

THINKTENNESSEE

Reducing the Harms of Court Debt: Driver's License Revocations are an Ineffective Policy for Increasing Court Collections



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Acknowledgments

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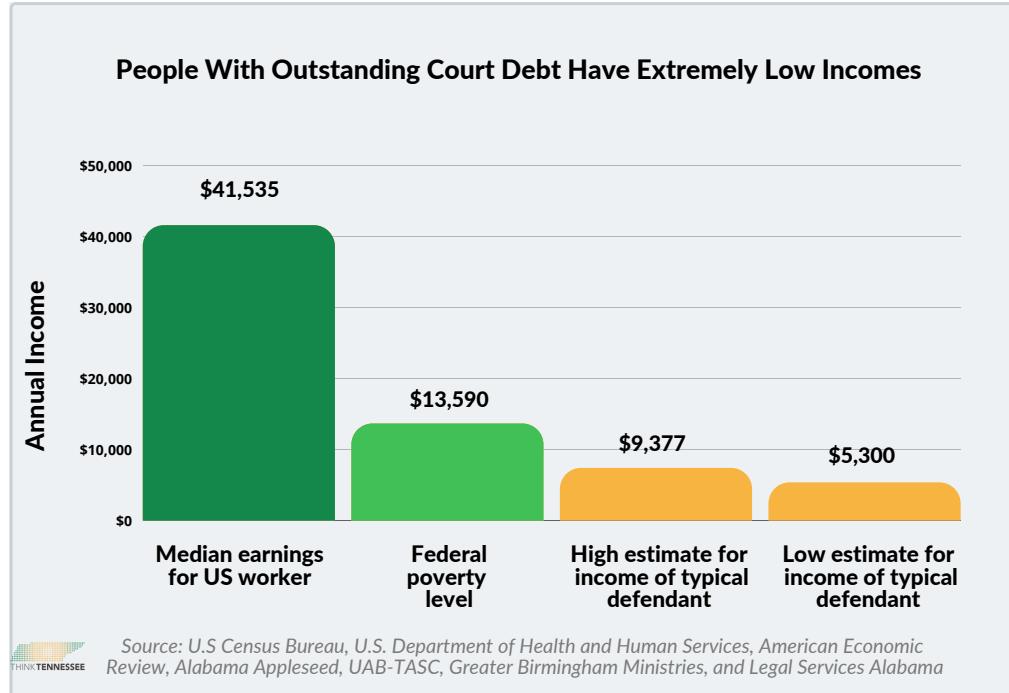
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Executive Summary

The criminal justice system in Tennessee is funded in part through the collection of court-imposed fines and fees. Tennessee law currently allows for the revocation of a driver's license for court debt that is overdue. **However, this policy fails to consider that people with overdue court debt may simply lack the financial resources needed to pay these debts, and thus are an ineffective revenue source.**

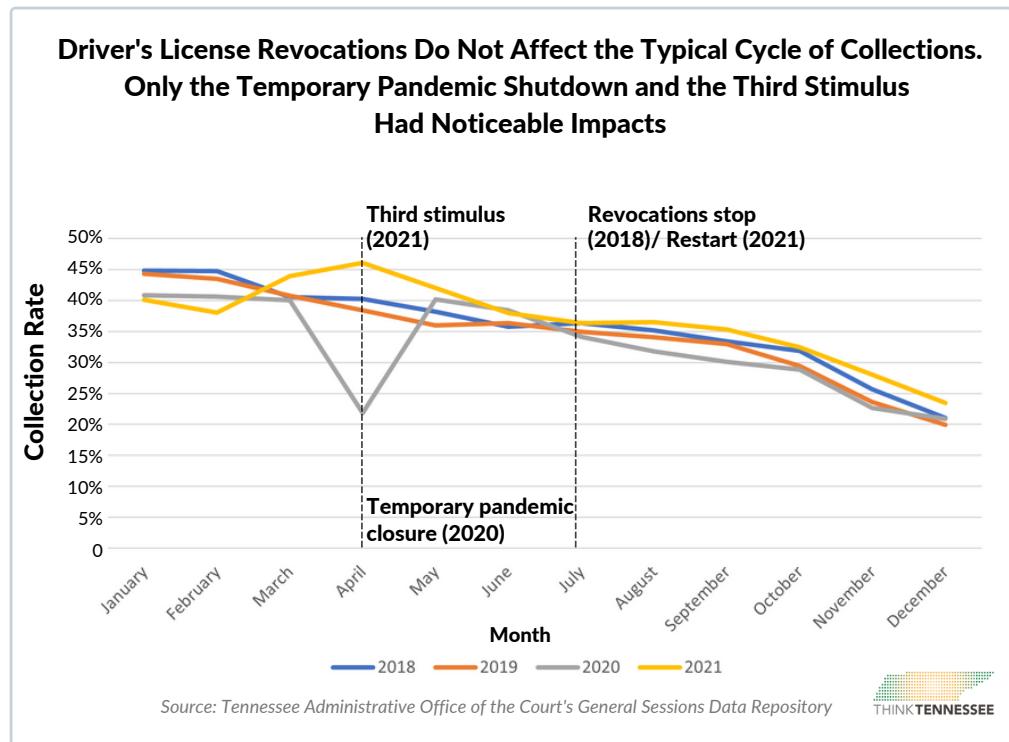
Typical defendants with court debt have incomes between 39% and 69% of the federal poverty level (an income between \$5,300 and \$9,377 annually). (i) By making it harder to get to work and earn an income, driver's license revocations are counterproductive, trapping Tennesseans in a cycle of court debt and poverty.

Using never-before-analyzed, Tennessee-specific data, ThinkTN found that driver's license revocations are ineffective for increasing court collections.



Key Findings

- ▶ Contrary to their perceived benefits, Tennessee data shows driver's license revocations are not resulting in increased collection rates.
- ▶ Income appears to be a key driver for collections, as revealed by both the relatively low incomes of people with court debt and the effect of the pandemic stimulus.
- ▶ There is no compelling evidence that the state of the economy impacts court collection rates.
- ▶ Ending suspensions would cut government red tape and allow those reentering society to do so more successfully, lowering recidivism rates and boosting economic growth.



Policy Recommendations

Reforming Tennessee's system of court fines and fees could help remove barriers for returning Tennesseans trying to better their lives. When returning Tennesseans better reintegrate into society, it lowers recidivism rates and increases economic growth, benefitting all Tennesseans.

Additional policy changes could build on the intent of Tennessee's 2019 payment plan law by creating a more equitable fines and fees system.

Tennessee policymakers should consider:

- **Eliminating driver's license revocations for unpaid court debt**
- **Requiring more consistency in ability-to-pay assessments**
- **Targeted elimination of uncollectable fees**
- **Broad fee reform to create a more equitable justice system.**



Tennessee lawmakers should consider eliminating driver's license revocations for unpaid court debt.

► Our findings show that eliminating driver's license revocations is unlikely to significantly impact state or local revenues. The law has not been shown to be an effective way to collect owed debt. Removing this government imposed barrier would allow greater opportunities for Tennesseans to get back on their feet, earn money, and contribute to the state's economy.

