



March 12, 2024

Kansas Senate Judiciary Committee  
Kansas State Capitol  
300 SW 10th St  
Topeka, KS 66612  
Submitted via email: S.Judiciary@senate.ks.gov

**Re: Senate Bill 416 - Proponent testimony**

Chairwoman Warren and Members of the Committee:

The Gault Center (formerly the National Juvenile Defender Center) supports Kansas' elimination of juvenile court-imposed fines, fees, and costs through Senate Bill 416.

The Gault Center is a nonprofit, non-partisan organization dedicated to promoting justice for all children by ensuring excellence in youth defense. In December 2020, we released a statewide assessment of Kansas' youth defense system, "Limited Justice: An Assessment of Access to and Quality of Juvenile Defense Counsel."<sup>1</sup> This report, which was the product of a year-long assessment of Kansas' youth defense delivery system, offers recommendations to improve justice and fairness for youth in Kansas, including the elimination of fines, fees, and costs connected to juvenile court involvement.<sup>2</sup>

The assessment report characterized the fines, fees, and costs levied on youth and families by Kansas' juvenile legal system as "cover[ing] virtually every interaction with, and service ordered by, the juvenile court."<sup>3</sup> Those "[c]ourt-imposed fees and costs begin to accrue as soon as a case is filed,"<sup>4</sup> with youth and families charged for multiple docketing fees, fingerprinting, DNA samples, lab services, probation supervision, counseling, transcripts, and drug and alcohol evaluations.<sup>5</sup> Even youth eligible for diversion from the formal juvenile legal system are charged to participate in Immediate Intervention Programs.<sup>6</sup>

Youth and their families can be charged for the cost of a constitutionally required attorney if the youth exercises their right to counsel.<sup>7</sup> Families are charged for the time their children spend on probation, in community corrections, placement, and detention.<sup>8</sup> One defender reported seeing detention bills in

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<sup>1</sup> NAT'L JUV. DEF. CTR., [LIMITED JUSTICE: AN ASSESSMENT OF ACCESS TO AND QUALITY OF JUVENILE DEFENSE COUNSEL IN KANSAS](#) (2020) (hereinafter, KANSAS ASSESSMENT).

<sup>2</sup> *Id.* at 81.

<sup>3</sup> *Id.* at 61.

<sup>4</sup> *Id.* at 61.

<sup>5</sup> *Id.* at 60-69.

<sup>6</sup> *Id.* at 63.

<sup>7</sup> *Id.* at 62.

<sup>8</sup> *Id.* at 64.

excess of \$10,000.<sup>9</sup> Consequences for failure to pay costs can include extensions of probation, civil judgements, delay or denial of record expungement, and even incarceration.<sup>10</sup>

The assessment found that how courts impose financial sanctions and whether defense attorneys advocate for the reduction or waiver of such fees varied widely across the state.<sup>11</sup> The fines and fees that may be levied against a young person are largely based upon the personal beliefs of the judge they appear before and their appointed attorney's understanding of the harmful nature of fines and fees and willingness to make such arguments.<sup>12</sup> Given the state's complete lack of supportive structure, standards, and training for youth defense attorneys, most children across the state are likely to be represented by counsel who is not familiar with the harms caused by court-ordered financial sanctions and who is unlikely to provide a zealous defense against their imposition.<sup>13</sup> Senate Bill 416 will ensure that youth facing economic insecurity do not experience a two-tiered system of justice based on their ability to pay fees or the quality of their attorney.

Nationally, juvenile courts that track the income levels of youths' families have found that 60 percent had incomes of less than \$20,000.<sup>14</sup> This, combined with juvenile courts' "emphasis on families' needs when adjudicating delinquency,"<sup>15</sup> means that court and service systems that charge youth and families are levying financial punishments on those deemed to be most in need of services, but who are least able to pay. As a result, families living with economic insecurity must decide between paying for basic necessities, such as food, rent, and utilities, or paying costly court fees.<sup>16</sup>

Research has shown that fees exacerbate economic and racial disparities. Nationally, youth of color are overrepresented in the juvenile court system at every stage, from arrest and detention to probation and commitment.<sup>17</sup> In Kansas, Indigenous youth are 98 percent more likely to be referred to court than white youth,<sup>18</sup> while Black and Latino/a youth are about 75 percent more likely to be detained than white youth, compared to a national disparity rate of approximately 30 percent.<sup>19</sup> Rather than improving outcomes for children, imposing fees contributes to the unequal treatment of youth who experience the juvenile court system.

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<sup>9</sup> *Id.*

<sup>10</sup> *Id.* at 66.

<sup>11</sup> *Id.* at 65-66.

