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FINES IN SENTENCING:

VOLUME II

WORKING PAPER #1

Report on American State Statutes
Relating to Fines in Criminal Cases

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One of the Fines Project's most important mandates from its major grantor, the National Institute of Justice, was to survey the nation's laws with regard to the use of fines in sentencing. This report presents the results of an extensive survey of American states' statutory provisions concerning fines in criminal cases.

I. Methods of Statute Review, Coding and Analysis

The statutes of all American states and the District of Columbia (here considered a state) were reviewed for relevant content by Fines Project legal research assistants (a law school graduate, two law students, a political science graduate student, and two paralegal researchers). Between late October and late December 1980, statutory information was gathered on forty-six states. Remaining states and all 1980 legislative session laws were reviewed early in 1981, bringing all information current through 1980.

An eight-page instrument (appended to this report) served to delimit and organize the collection of information into

specific topic areas related to fines: authority to impose fines; limitations on fine use; amounts of fines; fine collection procedures; authorized responses to default in fine payment; and fine revenue disposition. Frequent training sessions on review procedures and the use of the instrument were held for all staff involved in this work. Technical supervision was provided by the law graduate; quality control was maintained through monitoring by the Project Director (and frequently by the law graduate as well). One paralegal researcher's work was found to be unsatisfactory and was redone. While no formal estimate of reliability may be made for the statutory information gathered, it is believed by staff to be highly accurate, albeit not totally complete for some states.¹

A coding form was developed to reduce the collected statutory information to a standard format that would permit comparative analysis--to extract and reorganize the collected statutory information into those topics which the project's working group gave highest priority for study: use of fine

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While researchers became proficient at finding and recording relevant information in widely scattered titles and sections of state statutes (even in the absence of index references), this process undoubtedly missed some provisions that should have been included. It is not felt that additional resources would be well spent in tracking these omissions, however; most omissions are likely to be minor (especially if they are found in uncommon titles within state codes) and the purpose of the statutory review is to provide a broad survey of laws rather than to fill in all local details.

sentences; enforcement of fines; fining of poor and indigent offenders; fine collection and revenues; and authorized fine amounts. The coding form was pilot-tested and refined to capture the most meaningful statutory prescriptions and prohibitions in a summary fashion. (The final version of the form is appended to this report.) All coding was done by the Project Director. Each state was coded twice, with a coding reliability of approximately 90% between first and second coding. Discrepancies in coding were reconciled in favor of the second coding. Tabulations of statutory provisions were based upon the coded information.

II. Which Offenders May (and Should) be Fined?

The National Institute of Justice was particularly interested in "...the extent to which applicable laws in the country authorize the use of fines..." (Solicitation for Proposals: The Use of Fines in Sentencing). Based upon this survey, it can be concluded that legal authority to use fine sentences is fairly broad in this country. Authorized penalties were surveyed across the states for twenty-two specific offenses, twelve of the offenses of possible felony designation and/or penalties. Table 1 shows these offenses, and indicates the number of states in which a fine is an authorized penalty for each offense--either as a sole penalty or in combination with another penalty or penalties. (Actual fines authorized by each state for each offense are presented in the appendix of this report.) The misdemeanor type

Statutory Authority to Impose a
Fine for Specific Offenses

Offenses	Fine authorized as a sole penalty and in combination		Fine authorized only in combina- tion with other penalty(ies)		Fine not authorized	
	No. of States	% of States*	No. of States	% of States*	No. of States	% of States*
1. Murder (with intent)	4	7.8	9	17.6	38	74.5
2. Armed robbery	15	29.4	11	21.6	25	49.0
3. Rape (without serious physical injury)	18	35.3	8	15.7	25	49.0
4. Purse snatch	25	49.0	7	13.7	19	37.3
5. Burglary of residence	31	60.8	9	17.6	11	21.6
6. Embezzlement of funds	34	66.7	11	21.6	6	11.8
7. Automobile theft	38	74.5	9	17.6	11	7.8
8. Possession of heroin	38	74.5	8	15.7	5	9.8
9. Criminally negligent homicide	38	74.5	7	13.7	6	11.8
10. Pimping	40	78.4	6	11.8	5	9.8
11. Confidence swindle/theft by deception	41	80.4	6	11.8	4	7.8
12. Sale of marijuana (small amount)	42	82.4	5	9.8	4	7.8
13. Driving while intoxicated (2nd off.)	42	82.4	5	9.8	4	7.8
14. Carrying concealed unlicensed handgun	45	88.2	2	3.9	4	7.8
15. Criminal mischief	46	90.2	1	2.0	4	7.8
16. Driving while intoxicated (1st off.)	47	92.2	3	5.9	1	2.0
17. Petit Larceny	48	94.1	1	2.0	2	3.9
18. Prostitution	49	96.1	1	2.0	1	2.0
19. Simple battery	49	96.1	1	2.0	1	2.0
20. Reckless driving	49	100.0**	0	-	0	-
21. Criminal trespass	51	100.0	0	-	0	-
22. Disorderly conduct/breach of the peace	51	100.0	0	-	0	-

* Base for percents is 51 because Washington, D.C. is here considered a state.

** Not covered by statute in Mo. or Nev.

offenses are finable in almost all states, without the addition of another penalty.

Examination of the statutes unearths many archaic offenses, generally of a minor nature, for which state legislatures have authorized fine penalties. In Connecticut "owning a faro bank" or making a "false statement [if you are the] hirer of [a] horse" are still finable offenses as of 1980, as is "using fighting words" an offense in Georgia. Unusual offenses often reflect regional or local concerns: in Arkansas it is "unlawful for any person to sow or scatter Johnson grass on any property other than his own"; in Mississippi "disfiguring a levee" is to be punished with a fine between \$100 and \$200, or up to 30 days in jail. In Montana, minor criminal mischief may be punished with a fine up to \$500 or 6 months in jail, but if someone "harms or kills a domesticated hoofed animal", they may be sentenced to a state prison term for this variety of criminal mischief. In Oregon "it shall be unlawful for anyone to transport over the highways...more than 5 coniferous trees without having in his possession a bill of sale." In Virginia "no person shall label, stamp, pack...any ham...as a genuine Smithfield ham unless such ham be a genuine Smithfield ham" and those who do may be fined up to \$300. And, not surprisingly, in New Mexico "it is unlawful to barter...any article represented as hand-crafted by American Indian[s] unless the basic article be

handcraft wholly by American Indian labor or workmanship."

The majority of the states authorize fines for felony offenses as well. However, the use of a fine as the sole sentence for the more serious offenses in Table 1 is prohibited by many states. Table 2 shows these and other statutory restrictions on "fine-alone" sentences. In New Mexico, Ohio, Virginia, and Colorado, fines for felonies may only accompany imprisonment sentences--although presumably the imprisonment portion of the sentence could be suspended (N.M. STAT. ANN. §31-18-15(d); OHIO REV. CODE ANN. §2929.11; VA. CODE §18.2-10; COLO. REV. STAT. §16-11-101). In Illinois and Kentucky, a felony offender can be sentenced to a fine with probation or conditional discharge, as well as with imprisonment (ILL. ANN. STAT. §1005-5-3; KY. REV. STAT. §534.030). Statutory insistence that fines be imposed in connection with other penalties may be thought to have symbolic value--to demonstrate that the state's legislature has viewed an offense as serious--even though in practice the fine may be the only nonsuspended penalty. The insistence on combination sentences where continuing court supervision over the offender is possible may also derive from concerns about enforceability of fine sentences. This topic will be covered at length later in this report, but it is worth noting at this point that twenty-eight states permit the payment of a fine to be made a condition of a probation sentence, with revocation of probation a legal possibility in the event of nonpayment.²

². A discussion of fine enforcement, later in this report, cites these states.