Policymakers could require more consistency in when and how the courts assess or determine a defendant's ability to pay.

► Tennessee law includes provisions for the consideration of a defendant's ability to pay their court costs. However, a lack of consistency in the law and the broad discretion afforded to judges is leading to unequal outcomes across Tennessee.(ii) More consistency in when and how courts assess or determine a defendant's ability to pay would better target relief towards those most unable to pay their court costs.

Tennessee lawmakers could consider eliminating uncollectable fees.

► Data shows that eliminating specific fees could remove substantial shares of outstanding court debt. Deleting these fees, which disproportionately impact lower-income defendants and are nearly always uncollectable, would have little negative impact to state and local budgets.

Tennessee needs broad fee reform to create a more equitable justice system.

► Incremental changes provide stepping stones in the right direction, but in the case of court debt, it is not providing enough relief to the Tennesseans that need it most. A more comprehensive approach to policy reform, would not only reduce our government's ineffective reliance on court-cost revenues to fund our state courts, but also help reduce recidivism and empower Tennesseans to improve their economic mobility.

Introduction

In Tennessee, as in most states, the court system imposes fines on offenders. The criminal justice system is funded in part through the collection of these fines, as well as additional fees, taxes, and other revenues. The difficulty of collecting these court costs from defendants has been a source of consistent frustration for court clerks and policymakers.⁽ⁱⁱⁱ⁾ In 2021, the statewide collection rate was 36%. Additionally, our analysis suggests that the policy may be economically counterproductive and contribute to recidivism.

A brief overview of Tennessee's current driver's license revocation law provides helpful context for understanding our findings.

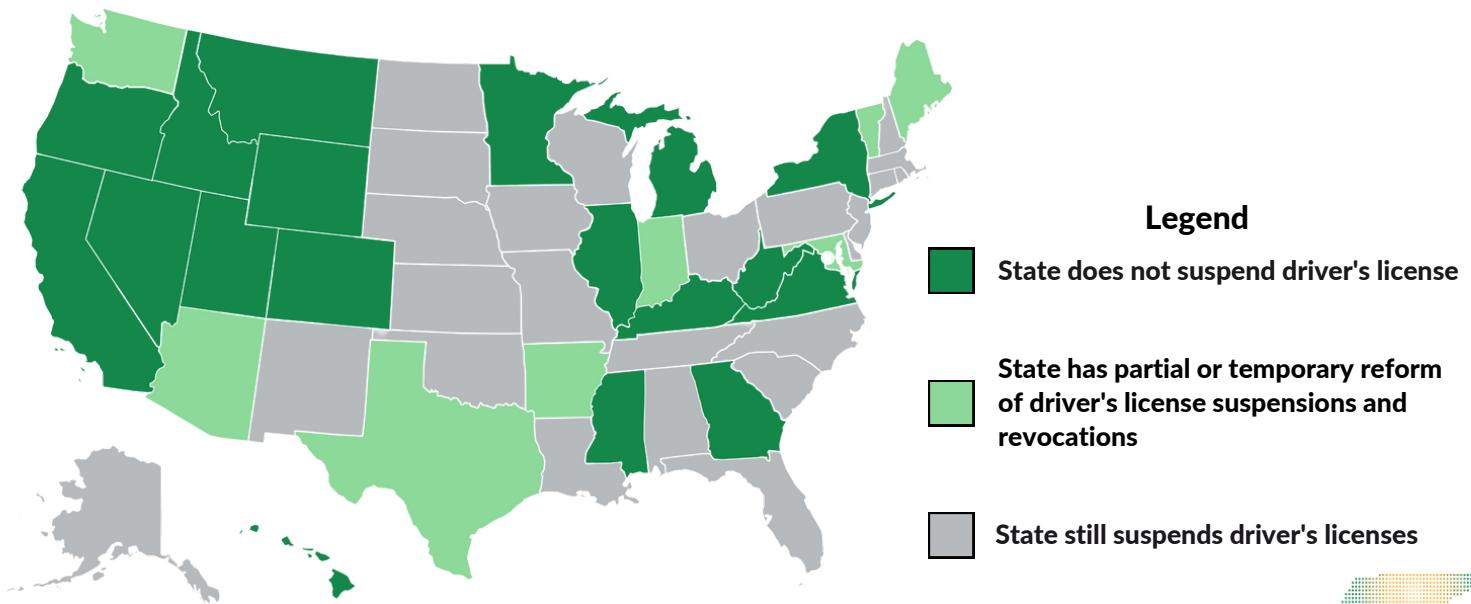
Since 2011, Tennessee law has allowed for the revocation of a driver's license for court debt that is more than a year overdue.^(iv) This policy attempts to incentivize people with court debt to pay what they owe. However, this policy fails to consider that **people with overdue court debt may simply lack the financial resources needed to repay these debts**. Studies show that typical defendants or people with court debt have incomes between 39% and 69% of the federal poverty level for a one-person household.^(v) Using 2022 poverty guidelines, this would be an income between \$5,300 and \$9,377 annually. Likewise, **by making it harder to get to work and earn the money needed to pay off court costs, driver's license revocations risk being a counterproductive policy, potentially trapping low-income Tennesseans in a cycle of court debt and poverty**.

In fact, growing evidence from other states suggests that the harms of driver's license revocations outweigh the benefits.^(vi) Recognizing this, Tennessee policymakers have added protections such as payment plans for low-income individuals, while many other states have gone further and moved to end debt-related driving restrictions.^(vii)

Until now, a lack of Tennessee-specific data has made studying the impacts of driver's license revocations difficult. With never-before-analyzed data in hand, **our new analysis finds that driver's license revocations are ineffective for collecting court costs**.

Reforming Tennessee's system of fines and fees could allow returning Tennesseans to better integrate into society thereby reducing recidivism and increasing economic growth. **Our recommendations include eliminating driver's license revocations for unpaid court debt, requiring more consistency in ability-to-pay reviews, eliminating uncollectable fees, and considering broader fee elimination**.

