



MISSOURI HOUSE OF REPRESENTATIVES
WITNESS APPEARANCE FORM

BILL NUMBER: HJR 92		DATE: 1/23/2024	
COMMITTEE: Pensions			
TESTIFYING: <input checked="" type="checkbox"/> IN SUPPORT OF <input type="checkbox"/> IN OPPOSITION TO <input type="checkbox"/> FOR INFORMATIONAL PURPOSES			
WITNESS NAME			
INDIVIDUAL:			
WITNESS NAME: ADAM L. WARREN		PHONE NUMBER:	
BUSINESS/ORGANIZATION NAME:		TITLE:	
ADDRESS:			
CITY:		STATE:	ZIP:
EMAIL:	ATTENDANCE:		SUBMIT DATE: 1/23/2024 12:00 AM
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WITNESS NAME			
INDIVIDUAL:			
WITNESS NAME: DWAYNE CAREY		PHONE NUMBER:	
BUSINESS/ORGANIZATION NAME:		TITLE:	
ADDRESS:			
CITY:		STATE:	ZIP:
EMAIL:	ATTENDANCE:	SUBMIT DATE: 1/23/2024 12:00 AM	
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WITNESS NAME		
BUSINESS/ORGANIZATION:		
WITNESS NAME: MELISSA LORTS		PHONE NUMBER: 573-645-8131
BUSINESS/ORGANIZATION NAME: MISSOURI SHERIFFS RETIREMENT SYSTEM		TITLE: EXECUTIVE DIRECTOR
ADDRESS: 1739 ELM COURT		
CITY: JEFFERSON CITY		STATE: MO
		ZIP: 65101
EMAIL:	ATTENDANCE:	SUBMIT DATE: 1/23/2024 12:00 AM
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WITNESS NAME			
REGISTERED LOBBYIST:			
WITNESS NAME: SHAWN RHOADS		PHONE NUMBER: 573-635-5925	
REPRESENTING: MISSOURI SHERIFFS UNITED		TITLE: LOBBYIST	
ADDRESS: 6605 WEST BUSINESS 50			
CITY: JEFFERSON CITY		STATE: MO	ZIP: 65101
EMAIL:	ATTENDANCE:	SUBMIT DATE: 1/23/2024 12:00 AM	
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WITNESS NAME		
INDIVIDUAL:		
WITNESS NAME: ARNIE C. "HONEST-ABE" DIENOFF-STATE PUBLIC ADVOCATE		PHONE NUMBER:
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I am Opposed to this Bill and State Constitutional Amendment. There NEEDS to more skin in the game by Sheriff's, Prosecutors, Circuit Attorneys and others by paying Employee Contributions, County Contributions, rather than placing more Tax Burden on the backs and shoulders of Missourians.



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WITNESS NAME			
BUSINESS/ORGANIZATION:			
WITNESS NAME: GWEN SMITH		PHONE NUMBER: 314-324-9656	
BUSINESS/ORGANIZATION NAME: EMPOWER MISSOURI		TITLE: CRIMINAL JUSTICE POLICY MANAGER	
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EMAIL: gwen@empowermissouri.org	ATTENDANCE: Written	SUBMIT DATE: 1/23/2024 7:27 PM	

