.

The following reimbursement fees are further examples of fees provided for under the Code of Criminal Procedure:

- Reimbursement Fees for Services of Peace Officers. Some defendants are required to pay reimbursement fees for the services provided by a peace officer in their case. For instance, if a person was arrested on a warrant that was issued in a different county, then a defendant can be charged for mileage reimbursement for transportation to that county. Other transportation fees include transportation of witnesses and transfer to county jail post-conviction. Defendants convicted of a felony or a misdemeanor are also required to pay a series of flat fees including but not limited to \$50 for executing an arrest warrant and \$5 for serving a summons on a witness.<sup>13</sup>
- Witness Fees. A defendant is liable on conviction for the fees for witnesses in the defendant's case.<sup>14</sup>
- Reimbursement Fees for Pretrial Intervention Programs. A court that authorizes a defendant to participate in a pretrial intervention program may order the defendant to pay to the court a supervision reimbursement fee in an amount not more than \$60 per month as a condition of participating in that program. A district attorney, criminal district attorney, or county attorney may collect a reimbursement fee -- in an amount not to exceed \$500 -- to be used to reimburse a county for expenses, including expenses of the district attorney's, criminal district attorneys, or county attorney's office, related to a defendant's participation in a pretrial intervention program offered in that county.<sup>15</sup>
- Fine for Certain Drug and Texas Controlled Substance Act Convictions. A defendant convicted of a misdemeanor drug offense as defined by Section 521.371, Transportation Code, whose driver's license is not suspended under Section 521.372, Transportation Code, as a result of that conviction, shall pay a fine of \$100.<sup>16</sup>
- Fines: Juvenile Delinquency Prevention Funds. A defendant convicted of an offense of graffiti shall pay a fine of \$50 for juvenile delinquency prevention and graffiti eradication.<sup>17</sup>
- Time Payment Reimbursement Fee. A person convicted of an offense shall pay a reimbursement fee of \$15 if the person has been convicted of a felony or misdemeanor; and pays any part of that fee on or after the 31<sup>st</sup> day after the date on which a judgment is entered.<sup>18</sup>
- Administrative Fee. An officer or a community supervision and corrections department may assess an administrative fee for each transaction made by the officer or department relating to the collection of fines, fees, restitution, or other costs imposed by a court. The fee may not exceed \$2 for each transaction.<sup>19</sup>

## **AN ISSUE RIPE FOR REFORM**

Increasing successful reintegration for parolees is a common goal for all communities, but statistics show the issue remains an ongoing and significant problem. According to a study by the Bureau of Justice Statistics, 46% of state prisoners released in 2012 had been rearrested within 5 years.<sup>20</sup> Of those rearrested, 97% were due to new sentences and 3% were related to parole or probation violations.<sup>21</sup>

Causes of recidivism are multi-faceted and complex, and although there seems to be no consensus on whether legal financial obligations directly affect recidivism, risk factors may include unemployment and unstable or non-existing housing.<sup>22</sup> Furthermore, the "payment of fines and fees can make it harder for justice-involved individuals to meet other household obligations."<sup>23</sup>

Whether caused by new crimes or noncompliance, the likelihood of successfully completing parole does appear to be linked to a parolee's ability to reintegrate into society with some level of financial and housing security.<sup>24</sup>

## RECOMMENDATIONS FOR REFORM

While there is no easy or singular answer, there are steps we can take to increase the likelihood of successful completion of community supervision and potentially effect reductions in recidivism. **Alabama recently implemented a grace period for newly released individuals, and we recommend the implementation of a similar 180-day grace period prior to the commencement of payments for parole fines and fees in Texas.**

We recommend amending Article 42 of the Code of Criminal Procedure by adding provisions providing for a deferment of certain fines and court costs until at least the 181<sup>st</sup> day following a person's release from the Texas Department of Criminal Justice.

## CONCLUSION

Increasing successful reintegration is a common goal for all communities, but the foregoing statistics show these issues remain an ongoing and significant problem. **Part of the problem relates to the immediate obligation to pay fines and fees at a time when many newly released individuals are also trying to secure employment, find stable housing, and provide for their -- and their families' -- basic needs.**

We believe implementing a 180-day grace period can help address the problem. Offering formerly incarcerated populations a better opportunity to find sustainable work, provide for their necessities and secure permanent housing prior to having to pay fines and fees would likely lead to positive change in our criminal justice system, which is a win for all Texans.