Court Debt-Related Driving Restrictions, by State



Protections for Low-Income Tennesseans with Court Debt

Tennessee law requires that low-income individuals be offered payment plans. However, our research has found that access to those payment plans varies considerably across the state.(viii)

Payment Plans

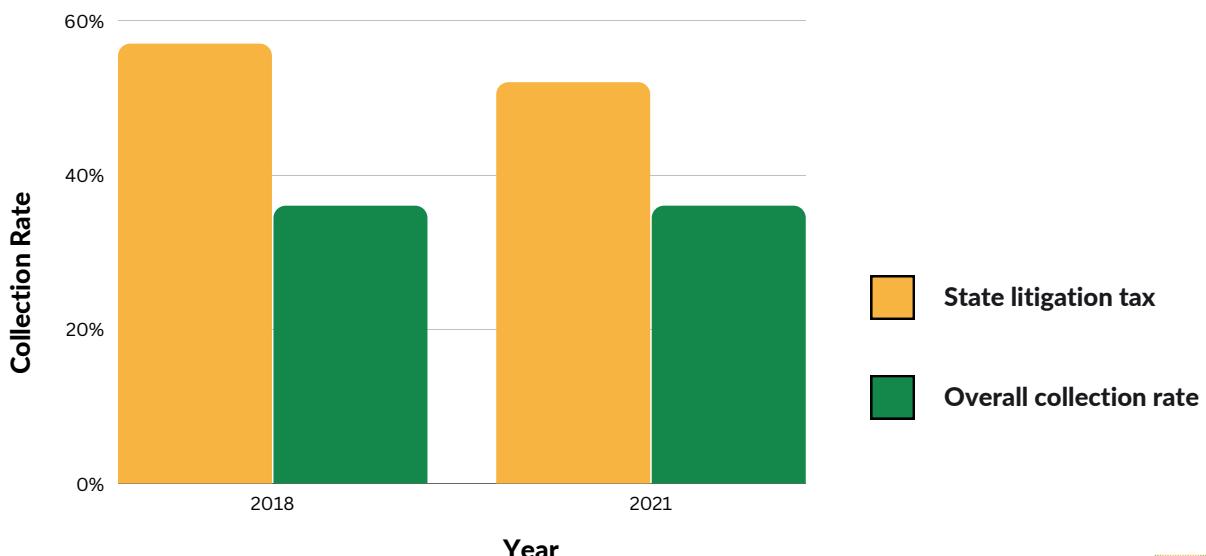
As of 2019, Tennessee law requires that low-income individuals who have not paid all their court costs within a year of the completion of their sentence must be offered an installment payment plan by the clerk of court so that they can pay their costs over time.(ix) The payment plan must be reasonable and based on the person's income and ability to pay. Tennesseans on a payment plan keep access to their driver's licenses unless they fail to make timely payments. In this case, they are given a restricted license which allows travel to a limited number of locations. Any further default on their payment plan can result in the revocation of their restricted license.

Our previous research, *Beyond Payment Plans: Breaking the Cycle of Court Debt in Tennessee*, found that access to these plans, as well as procedures for implementing them and for suspending the driver's licenses of Tennesseans who fall behind on their payments, differs across counties (4% of surveyed counties reported not providing payment plans at all and 6% of surveyed counties reported some variation in the provision of payment plans, such as providing them only for traffic offenses or when a judge deems them necessary). Tennessee Administrative Office of the Courts (AOC) data provides further evidence that payment plans have not been a cure-all for low-income Tennesseans with court debt.

The state litigation tax, which is paid first and would therefore be paid most often by defendants on payment plans, has a collection rate of 54% compared to the overall collection rate of 35%. This suggests that payment plans may help collections, at least in the short run. **However, the collection rate for the state litigation tax fell from 57% in 2018 to 52% in 2021, while the overall collection rate remained steady at 36%.** This relative decline suggests that there is no evidence that the 2019 law requiring payment plans has increased collection rates.

This is not surprising, given that our previous research found that access to payment plans varied widely across Tennessee's counties and that litigation may have delayed the implementation of the law.

No Evidence That the 2019 Law Requiring Payment Plans Has Increased Collection Rates



Source: Tennessee Administrative Office of the Court's General Sessions Data Repository

Indigency Protections

Tennessee law also allows people who have had their license suspended to obtain a restricted license for travel to a limited number of locations. Notably, while that restricted license can be used to get to work, school, religious worship, recovery court, and for serious illness, it fails to allow drivers access to other household necessities, such as grocery stores or pharmacies. Restricted licenses also do not completely solve the problem for Tennesseans with too little money available, as restricted licenses can still be revoked for a failure to comply with a payment plan.(x)

Finally, Tennessee law includes provisions for consideration of a defendant's ability to pay their court costs. However, research by The Sycamore Institute found that the patchwork of provisions in the law has little consistency, which can generate unequal outcomes across the state.(xi) These indigency provisions also do not apply to traffic debt.(xii)

As a result, Tennessee's protections for low-income individuals with court debt are not working as intended. To ensure fairness and equity in our justice system, it is critical to investigate whether driver's license revocations are an effective policy measure or whether the harms outweigh the benefits.

Analysis

Tennessee Data Provides No Evidence That Driver's License Revocations Increase Collections

Historically there has been little Tennessee-specific data available to investigate the question of whether these revocations are effective tools for collecting court debt. Using data acquired from the Tennessee Administrative Office of the Courts (AOC) and the timing of a court-ordered injunction that temporarily stopped driver's license revocations, we investigated the effectiveness of driver's license revocations in Tennessee.

Evidence From Recent Policy Changes in Tennessee

On July 2, 2018, a federal court ruled that it was unconstitutional for Tennessee courts to revoke driver's licenses from people who could not pay court costs, with the Tennessee Department of Safety and Homeland Security confirming that same week that they were in the process of reinstating licenses.(xiii) The 2019 law that provided payment plans for low-income defendants would eventually render the criminal case moot. In addition, a finding upholding a similar driver's license suspension law in Michigan would lead to the reversal of the preliminary injunction for traffic court debt.(xiv) The Tennessee Department of Safety and Homeland Security confirmed that revocations started back up in July 2021. As a result, driver's licenses were not revoked from July 2018 – July 2021.

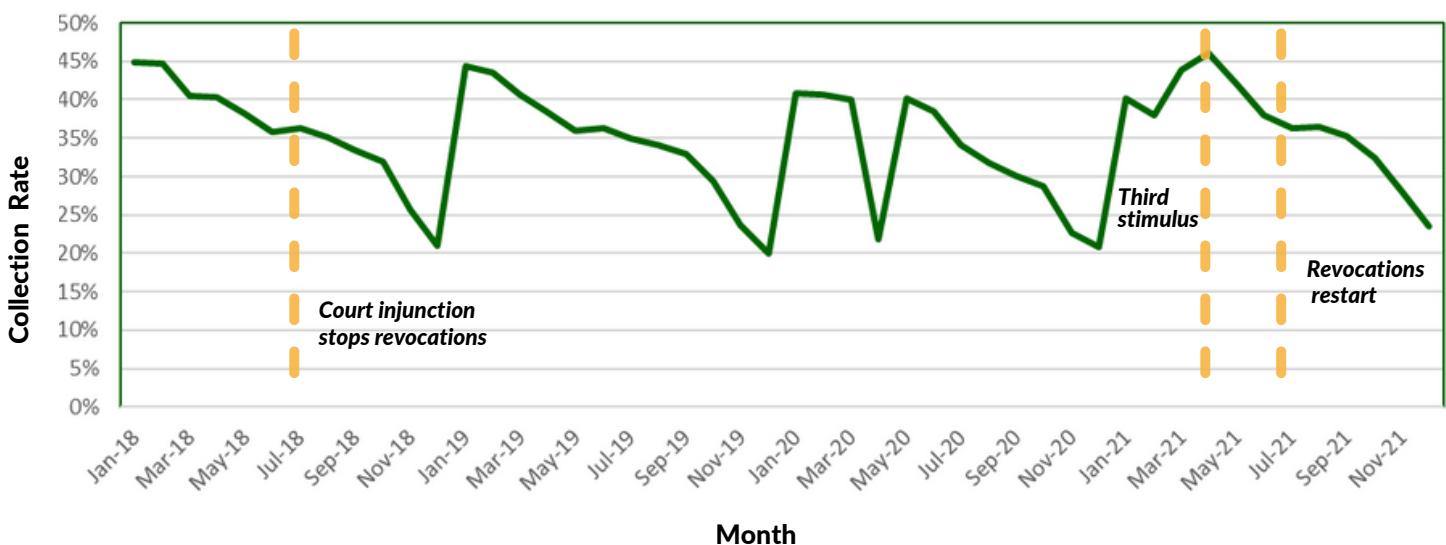
This temporary court-imposed policy change allows us to compare collections data from periods when driver's licenses were being revoked and periods when they were not. If driver's license revocations were an effective tool for collecting court costs, we would expect to see collection rates decline markedly after they were stopped in July 2018, only to increase again after the policy went back into effect in July 2021.