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As the largest and oldest anti-poverty non-profit in our state, Empower Missouri is committed to improving the quality of life for all Missouri residents through advocacy. Since our inception, Empower Missouri has focused on the criminal justice system and its impacts. Our Community Justice Coalition consists of community advocates and organizations from across the state who work with those who have been impacted by the criminal justice system. Many coalition members are formerly incarcerated or have currently incarcerated loved ones, and all are connected by a vision for a future without mass incarceration. HJR 92 proposes a constitutional amendment that, upon voter approval, would provide for the levying of costs and fees as part of the “administration of justice” to be used to specifically to support salaries and benefits of law enforcement personnel, including sheriffs and former sheriffs and current and former prosecutors. Research shows that fines and fees are not the most effective way to fund law enforcement, for multiple reasons outlined below. Low-income individuals and families are already overburdened by court costs, and we are wary of imposing any additional fees that would disproportionately impact this population. For these reasons, we urge the committee to oppose HJR 92. We should look to alternative funding sources instead, including the existing retirement plans in place for other local and county government employees, such as Missouri LAGERS and Missouri CERF. Sheriffs and prosecutors aren’t currently included in these local pension plans. Missouri law enforcement deserves adequate, reliable funding. Yet, fees are extremely difficult to collect, making them an unreliable and improper source of law enforcement funding. Because the majority of people in the system are low-income, these fees are primarily levied on people who lack the financial resources to pay them. Research has shown that states spend a huge amount of money trying to collect fees, and still collection rates are often very low. In some cases, states spend more on collections than the amount collected, meaning they lose money trying to pursue this revenue source.*Higher fees are linked with higher recidivism. When people lack the money to pay their fees, they may commit new crimes to find the money in order to avoid being arrested or incarcerated for not paying fees. A survey of more than 900 people with court debt found nearly 2 in 5 people admitted to engaging in criminal behavior for purposes of paying their court debt, including selling drugs, theft, sex work, writing bad checks, and dealing in stolen goods.** Research has shown increased fees were linked to both increases in both recidivism and the severity of reoffending.*** Fee elimination is a commonsense reform that conservatives across the country have supported. States like Texas, Louisiana, and Oklahoma have recently passed bills to eliminate fees, recognizing the harm that fees do to public safety and the need for more reliable funding for essential government services like law enforcement and courts. The American Legislative Exchange Council (ALEC) Criminal Justice Task Force recently recognized the public safety harm that comes from reliance on fees in their Resolution in Support of

Effective Strategies to Support Law Enforcement and Reduce Violent Crime. The ALEC policy encourages state policymakers to adequately fund law enforcement and to “stop forcing law enforcement to fund significant percentages of their budgets through fines, fees, and forfeitures and [to] instead fund them through a consistent and transparent budgetary process.”****Thank you for your time and consideration in this matter. Sources:* Brennan Center for Justice (2019) “The Steep Costs of Criminal Justice Fees and Fines: A Fiscal Analysis of Three States and Ten Counties,” available at <https://www.brennancenter.org/our-work/research-reports/steep-costs-criminal-justice-fees-and-fines>. ** Alabama Appleseed, University of Alabama at Birmingham Treatment Alternatives for Safer Communities, Greater Birmingham Ministries & Legal Services Alabama. Under Pressure: How fines and fees hurt people, undermine public safety, and drive Alabama’s racial wealth divide, 2018, available at <https://www.alabamaappleseed.org/underpressure>. *** Alex R. Piquero, Wesley g. Jennings, “Justice System-Imposed Financial Penalties Increase the Likelihood of Recidivism in a Sample of Adolescent Offenders”. Youth Violence and Juvenile Justice15, no. 3 (July 2017): 325–40, available at <https://doi.org/10.1177/1541204016669213>.**** American Legislative Exchange Council, Resolution in Support of Effective Strategies to Support Law Enforcement and Reduce Violent Crime (Dec. 2022), available at <https://alec.org/model-policy/resolution-in-support-of-effective-strategies-to-support-law-enforcement-and-reduce-violent-crime/>.



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WITNESS NAME			
BUSINESS/ORGANIZATION:			
WITNESS NAME: JAIMIE CAVANAUGH		PHONE NUMBER: 248-895-1555	
BUSINESS/ORGANIZATION NAME: INSTITUTE FOR JUSTICE		TITLE: FINE AND FEE SPECIALIST	
ADDRESS:			
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EMAIL: jcavanaugh@ij.org	ATTENDANCE: Written	SUBMIT DATE: 1/22/2024 3:30 PM	
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To Chair Hovis and Members of the Committee: Thank you for the opportunity to submit written testimony in opposition to House Joint Resolution 92, which would authorize courts to levy costs and fees to pay the salaries and benefits of state and county law enforcement. I am a Fines and Fees Specialist working with the Institute for Justice (IJ), a nonprofit public interest law firm dedicated to protecting civil liberties, including the right to be free from excessive government fines and fees. To further this goal, IJ has litigated and supported legislation to end unreasonable fines and fees. For example, in 2018, IJ won the landmark case, *Timbs v. State of Indiana*, 139 S. Ct. 682 (2019), in which the U.S. Supreme Court ruled that the Eighth Amendment’s protection against excessive fines is incorporated against the states. IJ also works to remove profit incentives that may unduly influence courts, judges, prosecutors, or law enforcement. See, e.g., *Harjo v. City of Albuquerque*, 326 F. Supp. 3d 1145, 1195 (D.N.M. 2018).