Table 2

Statutory Restrictions on Fine-Along Sentences for
Felony Convictions

<u>Restricted categories</u>	<u>States Whose Statutes Restrict</u>
	<u>Number</u> <u>Percent*</u>
All felonies	6 11.8
Violent felonies	16 31.4
Felonies committed with gun	12 23.5
Habitual felony offenders	29 56.9
Felonies against elderly	1 2.0

* District of Columbia included as state; therefore, base for percents is 51.

Violent felonies (or those committed with a gun) are ³ not to be punished solely with a fine in twenty-one states. Even states which do not have these blanket provisions restricting fines as sole sentences for violent offenses may create the same effect through the penalties they prescribe for specific offenses--as opposed to categories of offenses. For example, Table 1 shows that the offense of armed robbery, surveyed in this research, could receive a "fine-alone" sentence in only fifteen out of the fifty-one states. Even for less serious felonies, recidivists in twenty-nine states are barred (as part of "habitual offender" laws added to many state's criminal procedure laws in recent years) from receiving fine-alone sentences. ⁴ And in New Mexico, those who

³
No fine-alone for violent offenses: ALASKA STAT. §12.55.1256; ARIZ. REV. STAT ANN. §13-603(d); COLO. REV. STAT. §16-11-309; CONN. GEN STAT. §53a-59,70a, 134; GA. CODE ANN. §27-2529; ILL. REV. STAT. §1005-5-3; IND. CODE ANN. §35-50-2(Burns); KAN. STAT. ANN. §21-4618; ME. REV. STAT. ANN. tit. 17A, §1301; MO. ANN. STAT. §560.011 (Vernon); NEB. REV. STAT. §28-106; N.M. STAT. ANN. §31-18-15; N.Y. PENAL LAW §60.05(McKinney); N.C. GEN. STAT. §15A-1340.6; OHIO REV. CODE ANN. §2929.11(Page); TEX. STAT. ANN. §12.32. No fine-alone for gun offenses: ALASKA STAT. §12.55.125(g); ARIZ. REV. STAT. ANN. §13-604(g); KAN. STAT. ANN. §21-4618; MASS. ANN. LAWS ch.269, §10(Michie/Law. Co-op); ME. REV. STAT. ANN. tit. 17A, §1252; MINN. STAT ANN. §609.11(West); MO. ANN. STAT. §571.015(Vernon); N.H. REV. STAT. ANN. §651.2; N.D. CENT. CODE §12.1-32-.02.1; N.M. STAT. ANN. §31-18-16; N.Y. PENAL LAW §265.02(McKinney); WASH. REV. CODE §9.41.025.

⁴
 ALA. CODE §13A-5-9; ALASKA STAT. §12.55.125(g); ARIZ. REV. ANN. §130604; COLO. REV. STAT. §16-13-101; CONN. GEN. STAT. §53a-40; DEL. CODE. ANN. tit. 11, §4214; GA. CODE ANN. §27-2511; HAWAII REV. STAT. §706.606.5; IDAHO CODE §19-2514; ILL. REV. STAT. §1005-5-3; IND. CODE ANN. §35-50-2-8; IOWA CODE §902.8; KY REV. STAT. §532.080; LA. REV. STAT. ANN. §15:529.1(West); MASS. ANN. LAWS ch. 279, §25(Michie/Law Co-op); MICH. STAT. ANN. §769.10; MISS CODE ANN. §99-19-81; MO. ANN. STAT. §571.015(Vernon); MONT. REV. CODE ANN. §46-18-501; NEB. REV. STAT. §29-2221; NEV. REV. STAT. §207.010; N.M. STAT. ANN. §31-18-16; N.Y. PENAL LAW §70.06(McKinney); OHIO REV. CODE ANN. §2929.11(Page); OKLA. STAT. ANN. tit. 21, § 51 (West); S.C. CODE §17-25-40; TENN. CODE ANN. §40-2801; TEX. STAT. ANN. §12.42,43; WASH. REV. CODE §9.92.090.

commit crimes against the elderly are also barred from receiving a fine as the sole penalty (N.M. STAT. ANN. §31-18-16.1). These restrictions suggest that many state legislatures do not consider the fine itself to be a suitably severe sentence for the more politically sensitive offenses and offenders.

Since only a few of the states' statutes make explicit reference to punishment and sentencing philosophy as it affects the use of fines, legislative intent must often be inferred from indirect evidence in the statutes. For example, seven states' statutes⁵ recommend fine sentences for crimes involving gain to the offender, so that the profits of the crime are erased. Ohio's statutes, for example, suggest fine sentences in organized crime cases [where the] "purpose of the offense was related to facilitating a criminal syndicate, or was committed for hire or gain." But many additional states express the same philosophy indirectly by authorizing the amount of a fine to be based on the gain derived from the crime (even if the fine is then higher than any fixed statutory maximum for that offense).⁶ In fourteen of these states, the

⁵
HAWAII REV. STAT. §706-641; KAN. STAT. ANN. §21-4607; MO. ANN. STAT. §560.026(3)(Vernon); N.J. STAT. ANN. §2C:44-2 (West); N.D. CENT. CODE §12.1-32-05; OHIO REV. CODE ANN. §2929.12(e)(Page); PA. STAT. ANN. tit. 18 § 1326 (Purdon).

⁶
A special hearing is usually authorized to determine the amount of gain realized.

fine may be set as high as double the gain realized and in Kansas up to the amount of the gain.⁷ In addition, Mississippi and Massachusetts allow fines for gambling offenses to be based on gains.⁸

Since crimes of gain are so often committed by corporations, it is not surprising that nine of the states also authorize fines higher than the alternative statutory maximums to be imposed on corporate defendants in criminal cases.⁹ At the extreme, corporate fines in the state of Alaska may be set at triple the gain derived from an offense.

In California and Florida, fines are to be imposed for violent crimes, but in these cases they are intended as extra punishments supplemental to imprisonment, and the revenue is to be deposited in crime victims compensation/indemnity funds (CAL. GOV'T CODE §13967; FLA. STAT. ANN. §775.0835 (West)).

⁷ ALA. CODE §13A-5-11; ARK. STAT. ANN. §41-1101; CONN. GEN. STAT. §53a-44; FLA. STAT. ANN. §775.083 (West); HAWAII REV. STAT. §706-640; IND. CODE ANN. §35-50-5-2 (Burns); KAN. STAT. ANN. §21-4503(3); KY. REV. STAT. §534.030; ME. REV. STAT. ANN. tit. 17A, §1301(1); MO. ANN. STAT. §560.011(1) (Vernon); N.H. REV. STAT. ANN. §651.2(IV)(c); N.J. STAT. ANN. §2C:43-3 (West); N.Y. PENAL LAW §80.00 (McKinney); OR. REV. STAT. §161.625; PA. STAT. ANN. tit. 18, §1101 (Purdon).