Neither Policy Change Seems to Have Affected Aggregate Collection Rates

Using monthly aggregate data from the AOC's General Sessions Data Repository, we find that neither policy change seems to have had a significant effect on aggregate collection rates. The difference between the 34% collection rate when driver's licenses were not being revoked (July 2018 – June 2021) and the 36% collection rate during the periods where they were being revoked (January 2018 – June 2018 and July 2021 – December 2021) is not statistically significant. The difference between the collection rates for the state litigation tax during these time periods, which would better account for initial payments on a payment plan, is also not statistically significant.

Collections data shows a strong cyclical nature, starting relatively high every January before tailing off each year and reaching a low point in December. Neither ending driver's license revocations in July 2018, nor beginning them again around July 2021 makes any noticeable change in the cyclical pattern of collection rates. While the cyclical nature of collections is interesting in its own right, this data alone cannot tell us much about why it exists. Plausible theories include increased effort on the part of court clerks at the beginning of the year or defendants borrowing against and then drawing down tax refunds.

Driver's License Revocations Don't Appear to Increase Collection Rates



Source: Tennessee Administrative Office of the Court's General Sessions Data Repository



While we are confident in our conclusions, there are some limitations in the data that are worth noting. First, without county-level driver's license suspensions, we are only able to statistically compare at the aggregate level, which limits our sample size. Second, as we explain in more detail in our methodology section, payment plans are not perfectly included in the data set, but our analysis suggests it is unlikely better inclusion of payment plans would significantly impact the results. Still, the data makes clear that driver's license revocations are not a game changer for collection rates. And the research clearly supports that other policies have more noticeable impacts on collection rates than driver's license revocations.

Historical Tennessee Data Also Suggests Driver's License Revocations Are Ineffective Collections Tools

Further evidence that driver's license revocations have not been a panacea for low collection rates comes from analyzing historical Tennessee data.

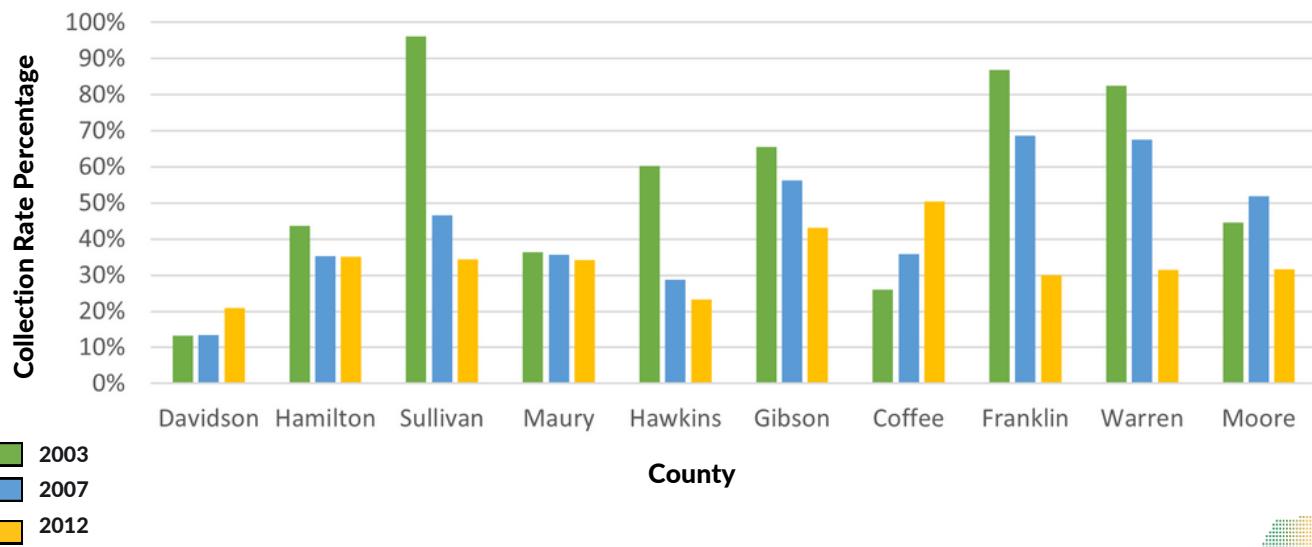
Historical data on collection rates is much more limited before the existence of the AOC General Sessions Data Repository, which launched in 2018. However, data provided to members of the Fiscal Review Committee in 2008 includes criminal collection rates for some counties in 2003 and 2007.(xv) The Tennessee Advisory Commission on Intergovernmental Affairs 2017 report, *Tennessee's Court Fees and Taxes: Funding the Courts Fairly*, also includes AOC data from the fiscal year 2011-2012.

The Tennessee law allowing for the revocation of driver's licenses for unpaid court costs would apply to offenses committed on or after July 2, 2011.(xvi) Since licenses are not revoked until court costs remain unpaid a year after the disposition of the case, this means that no driver's licenses would have been revoked during the fiscal year 2011-2012. Still, this is the first year under which the disposition of a case includes a future threat of driver's license revocation if court costs are not paid. If revocations are an effective tool, it is not inconceivable that the threat alone should have some impact.

Despite the lack of comprehensive state data before 2018 and limited data sets available, we have a sample of 10 counties with comparable data across those three years (2003, 2007, 2011) and the evidence from those counties does not suggest that the initial threat of driver's license revocations substantially changed collection rates.

The average collection rate across these 10 counties declined at similar rates when there was no change in the driver's license revocation law as when there was a change. From 2003 to 2007, the average collection rate declined by 12%, while from 2007 to the fiscal year 2011-2012 the collection rate declined by 11%.^(xvii) Only two counties saw higher collection rates when the driver's license revocation law was in effect, and both were counties where collection rates were already rising from 2003 to 2007. More counties (4) saw larger declines in collection rates from 2007 to the fiscal year 2011-2012 relative to the decline from 2003 to 2007 than saw smaller declines in collection rates over 2007 to 2011-2012 relative to the decline from 2003 to 2007 (3). The final county had an increase in collections from 2003 to 2007, but this reversed and its collection rate from 2007 to the fiscal year 2011-2012 declined.