IJ opposes HJR 92 for three reasons. First, based on guidance from the U.S. Department of Justice (DOJ), HJR 92 is likely unconstitutional. Last year, DOJ published a Dear Colleague Letter explaining the constitutional principles that should guide states and courts as they impose judicial fines and fees. These principles include: • The Fourteenth Amendment prohibits the imposition of fines and fees that create conflicts of interest; and • The Eighth Amendment prohibits the imposition of fines and fees that are grossly disproportionate to the severity of the offense. HJR 92 may run afoul of the Fourteenth Amendment by creating an impermissible profit incentive for law enforcement and courts. If law enforcement and courts know that their compensation is only guaranteed if courts can assess costs and fees against court users, there is an impermissible incentive to find more criminal defendants guilty, impose higher costs and fees at sentencing, misuse costs and fees during settlement negotiations, or file more cases in hopes of raising revenue. Likewise, this resolution may violate the Eighth Amendment because it fails to provide any limits on the amount of costs and fees courts may levy. And even if the legislature trusts courts to impose reasonable costs and fees, even the appearance of bias is enough to create a constitutional conflict of interest. Furthermore, the financial incentives do not need to be directly tied to the judge imposing the sentence for courts to rule that court-imposed costs and fees can be unconstitutional. Second, sheriffs, judges, and prosecutors are not tax collectors. Law enforcement and the judicial system provide public benefits to all of society, not just the so called “users” of these services. As such, tax revenue should fund courts and law enforcement instead of attempting to fund operations off the backs of those who can least afford it. Finally, this is a misguided attempt to raise revenue. Research routinely shows that courts collect very little of the fines and fees imposed. Although it can be hard to find this data in some places, studies of counties in New Mexico and Texas found that courts collected an average of 4% of the fines and fees they imposed. A study of Los Angeles County found courts collected less than 4% of the fines and fees imposed. It is also often impossible to estimate the true amount of money and

resources spent on trying to collect costs and fees. In the end, courts and law enforcement may spend more on collections than they ever bring in. For these reasons, this Committee should not approve HJR 92. Thank you for your consideration. Please let me know if I can answer any questions. Sincerely,
Jaimie Cavanaugh Fine and Fee Specialist 248-895-1555 jcavanaugh@ij.org



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WITNESS NAME			
BUSINESS/ORGANIZATION:			
WITNESS NAME: MARY MERGLER		PHONE NUMBER: 703-919-3866	
BUSINESS/ORGANIZATION NAME: FINES AND FEES JUSTICE CENTER		TITLE: NATIONAL ADVOCACY & CAMPAIGNS DEPUTY DIRECTOR	
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Dear Chairman Hovis, Vice-Chair West, Ranking Member Brown, and Members of the Pensions Committee: While law enforcement salaries and retirement funds should be adequately funded, the levying of fees and costs is an ineffective and counterproductive way to fund them. Ultimately, fees and costs assessed in the criminal justice system are a notoriously unreliable, often uncollectable source of revenue. Further, an increased reliance on fees and costs can ultimately harm public safety and work against the interests of law enforcement. The Fines and Fees Justice Center (FFJC) urges the Committee to consider alternative funding mechanisms rather than fees and costs and to oppose HJR 92. The Fines and Fees Justice Center is a national hub for information, advocacy, and collaboration for the reform of fines and fees. Our mission is to eliminate fees in the justice system, ensure that fines are equitably imposed and enforced, and end abusive collection practices. Fines and fees in the justice system hurt millions of Americans – entrenching poverty, exacerbating racial disparities, diminishing trust in our courts and police, and trapping people in perpetual cycles of punishment. Working with directly impacted communities, FFJC is building broad-based coalitions from across the political spectrum including grassroots organizations, judges, prosecutors, public defenders, legislators, law enforcement, and faith-based and advocacy organizations, all of whom are focused on ending the harms inflicted by fines and fees. Fees and Costs are an Unreliable Funding Source for Law Enforcement While this resolution is intended to increase funding for law enforcement salaries and pensions, fees and costs are an inappropriate revenue source for funding critical government obligations, such as law enforcement salaries and retirement funds. Fees and costs assessed in the criminal justice system are notoriously expensive to collect, given that these fees are typically assessed against people who lack the ability to pay them. One study into the cost of collections of fines and fees in Texas and New Mexico found that the amount counties were spending to collect fees assessed in the criminal justice system was 121 times what the government spends to collect taxes. Much of this debt is completely uncollectable and in some cases, the amount of money spent on collections is actually greater than the revenue generated. Clearly, other sources of government revenue are more efficient and more reliable and hence a better approach to fund salaries and benefits of Missouri law enforcement. Forcing Law Enforcement to Chase Uncollectable Debt Hurts Public Safety Increased reliance on fees can also jeopardize public safety and contribute to more social harm. When fines and fees go unpaid, judges may issue arrest warrants for failing to pay, leading to law enforcement arresting people for not paying financial obligations – most often because they are too poor to pay. Or, law enforcement may arrest people for driving with a suspended license, even though the sole reason for the suspension is not paying fines and fees. The time spent on these debt