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## REFERENCES & ENDNOTES

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- <sup>3</sup> Kaeble, D. (December 2021). Bureau of Justice Statistics, *Probation and Parole in the United States, 2020*, Appendix, Table 9, NCJ 303102.
- <sup>4</sup> The Sentencing Project, *At a Glance, Total Corrections Population*, Texas (2020). Retrieved from <https://www.sentencingproject.org/research/detailed-state-data-tool/>
- <sup>5</sup> Nellis, A. (October 2021). The Sentencing Project, *The Color of Justice, Racial and Ethnic Disparity in State Prisons*, pg. 4.
- <sup>6</sup> Equal Justice Initiative (January 2020). *Over-Incarceration of Mothers Takes Serious Toll on Children*. Retrieved from <https://eji.org/news/over0incarceration-of-mothers-takes-serious-toll-on-children/>
- <sup>7</sup> Couloute, L. (2018). Prison Policy Initiative, *Nowhere to Go: Homelessness among formerly incarcerated people*. Retrieved from <https://www.prisonpolicy.org/reports/housing.html#:~:text=The%20revolving%20door%20%25%20homelessness&text=but%20people%20who%20have%20been,from%20their%20first%20prioison%20term> ; National Low Income Housing Coalition. (August 2018). *Formerly Incarcerated People are Nearly 10 Times More Likely to be Homeless*. Retrieved from <https://nlihc.org/resource/formerly-incarcerated-people-are-nearly-10-times-more-likely-be-homeless>
- <sup>8</sup> Barton, L.L. (September 2021). Harvard Business Review, *What is the DEI Doing for the Formerly Incarcerated*. Retrieved from <https://hbr.org/2021/09/what-is-dei-doing-for-the-formerly-incarcerated>
- <sup>9</sup> *Armstrong v. State*, 340 S.W.3d 759, 767 (Tex. Crim. App. 2011)
- <sup>10</sup> *Ibid.*
- <sup>11</sup> *Anastassov v. State*, \_\_\_ S.W.3d \_\_\_, 2022 WL 5054846, at \*4 (Tex. Crim. App. Oct. 5, 2022)
- <sup>12</sup> This estimate is from a 2016 report, since its publication Texas has repealed some fees (like the DNA testing fee) <https://www.monetarysanctions.org/wp-content/uploads/2017/04/Monetary-Sanctions-Legal-Review-Final.pdf>
- <sup>13</sup> Vernon's Ann. Texas C.C.P. Art. 102.001 & 102.011
- <sup>14</sup> Vernon's Ann. Texas C.C.P. Art. 102.002
- <sup>15</sup> Vernon's Ann. Texas C.C.P. Art. 102.012 & 102.0121
- <sup>16</sup> Vernon's Ann. Texas C.C.P. Art. 102.0179
- <sup>17</sup> Vernon's Ann. Texas C.C.P. Art. 102.0171
- <sup>18</sup> Vernon's Ann. Texas C.C.P. Art. 102.030
- <sup>19</sup> Vernon's Ann. Texas C.C.P. Art. 102.072
- <sup>20</sup> Durose, M. & Antenangeli, L., Bureau of Justice Statistics (July 2021). *Recidivism of Prisoners Release in 34 States in 2012: a 5-Year Follow-up Period (2012-2017)*. Retrieved from [https://bjs.ojp.gov/sites/g/files/xyckuh236/files/media/document/rpr34s125yfup1217.pdf?utm\\_content=rpr34s125yfup1217\\_tcdca21\\_tcus14st&utm\\_medium=email&utm\\_source=govdelivery](https://bjs.ojp.gov/sites/g/files/xyckuh236/files/media/document/rpr34s125yfup1217.pdf?utm_content=rpr34s125yfup1217_tcdca21_tcus14st&utm_medium=email&utm_source=govdelivery)
- <sup>21</sup> *Ibid.*
- <sup>22</sup> Stephens, R. (April 2021). *Interrogating Justice, Homelessness After Reentry Leads to Higher Recidivism Rates*. Retrieved from <https://interrogatingjustice.org/challenges-after-release/homelessness-after-reentry-leads-to-higher-recidivism-rates/>
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