⁸ MASS. ANN. LAWS ch. 271, §1 (Michie/Law. Co-op); MISS. CODE ANN. §97-33-5.

⁹ ALASKA STAT. §12.55.035(c); ARIZ. REV. STAT. ANN. §13-804; ME. REV. STAT. ANN. tit. 17A, §1301(3); MO. ANN. STAT. §560.021(1); N.H. REV. STAT. ANN. §651.2(IV)(b); N.Y. PENAL LAW §80.10; N.D. CENT. CODE §12.1-32-01.1; OHIO REV. CODE ANN. §2929.31; OR. REV. STAT. §161.655.

As to other purposes fine sentences are supposed to serve, the statutes tend to be vague. Seven states mention "deterrence",¹⁰ six of the same states mention "correction" or a similar concept,¹¹ and two states suggest that fines be used where they will be "rehabilitative" (IOWA CODE ANN. §901.5 (West); N.D. CENT. CODE §12.1-32-05(d)). Three states' statutes mandate that fine sentences are not to be used unless the safety of the public is assured (IOWA CODE ANN. §901.5; KAN. STAT. ANN. §21-4607; OHIO REV. CODE ANN. 2929.12(a)), and statutes or annotations in Ohio, Illinois and Pennsylvania (OHIO REV. CODE ANN. §2929.12(a); ILL. ANN. STAT. §1005-9-1; PA. STAT. ANN. tit. 18, §1326) also caution against the use of fines unless there is some affirmative reason for the choice.

A frequent caveat about sentencing to a fine is that the fine obligation not prevent an offender from being able to afford monetary restitution for his victim, and nine states¹² have such a provision in their statutes. Arizona's and

¹⁰
HAWAII REV. STAT. §706-641; IOWA CODE ANN. §909.1 (West); KAN. STAT. ANN. §21-4607; MO. ANN. STAT. §560.026 (Vernon); N.J. STAT. ANN. §2C:44-2 (West); OHIO REV. CODE ANN. §2929.12; PA. STAT. ANN. tit.18, §1326 (Purdon).

¹¹
HAWAII REV. STAT. §706.651; KAN. STAT. ANN. §21-4706; MO. ANN. STAT. §560.026 (Vernon); N.J. STAT. ANN. §2C:44-2 (West); OHIO REV. CODE ANN. §2929.12; PA. STAT. ANN. tit. 18, §1326 (Purdon).

¹²
ARIZ. REV. STAT. ANN. §13-803; HAWAII REV. STAT. §706-641; ILL. ANN. STAT. §1005-9-1; KY. REV. STAT. §534.030; MO. ANN. STAT. §560.026; N.J. STAT. ANN. §2C:44-2; N.D. CENT. CODE §12.1-32-05; OHIO REV. CODE ANN. §2929.02; PA. STAT. ANN. tit. 18, §1326 (Purdon).

Washington's statutes explicitly authorize judges to order that all or part of a fine be paid as restitution to a victim of the crime (ARIZ. REV. STAT. ANN. §13-803; WASH. REV. CODE ANN. §9A.20.020). Model penal codes usually suggest the primacy of restitution (these will be covered in a future report) and to the extent that state statutes have been modified to accord with the model codes, actual laws are also likely to express a bias for restitution over fines. It is noteworthy that both Maine and Massachusetts have the opposite kind of provision--that restitution is to be considered secondary to a fine sentence. In Maine's language: "Restitution for victims is ancillary to central objectives of criminal law. It shall be applied only when other purposes of sentencing can be appropriately served" (ME. REV. STAT. ANN. tit. 7A, §1321). And Massachusetts prohibits the imposition of restitution in lieu of a fine (MASS. ANN. LAWS ch. 276, §92A (Michie/Law. Co-op)).

III. Authorized Fine Amounts, Other Monetary Penalties and Court Costs

Most states' statutes set dollar ceilings on fines for particular offenses and often for categories of offenses, such as violations, misdemeanors and felonies of various classes or degrees. (Delaware and North Carolina are exceptions in that there are many offenses for which the amount of fine is left to the discretion of the sentencing judge.) The ceilings are usually stated in rounded numbers, generally ending in "00" or "50". Minimum fines are rarely established, and judges have complete legal latitude to set the amount of a

fine anywhere below or at a statutory ceiling for an offense. For example, Arizona, the state authorizing the highest fines, provides a \$1,000 fine maximum for disorderly conduct, a \$150,000 fine maximum for auto theft, a \$172,500 fine maximum for sale or possession of a narcotic drug by an individual, and a million dollar fine ceiling for a felony committed by a corporation. By contrast, Vermont has fine maximums of \$500 for disorderly conduct, \$500 for auto theft, \$1,000 for possession of a large amount of narcotic drug, and no special provisions for corporate defendants. In part these differences may reflect the differing wealth of the states' residents and businesses, but it is probably more pertinent that Arizona has recently revised its criminal statutes, providing for higher fines more in keeping with the inflated cost of current living. However, it is noteworthy that even Vermont sets a relatively high fine ceiling for narcotics offenses; crimes about which the public has become alarmed often have the highest authorized fines because punitive laws relating to them have been added in recent years--for example, a defendant may be fined \$30,000 for a drug offense but only \$2,000 for burglary in Rhode Island. And in Florida, where fine ceilings tend to be low, felonies resulting in injury or death may be punished by fines up to \$10,000 (FLA. STAT. ANN. §775.0835 (West)).

To demonstrate interstate variability in fines permitted for a given crime, Table 3 shows the maximum fine authorized by each state for a hypothetical nonviolent felony offense--

the embezzlement of \$6,000 by an individual employee of a manufacturing firm.¹³ Embezzlement is clearly a crime of gain (assuming the embezzled sum was not recovered) for which many state statutes explicitly or implicitly encourage the use of large fine penalties. Yet six states do not authorize a fine for the offense at all, and four provide only a modest fine under \$1,000 (presumably to be imposed in conjunction with imprisonment). Thirteen additional states fail to allow a fine equal to the amount of gain from the offense. Perhaps many states combine a fine with restitution under these circumstances, but this would not be known from the statutes, except for Maryland (a low-fine state) where restitution is mandated for this type of offense (MD. ANN. CODE art. 17, §342). As already mentioned, the appendix to this report contains a set of tables which show authorized fine ceilings by state for each offense sampled. It can be seen from that appendix that statutory fine ceilings tend to escalate along with perceived seriousness of the offense, although this is by no means a clear correlation. Authorized fine ceilings tend to progress upward logically when a state has established fine ceilings for categories or classes of offenses, and to be more arbitrary and chaotic when this is not the case. And inconsistencies in ceilings are apparent where the penalties for offenses such as narcotic sales, rape and gun crimes have been