Most Counties Had Higher Collection Rates Before the 2011 Driver's License Suspension Law



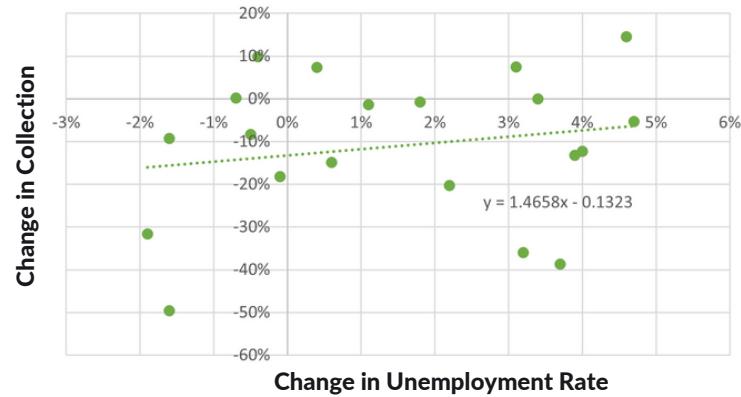
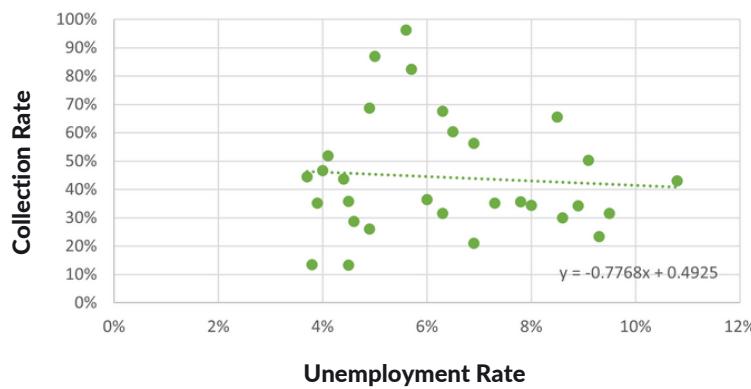
Source: Tennessee Advisory Council on Intergovernmental Relations and 2008 Memo to Fiscal Review Committee



While the threat of driver's license revocations does not appear to have stopped the decline in collection rates from 2003 to 2011-2012 in most counties, we also do not know what caused the decline. An interesting finding is that the reason for the decline does not appear to be the state of the economy. There is no strong correlation between local unemployment rates and collection rates. Theoretically, it would be reasonable to expect that economies with lower unemployment rates, would provide better opportunities for reentering citizens to find jobs, which would allow them to pay their court debt. But in this case, in Tennessee, this does not appear to be true. When we compare both the levels of unemployment in a county to the collection rates in a county across counties and years, and when we compare changes in the unemployment rates in a county across years with changes in collection rates, we do not find any evidence that stronger local economies lead to higher collection rates.

Extending this analysis to our 2018-2021 sample, we also find no or a very weak correlation between unemployment rates and collection rates. There is a somewhat stronger, but still weak, correlation between the changes in unemployment rates in a county across years and the changes in state litigation tax collection rates, suggesting payment plans can help. However, the magnitude of the response is extremely small. An unemployment rate shock on the order of the Great Recession, which saw Tennessee's unemployment rate increase by 6.2 percentage points from a low of 4.3% in June 2007 to 10.5% in July 2009 would only be associated with a decrease in the average state litigation tax collection rate from 54% to 50%.^(xviii) We interpret this extremely weak response to mean that payment plans have not reversed the lack of a serious connection between the state of the economy and collection rates.

A Stronger Economy Does Not Imply Higher Collection Rates



Source: Tennessee Advisory Council on Intergovernmental Relations and 2008 Memo to Fiscal Review Committee

A closer look at the structural disadvantages facing people with court debt may explain why lower unemployment rates have a nominal impact on collection rates and point the way toward what might be needed to increase collection rates.

People with outstanding court debt are typically extremely low-income. Studies show that typical defendants, or people with court debt, have incomes between **39% and 69% of the federal poverty level for a one-person household.**

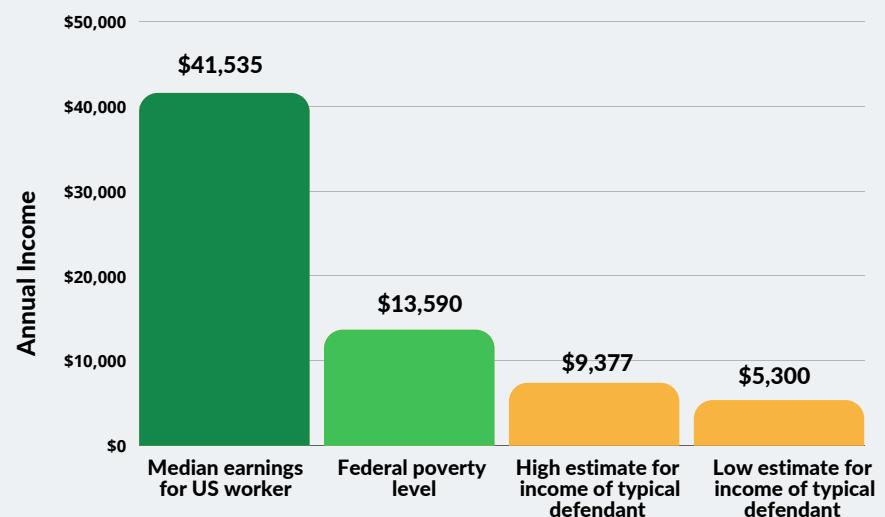
(xix) **Using the 2022 poverty guidelines, this would be an**

income between \$5,300 and

\$9,377 annually. Working-age

returning citizens face unemployment rates nearly five times higher than the typical American.(xx)