<sup>12</sup> *Id.* at 16.

<sup>13</sup> *Id.* at 7 ("Kansas juvenile defenders do not have the structure, training, support or compensation needed to develop an expertise in juvenile defense and provide Kansas youth with the representation to which they are entitled, and the constitution demands.").

<sup>14</sup> Tamar R. Birkhead, *Delinquent by Reason of Poverty*, 38 Wash. u. J. l. & pol'y 53, 58-59 (2012).

<sup>15</sup> *Id.* at 54.

<sup>16</sup> NAT'L COUNCIL OF JUV. AND FAM. CT. JUDGES, [ENSURING YOUNG PEOPLE ARE NOT CRIMINALIZED FOR POVERTY: BAIL, FEES, FINES, COSTS, AND RESTITUTION IN JUVENILE COURT](#) (2018).

<sup>17</sup> Leigh R. Shapiro, THE CRIPPLING COSTS OF THE JUVENILE JUSTICE SYSTEM: A LEGAL AND POLICY ARGUMENT FOR ELIMINATING FINES AND FEES FOR YOUTH OFFENDERS, 69 EMORY L.J. 1305, 1342 (2020), <https://scholarlycommons.law.emory.edu/cgi/viewcontent.cgi?article=1398&context=elj>.

<sup>18</sup> KANSAS ASSESSMENT at 71; KANSAS UNITED FOR YOUTH JUSTICE, RACIAL DISPARITIES IN THE KANSAS JUVENILE JUSTICE SYSTEM 4 (2019), [https://www.kuyj.org/uploads/2/1/9/2/21929892/racial\\_disparities\\_in\\_the\\_kansas\\_juvenile\\_justice\\_system\\_2019.pdf](https://www.kuyj.org/uploads/2/1/9/2/21929892/racial_disparities_in_the_kansas_juvenile_justice_system_2019.pdf).

<sup>19</sup> KANSAS ASSESSMENT at 5.

Organizations across the country, including the National Council of Juvenile Family Court Judges (NCJFCJ), Fair and Just Prosecution, the American Probation and Parole Association, Youth Correctional Leaders for Justice, and Law Enforcement Leaders to Reduce Crime and Incarceration have expressed support for ending or reducing fees for youth. NCJFCJ has recognized that the failure to pay fees can lead to increased criminal legal system involvement for youth and that their imposition is not related to public safety or rehabilitative goals.<sup>20</sup> Rather than serving as a deterrent, fees have been linked to higher rates of recidivism among youth.<sup>21</sup> Additionally, the United States Department of Justice has provided guidance on this subject:

Eliminating the unjust imposition of fines and fees is one of the most expeditious ways for jurisdictions to support the success of youth and low-income individuals, honor constitutional and statutory obligations, reduce racial disparities in the administration of justice and ensure greater justice for all.<sup>22</sup>

Eliminating fees for youth in Kansas makes sense from a public safety perspective and would place Kansas among a growing number of states, including Texas, New Jersey, Louisiana, and Arizona undertaking reforms around fees for youth. The Gault Center strongly supports ending the harmful assessment and collection of fines and fees against all youth and their families in the juvenile court system. The passage of Senate Bill 416 would align Kansas with its commitment to supporting young people's ability to live productively and responsibly in the community.<sup>23</sup>

We ask that you support this bill and recommend favorably for passage out of this committee. Thank you for your consideration.

Sincerely,



Sarah Johnson  
Senior Youth Defense Counsel

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<sup>20</sup> NAT'L COUNCIL OF JUV. AND FAM. CT. JUDGES, [RESOLUTION ADDRESSING FINES, FEES, AND COSTS IN JUVENILE COURTS](#) (2018); *See generally*, Miriam Aroni Krinski, Joey Orduña Hastings and Mary Ann Scali, [Juvenile Court Fees and Costs are Invisible Shackles That Tether Children to a Broken System](#), Op-Ed, The Imprint, Aug. 14, 2023.

<sup>21</sup> *See generally*, Tamar R. Birkhead, The New Peonage, 72 WASH. & LEE L. REV. 1595 (2015); Alex Piquero & Wesley Jennings, Research Note: [Justice System-Imposed Financial Penalties Increase the Likelihood of Recidivism in a Sample of Adolescent Offenders](#), 13 YOUTH VIOLENCE & JUVENILE JUSTICE 325 (2017).

<sup>22</sup> [Dear Colleague Letter from the Off. of the Assoc. Att'y Gen, U.S. Dep't of Just., on Fines and Fees](#) 18 (April 20, 2023).

<sup>23</sup> Kan. Stat. Ann. § 38-2301.