Table 3

Maximum Fines Authorizedfor Embezzlement of \$6000

<u>Maximum Fine</u>	<u>States Stipulating that Maximum</u>	<u>(Number of States)</u>
\$ 500	North Dakota, Vermont, West Virginia	(3)
600	Massachusetts	(1)
1,000	District of Columbia, Maryland, Mississippi, Oklahoma, Virginia, Wyoming	(6)
2,500	Ohio	(1)
3,000	Louisiana, Rhode Island	(2)
5,000	Iowa, Michigan, New Mexico, Texas	(4)
6,000	Kansas	(1)
10,000	Georgia, Illinois, Minnesota, Nevada, South Dakota, Utah, Wisconsin	(7)
12,000	Alabama, Arkansas, Connecticut, Florida, Hawaii, Indiana, Kansas, Kentucky, Maine, Missouri, New Hampshire, New York, Oregon, Pennsylvania	(13)
15,000		(1)
25,000	Nebraska	(1)
50,000	Alaska	(1)
100,000	New Jersey	(1)
150,000	Arizona	(1)
No fine authorized	California, Colorado, Idaho, Missouri, South Carolina, Tennessee	(6)
No statutory maximum	Delaware, North Carolina	(2)

Table 4
Fine Ceilings
by Extent of
Fine Authorization

Modal Fine Maximum for Offenses
 Surveyed*

	<u>Under \$1,000</u>	<u>\$1,000-\$5,000</u>	<u>Over \$5,000</u>
States that authorize fine-alone sentence for many offenses (at least 19 out of 22 offenses surveyed)	Florida Minnesota Utah Vermont	Alabama Arkansas Connecticut Iowa Kansas New Hampshire North Dakota Oregon Texas	Arizona Delaware Hawaii Nebraska New Jersey North Carolina Pennsylvania South Dakota Wisconsin
States that authorize fine-alone sentence for most offenses (15-18 out of 22 offenses surveyed)	Louisiana Massachusetts Mississippi Nevada Rhode Island West Virginia	Alaska District of Columbia Maine Michigan New York	Washington
States that authorize fine-alone sentence for some offenses (14 or fewer out of 22 offenses surveyed)	California Idaho Kentucky Maryland Montana New Mexico Ohio Oklahoma South Carolina Tennessee Wyoming	Colorado Georgia Illinois Indiana Missouri Virginia	

* Offenses surveyed: Murder w/intent; criminally negligent homicide; armed robbery; purse snatch; assault; carrying concealed unlicensed handgun; burglary; criminal trespass; auto theft; petit larceny; criminal mischief; confidence swindle; prostitution; pimping; disorderly conduct; reckless driving; driving while intoxicated; driving while intoxicated 2nd offense w/in 12 months; sale of marijuana; possession of heroin; rape; embezzlement.

NOTES. Delaware, North Carolina, and South Carolina had offenses for which the law stated no maximum or that the amount is discretionary. These offenses were recorded in the over \$5,000 category since the fines could be virtually unlimited.

District of Columbia and North Dakota had the same number of fine maximums under \$1,000 and \$1,000-\$5,000. Hawaii had the same number of fine maximums \$1,000-\$5,000 and over \$5,000. When there were ties, the state was recorded under the higher category.

raised by legislatures in response to public outcry.

As Table 4 shows, states which authorize fines for many felonies tend to set high dollar maximums for these fines. Clearly state legislatures have sometimes considered large fines (but not small ones) to be suitable substitutes for prison sentences, and to satisfy public demand for retribution for certain crimes.

A number of states allow monetary levies on convicted offenders, in addition to a fine or other sentence that is imposed. The most common of these levies is court costs, through which the offender is expected to compensate the system for the cost of processing his case. The statutes of thirty-one states ¹⁴ permit the levying of court costs. Courts have ruled that costs do not constitute part of the crime penalty. In fact, Massachusetts statutes state explicitly that while defendants may be ordered to pay "the reasonable and actual expenses of the prosecution", costs may not be imposed as penalty or part-penalty for a crime (MASS. ANN. LAWS ch. 280, §6 (Michie/Law. Co-op)).

However, costs are often hard to distinguish from fines, as in Georgia where "the court may, in its discretion, require

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ALA. CODE §15-18-62; ARK. STAT. ANN. §41-1104; COLO. REV. STAT. §16-11-501; FLA. STAT. ANN. §939.02(West); GA. CODE ANN. §27-2904; IND. CODE ANN. §35-50-1-3 (Burns); KAN. STAT. ANN. §22-3425; KY. REV. STAT. §23A 205,215; LA. CODE CRIM. PRO. ANN. art. 887 (West); ME. REV. STAT. ANN. tit. 15, §1702; MD. ANN. CODE art. 38, §1; MASS. ANN. LAWS ch. 280, §6 (Michie/Law. Co-op); MINN. STAT. §631.48; MISS. CODE ANN. §99-35-109; MO. ANN. STAT. §550.110 (Vernon); NEB. REV. STAT. §29-2207; NEV. REV. STAT. §176.091; N.C. GEN. STAT. §7A-304; N.D. CENT. CODE §12.1-32-02; OHIO REV. CODE ANN. §2947.23 (Page); OKLA. STAT. ANN. tit. 28, §101 (West); OR. REV. STAT. §161.665; R.I. GEN. LAWS §12-21-20; S.C. CODE §17-25-340; S.D. COMP. LAWS ANN. §23A §27-26; TENN. CODE ANN. §40-3325; TEXAS CODE ANN. §42.12; UTAH CODE ANN. tit. 77, §32a-1; VA. CODE §19.2-336; WASH. REV. CODE ANN. §10.01.160; WIS. STAT. § 973.06

the payment of a fine or costs or both as a condition
precedent to probation " (GA. CODE ANN. §27-2709(e)).¹⁵
And cost-like surcharges on fines are authorized by eleven
states. In Virginia, the court clerk may charge \$2.00 on
every fine for his expenses (VA. CODE §19.2-347). In Delaware,
surcharges starting at 10% (with no ceiling specified) may be
levied for a victims compensation fund and 5% for the same
purpose in Florida; and in Massachusetts, a 25% surcharge is
to be made for the state's general fund.¹⁶ In Wisconsin, a
12% surcharge supports law enforcement training and in Oregon
law enforcement training is to be supported through surcharges
up to \$25--based upon fine amounts.¹⁷ In Arizona, and Florida,¹⁸
surcharges of up to 15% or \$200 may be levied on those fined
for driving while intoxicated. The surcharges in Arizona are
to be used to support alcohol and drug programs and in Florida
to reward good drivers for clean records. In Mississippi \$5
extra is also to be collected from drunk drivers for alcohol
safety education.¹⁹ Connecticut, Virginia, Hawaii and Arkansas
authorize surcharges on certain motor vehicle fines, to be
credited to municipal police training in Connecticut, law

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The Georgia Supreme Court in Hunter v. Dean, 240 Ga. 214 (1977) upheld the constitutionality of this practice, although the U.S. Supreme Court declines to decide the issue.

16

DEL. CODE ANN. tit. 11, §9012; FLA. STAT. ANN. §960.25 (West); MASS. ANN. LAWS ch. 280, §6a (Michie/Law. Co-op).

17

OR. REV. STAT. §137.015; WIS. STAT. §165.87

18

ARIZ. REV. STAT. ANN. §36-142; FLA. STAT. ANN. §318.22 (West).