People With Outstanding Court Debt Have Extremely Low Incomes



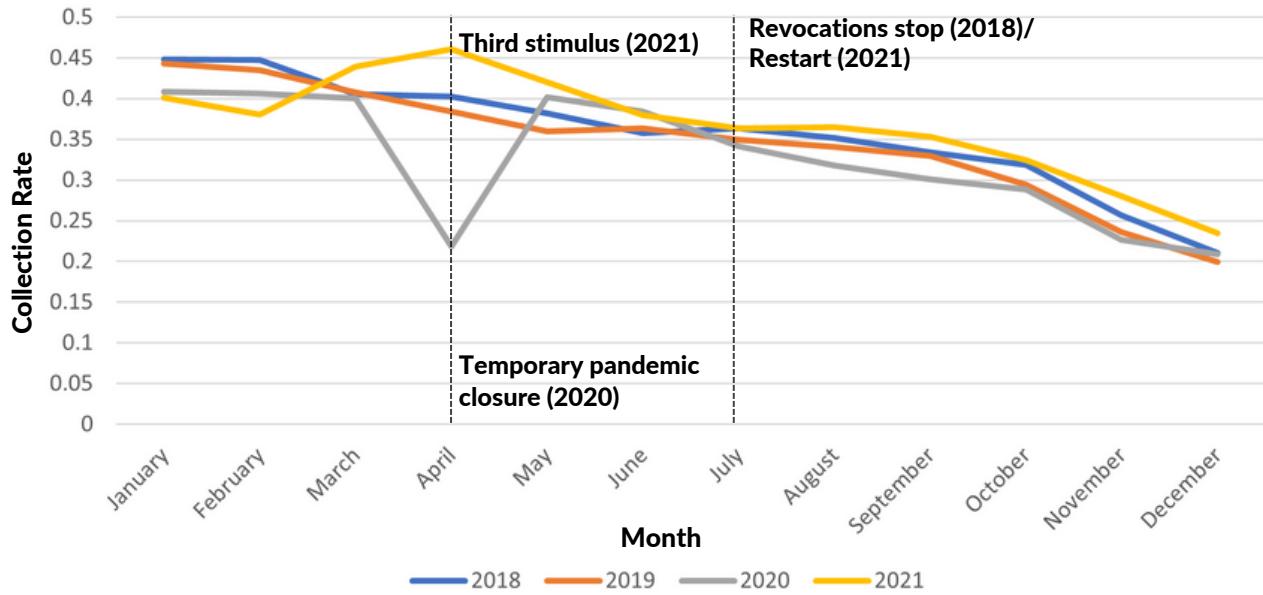
Source: U.S. Census Bureau, U.S. Department of Health and Human Services, American Economic Review, Alabama Appleseed, UAB-TASC, Greater Birmingham Ministries, and Legal Services Alabama

The U.S. economy was not at full employment in any of the three years covered by the historical data and had only just begun to reach full employment when the Covid-19 pandemic hit.(xxi) In an economy where many workers without criminal records are struggling to find employment, returning citizens who face higher obstacles to getting a job hardly stand a chance.

Temporary Closure and the Pandemic Had Visible Impacts on Collection Rates

To make clear which actions have moved the needle for collection rates during this period, we superimpose all four years of data on one chart, making the cyclical nature of collections less obvious. Viewing the data in this way allows deviation from the usual cyclical pattern to stand out more.

Driver's License Revocations Do Not Affect the Typical Cycle of Collections. Only the Temporary Pandemic Shutdown and the Third Stimulus Had Noticeable Impacts



Source: Tennessee Administrative Office of the Court's General Sessions Data Repository



Over the four-year period (2018-2021), there were only two external events that had a visible impact on collection rates. The first one is that pandemic-related temporary closures lead to a sharper-than-usual decline in collection rates in April 2020. The second event is the third round of economic stimulus payments from the federal government, which led collection rates to increase over March and April of 2021 when they would typically be falling.(xxii)

Data Suggests That Increased Effort by Collections Officers Plays a Limited Role

Just as there is a theory that punishments like driver's license revocations can increase collection rates, another theory is that additional effort by collections officers could also increase collection rates. While the effort on the part of court clerks may play a role in collection rates, we should be careful not to overstate its impacts. For example, pandemic-related temporary closures may have entailed a large reduction in effort, since many court offices were closed. Yet collection rates only fell from 41% in January and February 2020 to 22% in April 2020. Likewise, if the entirety of the cyclical nature of collections came from the clerk's effort, again this would only lead to effort accounting for a reduction from the average January collection rate of 43% to the average December collection rate of 21%.

Unprecedented Pandemic Stimulus Led to Noticeable Increase in Collection Rates

Another theory is that higher incomes are what is needed to increase collection rates. Indeed, the third stimulus also has a visible impact on collection rates. Over 2018 and 2019, the average collection rate declined from 45% in January to 39% in April. Instead, in 2021, the collection rate increased from 40% in January to 46% in April.

This suggests that Tennesseans with court debt need a substantial change in their financial circumstances to increase collection rates. The impact on collection rates only appears for the last of three stimulus payments, which occurred in addition to large unemployment enhancements, a stepped-up child tax credit, and many other forms of relief spending.(xxiii) Nationally, these policies and the pandemic had the effect of creating unprecedented personal savings rates.(xxiv) Pent-up savings and the monthly child tax credit payments may explain the durability of the somewhat increased collection rates through the rest of 2021. In other words, only an unprecedented amount of unexpected income led to a noticeable increase in collection rates.

We have already detailed the structural barriers that stand in the way of people with court debt making the money to pay back their court costs. While the third stimulus check made a noticeable difference in collection rates, the difference was not drastic. Many of these debts may simply be uncollectable.

Tennessee, which is currently ranked 40th, has one of the highest recidivism rates in the nation.(xxv) By increasing crime and lowering economic growth, high rates of recidivism harm all Tennesseans. Recent public policy changes have attempted to provide additional assistance for returning Tennesseans to overcome structural barriers to finding a job and asset-building. For example, the Reentry Success Act of 2021 included grants for counties with local jails that provide evidence-based programs shown to increase an offender's likelihood of success following release from incarceration.(xxvi) By reforming court fines and fees, the Tennessee government can further remove barriers for returning Tennesseans trying to better their lives.

When returning Tennesseans better reintegrate into society, it lowers recidivism rates and increases economic growth, benefitting all Tennesseans.

Tennessee policymakers should consider:

- Eliminating driver's license revocations for unpaid court debt
- Requiring more consistency in ability-to-pay assessments
- Targeted elimination of uncollectable fees
- Broad fee reform to create a more equitable justice system.

Fines vs. Fees

Fines, charged upon conviction, are intended to deter and punish offenders. **Fees** are intended solely to raise revenues, shifting the costs of providing court services from taxpayers to defendants.(xxvii)

Total fines vary based on charges, though administrative fees for legal and court services are standard and can quickly add up.

For example, a Class C misdemeanor could result in a charge of over \$600 in combined fines and fees for a single offense.



FINE ASSESSED FOR MISDEMEANOR: \$50

FEES	
Litigation and Privilege Taxes	\$58.25
Arrest Fee	\$40.00
Criminal Fee	\$62.00
Appointed Counsel Fee	\$200.00
Public Defender Fee	\$12.50
Security Fee	\$15.00
License Reinstatement Fee	\$75.00
Failure to Pay Fee	\$40.00
Expungement Fee	\$100.00
TOTAL: \$652.75	

Tennessee lawmakers should consider eliminating driver's license revocations for unpaid court debt.

- ▶ Eliminating driver's license revocations for overdue court debt can have substantial positive benefits for Tennesseans with court debt. By removing an ineffective barrier imposed by the government, Tennesseans with court debt will have greater opportunities to get back on their feet.

Our analysis suggests that driver's license revocations are an ineffective policy with no significant impact on collection rates. An important implication of this finding is that if Tennessee policymakers remove the 2011 driver's license revocation law, it is unlikely to significantly impact state or local revenues. Tennesseans leaving the justice system will have fewer obstacles in rejoining society and the court system won't experience any noticeable declines in revenues. A clear win-win for all Tennesseans.