collection and enforcement efforts diverts law enforcement and courts from their core responsibilities. Further, turning police into tax collectors destroys police-community relationships which are critical for police to solve crimes and keep communities safe. In fact, the collection of fines and fees by law enforcement has been found to be associated with lower clearance rates for more serious crimes. One study found that every 1% increase in revenue from fines, fees and forfeitures correlated with a more than 6 percent decrease in the violent crime clearance rate and 8 percentage point decrease in the property crime clearance rate. With 64% of violent crimes going unsolved in Missouri, the state should be working to reduce reliance on fees, in order to allow law enforcement to focus on addressing the low clearance rate.

Increased Fees Are Associated with Increased Recidivism Rates When people lack the money to pay their fees, it may lead to their engaging in additional criminal activity to find the money to pay what they owe, in order to avoid being arrested or incarcerated for not paying fees. One Alabama survey of more than 900 people with court debt found nearly 2 in 5 people admitted to engaging in criminal behavior for purposes of paying their court debt, including selling drugs, theft, sex work, and writing bad checks. Similar results were found in a study in New Mexico, in which just over 40% of the 500 respondents admitted to committing a crime to get money to pay fines and fees. A study of misdemeanor fees in Milwaukee, Wisconsin found that a new fee of \$200 on all misdemeanor convictions increased the overall likelihood of re-offense within two years.

Imposing New Fees is Contrary to National Trends States like Texas, Louisiana, and Oklahoma have recently passed bills to eliminate fees, recognizing the harm that fees impose and the need for more reliable funding for essential government services like law enforcement and courts. The American Legislative Exchange Council (ALEC) Criminal Justice Task Force recently recognized the public safety harm that comes from reliance on fees in their Resolution in Support of Effective Strategies to Support Law Enforcement and Reduce Violent Crime. The ALEC policy encourages state policymakers to adequately fund law enforcement and to “stop forcing law enforcement to fund significant percentages of their budgets through fines, fees, and forfeitures and [to] instead fund them through a consistent and transparent budgetary process.” Rather than authorizing new and higher fees and costs, the Missouri legislature should work to eliminate fees and identify ways to reliably fund the criminal justice system to keep communities safe. Thank you for the opportunity to submit this testimony. We respectfully urge the Committee to vote against HJR 92.

Mary Mergler
National Advocacy & Campaigns Deputy Director
Fines and Fees Justice Center
mergler@ffjc.us



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WITNESS NAME			
REGISTERED LOBBYIST:			
WITNESS NAME: SHARON GEUEA JONES		PHONE NUMBER: 573-808-2156	
REPRESENTING: MISSOURI STATE CONF NAACP		TITLE: LOBBYIST	
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CITY: JEFFERSON CITY		STATE: MO	ZIP: 65101
EMAIL:	ATTENDANCE:	SUBMIT DATE: 1/23/2024 12:00 AM	
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WITNESS NAME			
INDIVIDUAL:			
WITNESS NAME: JASON SHELLABARGER		PHONE NUMBER:	
BUSINESS/ORGANIZATION NAME:		TITLE:	
ADDRESS:			
CITY:		STATE:	ZIP:
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