19

MISS. CODE ANN. §63-11-32.

enforcement in Virginia, driver education in Hawaii, and to a highway safety program in Arkansas.²⁰

The distinction between penalties and costs is even further blurred by recent additions to state statutes authorizing "penalty assessments" to be levied on convicted offenders in addition to any other penalty, whether or not they have been fined.²¹ Table 5 shows these penalties by state, amount and type of offense.

Table 5
Penalty Assessments Authorized
by State Statutes

<u>State</u>	<u>For Misdemeanor Convictions</u>		<u>For Felony Convictions</u>	
	<u>Non-Violent</u>	<u>Violent</u>	<u>Non-Violent</u>	<u>Violent</u>
California	\$ 5	-	\$10	-
Connecticut	15	\$15	20	\$20
Florida	10	10	10	10
Indiana	34*	34	34	34
New Jersey	25	25-\$10,000**	25	25-\$10,000
Virginia	-	15	15	15

* Only for class A misdemeanors.
**\$25 penalty for simple assault.

20

ARK. STAT. ANN. tit. 75, §1029.5; CONN. GEN. STAT. §51-56a(d); HAWAII REV. STAT. §286G-3; VA. CODE §214.1-200.2

21

CAL. GOV'T CODE §13967 (West); CONN. GEN. STAT. §54-215; FLA. STAT. ANN. §960.20 (West); IND. CODE ANN. §16-7-3.6-1 (Burns); N.J. STAT. ANN. §2C:43-3.1 (West); VA. CODE §19.2-368.18B.

In each case, the revenue from the assessment is to be used for the compensation of crime victims in the state, which is consistent with the stress on restitution found in recent statutory additions mentioned elsewhere in this report. Both Florida and New Jersey specify that this obligation is to be satisfied before any regular fines, surcharges, or restitution orders are credited with payment (FLA. STAT. ANN. §960.20 (West); N.J. REV. STAT. §2C:43-B.1).

IV. Collection and Disbursement of Fines

State laws frequently require those who collect fines to prepare written records on their collection (twenty-four states) and subject collectors to penalties for improper accounting or slow forwarding of fine payments (sixteen states).²³ Sheriffs are also occasionally subject to penalties for nonservice of warrants or writs prepared by the court for the collection of

22

ARIZ. REV. STAT. ANN. §28-1061; CAL GOV'T. CODE §68101; DEL. CODE ANN. tit. 21, §706; FLA. STAT. ANN. Traffic Courts Rule 6.100 (West); GA. CODE ANN. §24-3336; HAWAII REV. STAT. §706-643; IOWA CODE §602.55; KAN. STAT. ANN. §12-4510; KY. REV. STAT. §30A.120; MASS. ANN. LAWS ch. 280, §8(Michie/Law. Co-op); MISS. CODE ANN. §99-19-65; MO. ANN. STAT. §479.080 (Vernon); MONT. REV. CODE ANN. §61-12-701; NEB. REV. STAT. §14-227; N.J. REV. STAT. §39.5-44; N.M. STAT. ANN. §35-5-4; N.Y. JUDICIARY LAW §790(McKinney); OHIO REV. CODE ANN. §2931.10(Page); R.I. GEN. LAWS §31-43-5; S.D.COMP. LAWS ANN. tit. 16, §2-30; UTAH CODE ANN. tit. 77, §20-2; VA. CODE §19.2-345; W. VA. CODE §62-4-12; WYO. STAT §33-1-109.

23

ALA. CODE §32-5A-10; COLO. REV. STAT. §42-1-215; CONN. GEN. §51-56a; DEL. CODE ANN. tit. 21, §706; D.C. CODE ANN. §16-708; FLA. STAT. ANN. §839.24(West); GA. CODE ANN. §27-2724; ILL. REV. STAT. ch. 95 1/2, §2-120; IOWA CODE §321.491; KAN. STAT. ANN. §75-709; NEB. REV. STAT. §29-2702; NEV. REV. STAT. §204.040; N.J. REV. STAT. §39.5-45; OHIO REV. CODE ANN. §2931.09(Page); VA. CODE §19.2-352; WYO. STAT. §5-5-160.

24
fines (five states).

25
In fourteen states, probation officers and/or corrections staff are authorized to collect fines at the instruction of the court, and fine collection fees, usually for sheriffs, are authorized expenditures in eight states.

26
The statutes also prescribe who shall make use of fine monies collected. Figure 1 summarizes the uses to which fine revenues are to be put. Fines paid for violations of state laws are commonly to be deposited and absorbed into the state's general fund, and those for violation of local ordinances into the general fund of a locality. Localities, particularly cities and counties, also frequently share in the revenue from fines for offenses against state laws, making them the

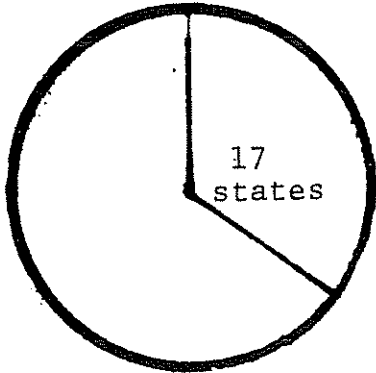
24
GA. CODE ANN. §24-819; ME. REV. STAT. ANN. tit. 15, §1981; MD. ANN. CODE art. 2, §308; MASS. ANN. LAWS ch. 280, §12 (Michie/Law. Co-op); N.Y. JUDICIARY LAW §794 (McKinney).

25
ALASKA STAT. §33.05.040; CAL. PENAL CODE §1205; DEL. CODE ANN. tit. 11, §4104; IND. CODE §11-13-1-3; LA. CODE CRIM. PRO. ANN. art. 885(West); ME. REV. STAT. ANN. tit. 17A, §1303; MD. ANN. CODE art. 38, §4; MASS. ANN. LAWS ch. 279, §1; NEB. REV. STAT. §29-2258; N.H. REV. STAT. ANN. §504.16; N.J. REV. STAT. §2C:46-1; TENN. CODE ANN. §40-3201; VT. STAT. ANN. tit. 28, §305; VA. CODE §53.151.

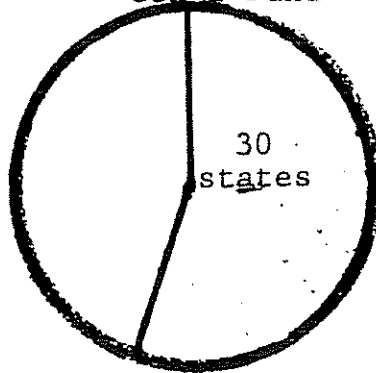
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FLA. STAT. ANN. §839.24(West); GA. CODE ANN. §24-2810a; MD. ANN. CODE art. 10, §36; MONT. REV. CODE ANN. §46-17-302; N.Y. JUDICIARY LAW §792(McKinney); TEX. STAT. ANN. §1106; VA. CODE §19.2-347; WASH. REV. CODE §36.19.040; WIS. STAT. ANN. §59.20(West).