Policymakers could require more consistency in when and how the courts assess or determine a defendant's ability to pay.

- ▶ Tennessee law includes provisions for the consideration of a defendant's ability to pay their court costs. However, consideration of a defendant's ability to pay is leading to unequal outcomes across Tennessee because of a lack of consistency in the law and the broad discretion afforded to judges.(xxviii) Policymakers could require more consistency in when and how the courts assess or determine a defendant's ability to pay. Policymakers could set a uniform default definition of indigency while still allowing for judicial discretion, recognizing the uniqueness of cases. At least seven other states provide such a default definition, with thresholds varying between 125-200% of poverty levels/guidelines.(xxix)

States With Consistent Indigency Guidelines



Receive public benefits
OR
 Income within 150% of the
 federal poverty guideline



Represented by legal aid
AND
 Income within 125% of federal
 poverty guideline



Receive public benefits
OR
 Income within 125% of federal
 poverty guideline



Receive public benefits
OR
 Reside in public housing
OR
 Income within 200% of federal
 poverty guideline



Source: The Sycamore Institute

This would better target relief towards those most unable to pay their court costs. Allowing policymakers to remove a considerable weight burdening some low-income Tennesseans, while likely having little impact on state or local revenues.

Tennessee lawmakers could consider eliminating uncollectable fees.

Data from the AOC shows that there are some specific fees that, were they eliminated, could remove substantial shares of outstanding court debt, at a relatively low cost to state and local budgets because these fees are nearly uncollectable.

The most egregious example of this is jail fees, which are assessed daily for a time in which the defendant is in jail and can not be working. The daily jail fees account for 11.4% of all assessed court costs but make up just 1% of all collections due to a dismal collection rate of 2.9%. Anecdotally, we have heard from stakeholders in the court system that the most extreme court bills typically include this fee.

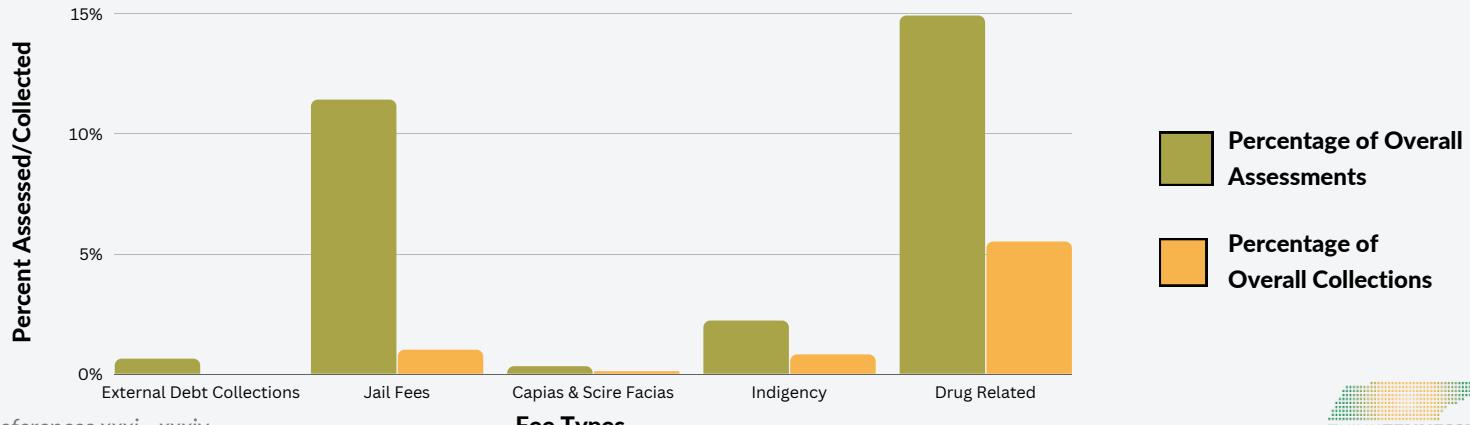
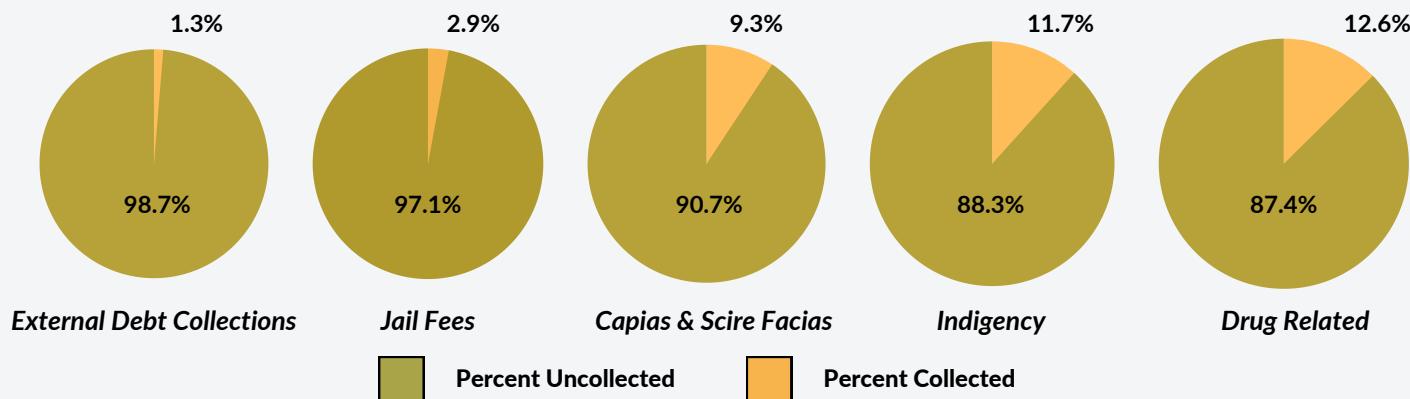
Assessed Costs vs. Collections:

Though courts can assess many various fees at the conclusion of a case, the **courts are not always able to collect these fees from defendants**. Putting aside the impact of payment plans on this measure, which is explained more in the methodology, the collection rate is the share of assessed costs for a fee that are actually collected from defendants.