27
ALA. CODE §12-19-152; ALASKA STAT. §22.15.250; CONN. GEN. STAT. §54-72; DEL. CODE ANN. tit. 11, §5915; D.C. CODE ANN. §16-707(West); HAWAII REV. STAT. §706-643; IDAHO CODE §19-4705; KAN. STAT. ANN. §20-2801; KY. REV. STAT. §431.100; ME. REV. STAT. ANN. tit. 4, §163,173; MASS. ANN. LAWS ch. 280, §2(Michie/Law.Co-op); NEV. REV. STAT. §176.265; R.I. GEN. LAWS §12-21-10; TENN. CODE ANN. §40-3206; VT. STAT. ANN. tit. 13, §7252; WASH. REV. CODE §10.82.070; WIS. STAT. ANN. §165.87(West).

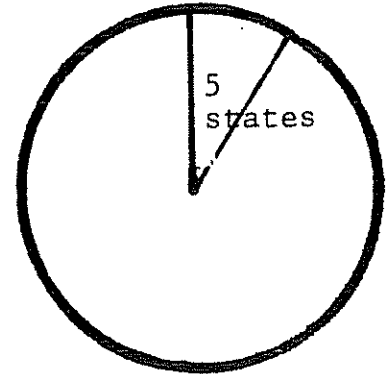
State Gen'l Fund



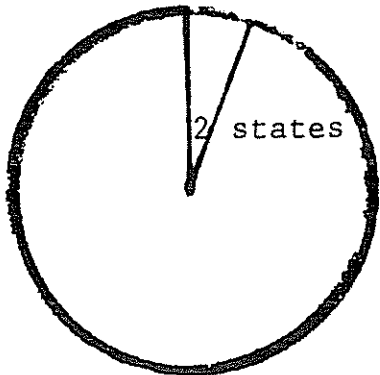
County and Local Gen'l Fund



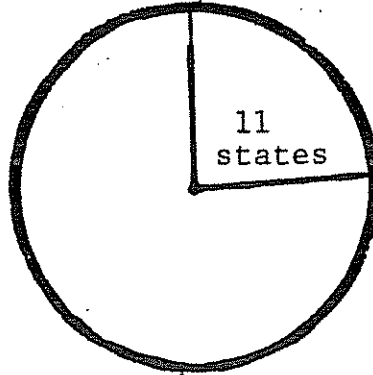
Law Enforcement



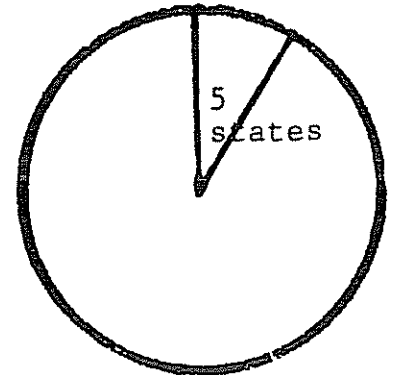
State Courts



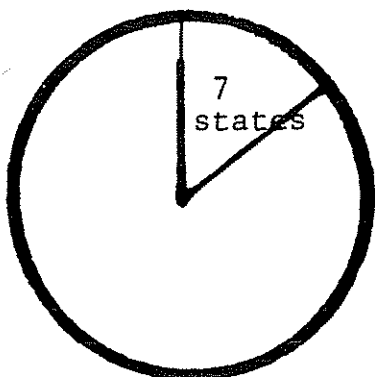
County and Local Courts



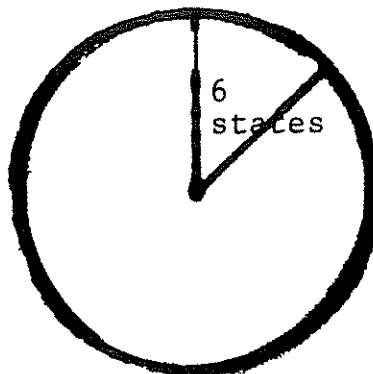
Prosecutors



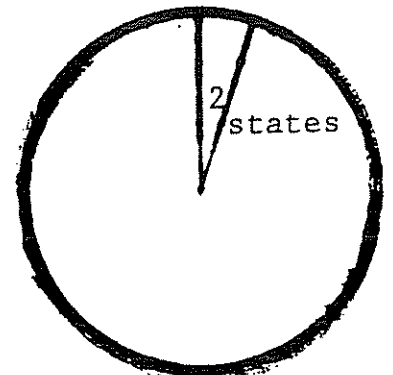
State Education



County and Local Education



Victim Compensation Funds

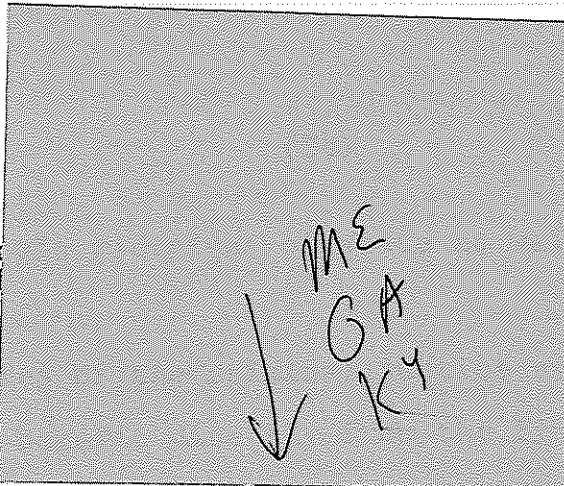


*District of Columbia included as state.

FIGURE 1. Disbursement of Nontraffic State Fine Revenues Authorized by U.S. State Statutes*

largest six
28
revenues.

Agenc
allowed to
2



1 as local fine

stem are sometimes

e revenue they

generate. Sometimes the courts are direct recipients, as in South Carolina where three quarters of all fines go to the counties, but one quarter goes "to the state for use in deferring the costs of the unified court system" (S.C. CODE §14-21-490; also see ME. REV. STAT. ANN. tit. 4, §163,173(West)). And in Georgia, statutes prescribe support of local courts through fine revenues: for example, "Justices of the Peace or other notary public or court officers who try misdemeanor cases can submit a bill for costs to be paid out of the fines and forfeitures fund of the county" (GA. CODE ANN. §27-2906). The reliance of courts, especially local courts, on fines revenue is demonstrated by a Kentucky statutory provision, enacted in 1976, returning equivalent state funds to counties and cities where

28

ALA. CODE §12-19-154; ALASKA STAT. §22.15.270; ARIZ. REV. STAT. ANN. §13-807(A); CAL. PENAL CODE §1463; DEL. CODE ANN. tit. 11, §5915; FLA. STAT. ANN. §34.191(West); GA. CODE ANN. §27-2904; IDAHO CODE §19-4705; ILL. REV. STAT. ch. 95 1/2, §2-120; IND. CODE §33-10.5-8-5; IOWA CODE §602.55; KAN. STAT. ANN. §19-101e; LA. REV. STAT. ANN. §51:571.11(West); MD. ANN. CODE art. 38, §2; MASS. ANN. LAWS ch.218, §47 (Michie/Law. Co-op); MICH. STAT. ANN. §600.4845; MINN. STAT. ANN. §574.34(West); MISS. CONST. art. 14, §261; MONT. REV. CODE ANN. §46-18-603; NEB. CONST. art. VII, §5; N.H. REV. STAT. ANN. §618.2; N.J. REV. STAT. §2C:46-4; OR. REV. STAT. §46.800; PA. CONS. STAT. tit. 19, §951 (Purdon); S.C. CODE §14-21-490; TENN. CODE ANN. §40-3206; TEX. STAT. ANN. §1006; UTAH CODE ANN. tit. 77, §18-3; WIS. STAT. ANN. §59.20 (West); WYO. STAT. §5-5-107.