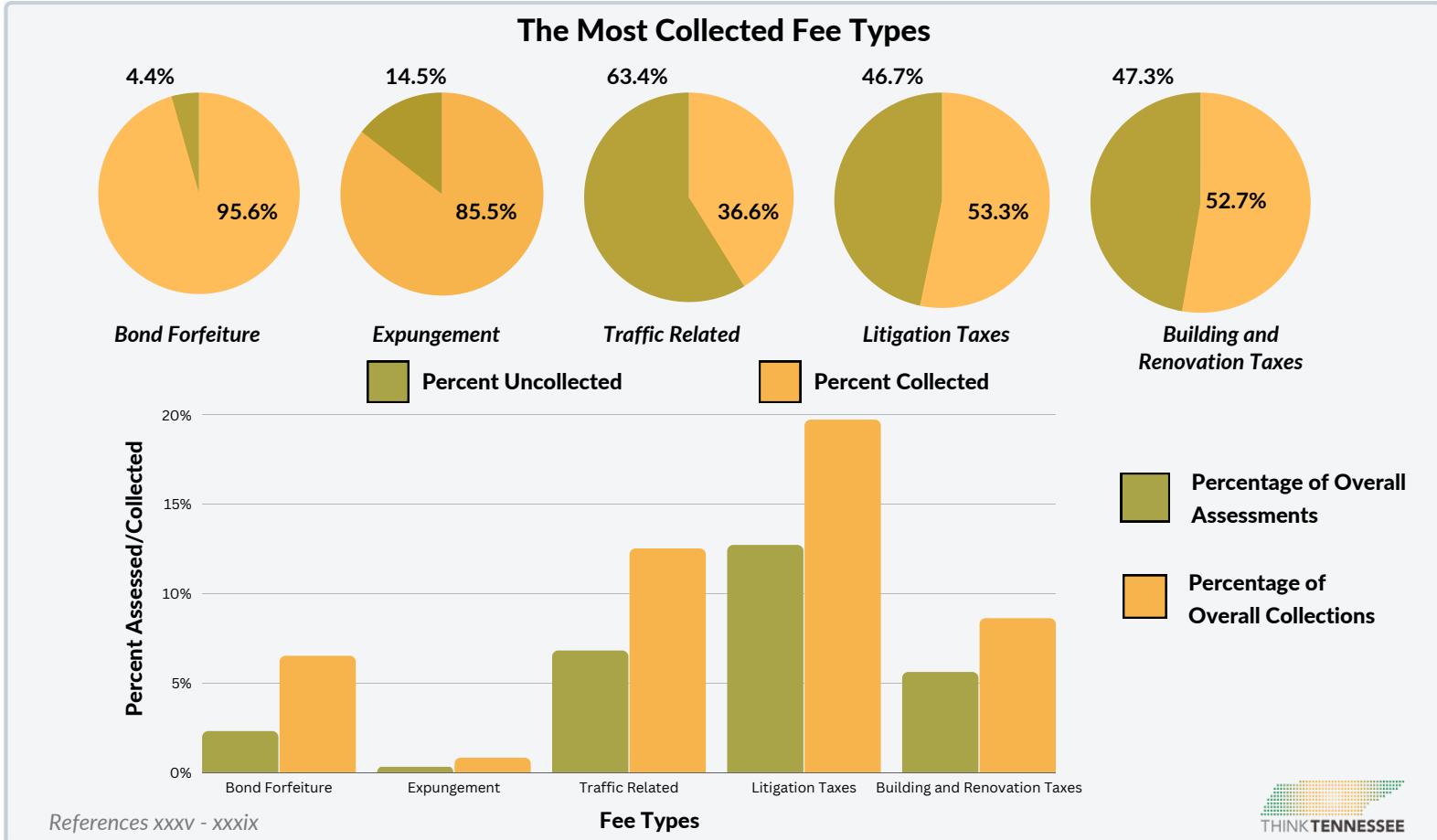
The list of fee types with the lowest collection rates includes not just the jail fee, but also other fees that may disproportionately impact lower-income defendants. This includes fees directly related to indigency, fees related to failure to appear and failure to pay (capias and scire facias), fees for external debt collections, as well as drug-related fees, which are potentially related to the cycle of addiction and poverty.(xxx)

The Least Collected Fee Types



References xxxi - xxxiv

The list of fees with the highest collection rates includes bond forfeitures (money paid to the court for a person's release from jail pending a trial is forfeited to the court if they miss their court date). Also included are fees that may be associated with higher-income defendants like traffic-related fees. Fees for expungement, or the erasure of a criminal record, likely appear because to be eligible for expungement all other court costs must already be paid. Finally, fees like litigation taxes appear because they are higher up in the order of payments and would be paid first on a payment plan.



Tennessee needs broad fee reform to create a more equitable justice system.

As the experience with payment plans shows, while incremental changes provide stepping stones in the right direction, in the case of court debt, an incremental approach is not providing enough relief to the Tennesseans that need it most. Tennessee policymakers could opt for a more comprehensive approach to policy reform, by ending our government's reliance on court fees to fund the courts. While we all benefit from adequate funding for our criminal justice system, doing so on the backs of those least able to bear it harms all of us by increasing recidivism and lowering economic mobility.

While this reform would not be budget-neutral from a government perspective, a 35% collection rate and the imperfect implementation of payment plans together suggest that assessed fines and fees vastly overstate the fiscal impact. Analysis of state and local budgets from The Sycamore Institute also shows that court costs are a relatively small share of state and local revenues.(xl)

Whether incremental or comprehensive, reforming Tennessee's system of court fines and fees provides an opportunity for policymakers to create a system that is both more equitable and more efficient.

METHODOLOGY: A NOTE ON THE DATA

We refer throughout to collection rates for simplicity of understanding; however, the data from the Tennessee Administrative Office of the Court's General Sessions Data Repository is not a perfect estimate of the collection rates. While it covers 86 of 95 counties in our state, it does not include data from the four largest counties (Davidson, Hamilton, Knox, and Shelby) or data from Anderson, Carter, Henderson, Marion, and Monroe counties. The nature of the data also means that payment plans are not perfectly included. To the extent that payment plans are highly utilized, this would bias downwards the collection rate estimate.

Nevertheless, it is the first set of Tennessee data that will allow consideration of how effective driver's license revocations are for collecting court costs. In fact, in our previous research, we found that implementation of the payment plan law was not complete, with Tennesseans having varying levels of access to payment plans depending on where they live.(xli) Likewise, evidence from the state litigation tax suggests limited usage or success of payment plans. The state litigation tax is the first tax collected when a defendant pays their court costs. This means that the payment on a payment plan would apply to the collection rate for the state litigation tax, while not being applied to other fees (this is how the overall rate can be biased downwards by high payment plan utilization). However, the state litigation tax has a collection rate of 54% compared to 35% overall. This limited increase in the collection rate for the state litigation tax leads us to believe that payment plans would not substantially impact our findings. Even if payment plans are highly utilized, this would be more likely to affect the overall level of collection rates, rather than rates of change which our arguments are more often focused on.

If data showed a different result in Tennessee's larger counties, their size would likely imply large aggregate impacts on our findings. However, this would also imply that counties need substantial administrative capacity to make driver's license revocations effective collections tools, which does not strike us as a point in their favor.

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- (xxxiii) Indigency refers to the following fees listed in the AOC data: Atty Fee – Private Indigent and Indigent Administrative Fee.
- (xxxiv) Drug Related refers to the following fees listed in the AOC data: DRUG FINE, Drug Recovery Program Fee, Drug Test Fee, TCADA Fee, Drug Court Treatment Fund, Alcohol/Drug Addiction T/F (DRUG), TBI Lab (Drug), and Drug Screening Fee.
- (xxxv) Bond Forfeiture refers to the following fees listed in the AOC data: Cash Bond, Bond Forfeiture – Felony, and Bond Forfeiture – Misdemeanor.
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