29

Constitutional questions about the legality of such provisions are discussed as part of a separate report on case law relating to fines.

local revenue-generating courts had been discontinued (KY. REV. STAT. §24 A. 190-192).³⁰

In some states, such as Ohio and Maryland (OHIO REV. CODE ANN. §3375.51 (Page); MD. ANN. CODE art. 38, §5) the law libraries attached to courts are designated recipients of fine monies; even less directly, the courts may benefit from fine revenues applied to non-salaried judges' and court clerks' retirement funds, as in Georgia (GA. CODE ANN. §24-1716(a), 24-2739).

Prosecutors, as well as court personnel, are sometimes designated to receive reimbursement for expenses directly from fines. In Texas, for example, "the district or county attorney shall be entitled to 10% of all fines or forfeitures collected for the state or county, upon judgments recovered by him; the clerk of the court in which said judgements are rendered shall be entitled to 5% of the amount of said judgments, to be paid out of the amount when collected"³¹ (TEX. STAT. ANN. §1007).

Law enforcement agencies are also sometimes entitled to receive fine monies (as well as surcharges already discussed). For example in South Carolina: "Twenty five cents on each fine shall be paid over to the South Carolina Law Enforcement

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For local courts supported by fines, also see: FLA. STAT. ANN. §142.01 (West); LA. REV. STAT. ANN. §51:571.11 (West); MASS. ANN. LAWS ch. 280, §2 (Michie/Law. Co-op); MINN. STAT. ANN. §487.31 (West); MONT. REV. CODE ANN. §46-18-603; R.I. GEN. LAWS §12-21-12; TEX. STAT. ANN. §1007; WASH. REV. CODE §3.62.020.

31

Also see: ILL. REV. STAT. ch. 53, §19; LA. REV. STAT. ANN. §51:571.11 (West); VA. CODE §19.2-347, 351; W. VA. CODE §62-4-2.

Training Council which shall in turn transfer all funds so collected to the Law Enforcement Hall of Fame Committee, to defray the cost of erecting and maintaining the Hall of Fame. The council may retain any surplus for use in its training programs" (S.C. CODE §23-23-70).³²

State and local education are major recipients--often the only recipient--of fine monies in thirteen states, despite the lack of any particular connection between the source and the use.³³ In addition, victim compensation funds in two states--Florida and California--are authorized to receive fine monies as well as special penalty assessments from offenses involving victims (FLA. STAT. ANN. §775.0835 (West); CAL. GOV'T CODE §13967).

Fines from motor vehicle offenses are often disbursed differently. Seventeen states' statutes direct that all or a portion of these revenues be deposited in highway or road funds.³⁴ For example, in Texas: "Fines collected for

32

Also see: GA. CODE ANN. §24-2810a; LA. REV. STAT. ANN. §51:571.11 (West); MINN. STAT. ANN. §340.024 (West); R.I. GEN. LAWS §12-21-17,19.

33

State education support: IND. CONST. art. 8, §2; NEV. REV. STAT. §387.010; N.M. STAT. ANN. §31-12-1; N.D. CENT. CODE §29-27-.02.1; VA. CODE §19.2-353; W. VA. CODE § WIS. CONST. art. 10, §2.

Local education support: IOWA CODE §666.3; MO. CONST. art. 9, §7; NEB. CONST. art. VII, §5; OKLA. STAT. ANN. tit. 21, §141 (West); S.D. COMP. LAWS ANN. tit. 23A, §27-25; WYO. STAT. §5-5-107.

34

ARIZ. REV. STAT. ANN. §28-1031; COLO. REV. STAT. §42-1-215; GA. CODE ANN. §95A-1101; IDAHO CODE §19-4705(c); ILL. REV. STAT. ch. 95 1/2, §2-120; KY. REV. STAT. §431.105; ME. REV. STAT. ANN. tit. 29, §2302; MINN. STAT. ANN. §299D.03 (West); MONT. REV. CODE ANN. §61-12-703; NEB. CONST. art. VII, §5; N.J. REV. STAT. §39.5-41; N.Y. VEH. & TRAF. LAW §1803 (McKinney); OR. REV. STAT. §484.250; PA. STAT. ANN. tit. 75, §6505 (Purdon); TENN. CODE ANN. §55-10.304; TEX. STAT. ANN. §6701d; WASH. REV. CODE §47.08.030.

violation of any highway law shall be used by the municipality or counties in which they are collected for the construction and maintenance of roads, bridges, and culverts therein, and for the enforcement of the traffic laws regulating the use of the public highways by motor vehicles and motorcycles and to help defray the expense of county traffic officers" (TEX. CODE ANN. tit. 670ld, §144 (Vernon)).

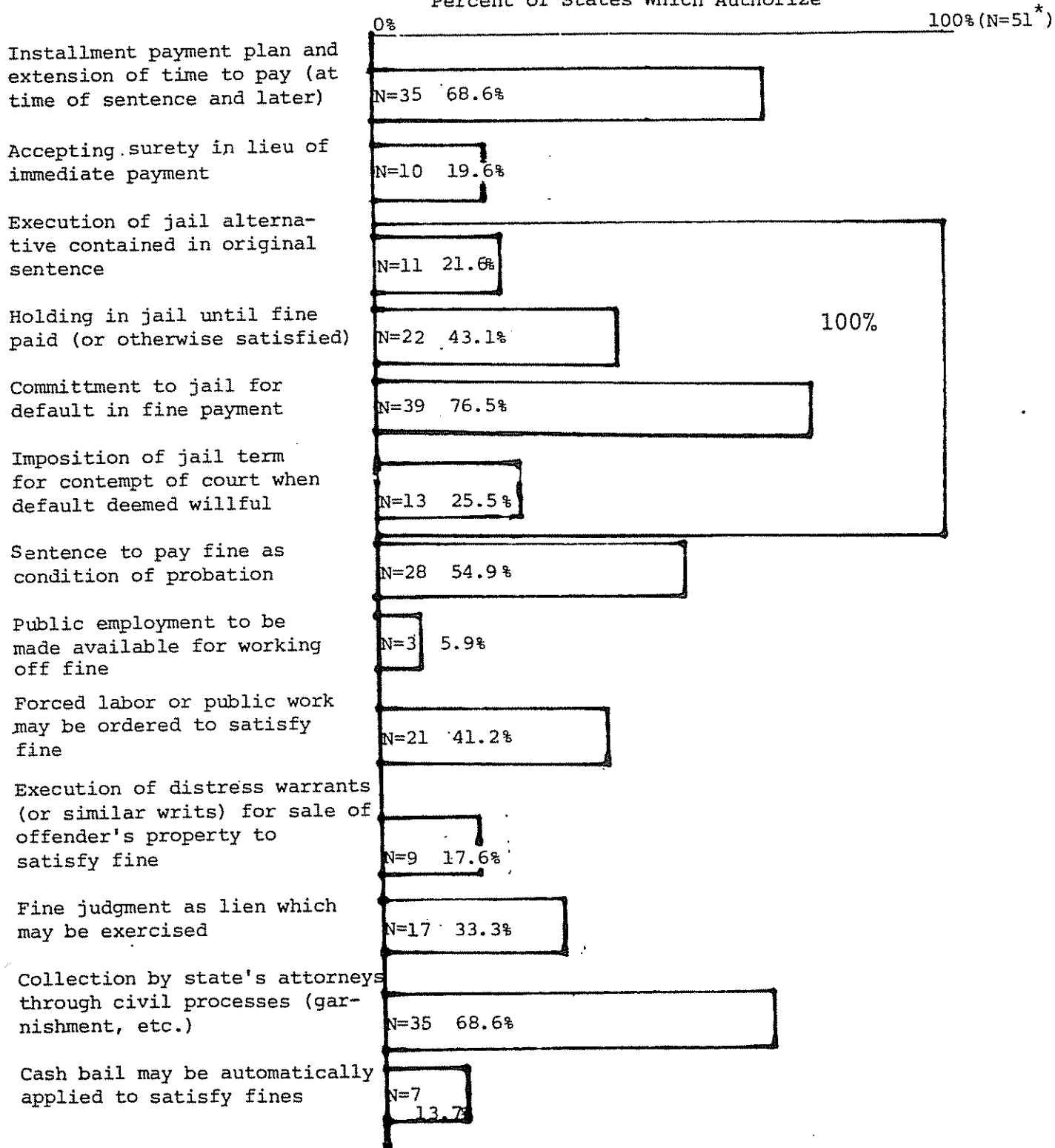
Likewise, fines for violations of fish and game laws are sometimes earmarked to cover expenses of enforcing these laws. In Maine, 100% of these fines are so dedicated (ME. REV. STAT. ANN. tit. 12, §7910), and in Kentucky and Minnesota, 60% and 50% respectively (KY. REV. STAT. §30A. 190; MINN. STAT ANN. §97.49 (West)).

V. Enforcement of Fines Payments

Statutes contain many provisions relating to the enforcement of fines, reflecting apparent legislative intent to give "teeth" to such sentences. Figure 2 summarizes the ways in which state lawmakers have attempted to foster or compel payment of fines in criminal cases.

Almost three quarters of the states explicitly authorize installment payment plans, deferrals, and extensions of time to pay. These are usually authorized in a single provision, such as: "When a defendant is sentenced to pay a fine or costs or ordered to make restitution...the court may order payment forthwith or within a specified period of time or in specified

Number and
Percent of States Which Authorize



* District of Columbia included as state; therefore base for percents is 51.

FIGURE 2. Methods Authorized by U.S. State Statutes to Foster or Compel Payment of Fines in Criminal Cases

installments" (OR. REV. STAT. §161.675(1)).³⁵ Many such provisions were added after major U.S. Supreme Court decisions in 1970 and 1971 limited the circumstances under which indigents could be imprisoned for nonpayment of fines, and suggested installment payment plans to foster collection of fines from defendants with limited resources.³⁶ (A separate report of this project discusses constitutional issues and cases dealing with fines--especially concerning enforcement of fine payment.)

Some statutes such as Georgia's are somewhat hesitant about extending time for payment--stating that fines are to be paid immediately "or within such reasonable time as the court may grant" (GA. CODE ANN. §27-2901). And Delaware attempts to vest responsibility for collection of installments by saying that..."the court shall retain jurisdiction over the convicted person until any fine imposed shall have been paid in full" (DEL. CODE ANN. tit. 11, §4104). It is also interesting that

35

Also see: ALASKA STAT. §12-55-035(d); ARIZ. REV. STAT. ANN. CRIM. PROC. RULE 26-12; ARK. STAT. ANN. §41-1102; CAL. PENAL CODE §1205; DEL. CODE ANN. tit. 11, §4205; FLA. STAT. ANN. §775.083 (West); GA. CODE ANN. §27-2901; HAWAII REV. STAT. §706-642; ILL. REV. STAT. §1005-9-1; IND. CODE §35-1-44-8; IOWA CODE §909.3; KAN. STAT. ANN. §21-4603; KY. REV. STAT. §534.020; ME. REV. STAT. ANN. tit. 17A, §1303; MD. ANN. CODE art. 38, §4; MASS. GEN. LAWS ANN. ch. 279, §1 (West); MICH. STAT. ANN. §600:6201; MISS. CODE ANN. §99-37-5; MO. ANN. STAT. §560.026 (Vernon); NEB. REV. STAT. §29-2206; NEV. REV. STAT. §176.085; N.J. REV. STAT. §2C:46-1; N.M. STAT. ANN. §31-12-3; N.Y. CRIM. PROC. LAW §420.10 (McKinney); N.C. GEN. STAT. §15A-1362; N.D. CENT. CODE §12.1-32-05; PA. STAT. ANN. tit. 19, §1082 (Purdon); S.C. CODE §17-25-350; TENN. CODE ANN. §40-3201; TEX. STAT. ANN. §42.15; VA. CODE §19.2-354; WASH. REV. CODE §9.92.070; WIS. STAT. ANN. §973.05 (West); WYO. STAT. §7-13-305.

36

Williams v. Illinois, 399 U.S. 235 (1970); Morris v. Schoonfield, 399 U.S. 508 (1970) (per curiam); Tate v. Short, 401 U.S. 395 (1971).

the Virginia legislature has felt the need to require surety from those paying their fines on an installment basis--in this case a promise to keep the peace and be of "good behavior", rather than the posting of a money bond (VA. CODE §19.2-357).

Even without a judge's permission for deferred or installment payments, extra time may be secured in several states by offering surety for payment. In Nebraska, "One convicted of a criminal offense may replevy the judgment for fine and costs, or costs only, by entering into a recognizance along with one or more "good and sufficient freeholders" for the payment of the amount within five months. This creates a lien on the realty of those who entered into the recognizance, and upon breach (nonpayment within 5 months), execution shall be issued against their "goods and chattels, lands and tenements, as if it had been a judgment" (NEB. REV. STAT. §29-2409). In Tennessee, "One or more persons may become security for the fine and costs by oral undertaking before the justice of the peace, or by written direction to the justice, and an entry of judgment based thereon" (TENN. CODE ANN. §410-411). And in Washington, stays of thirty or sixty days may be had by "procuring...sureties" (WASH. REV. CODE §10.04.120, 10.82.020).

The posting of a money bond is permitted in lieu of immediate fine payment in six states. For example, Kentucky's statutes specify that the court is to accept a bond "with good surety" to defer fine payment up to 3 months, even if no deferred or installment payment plan has been offered by the

judge (KY. REV. STAT. §426.450).³⁷ And in Iowa, "approved types of credit cards" may be accepted for payment of traffic fines (IOWA CODE §805-14).

Yet despite movement toward more lenient treatment of those who have difficulty paying fines, each state still allows jailing of defendants who owe fines to the state. Some states use straightforward provisions which authorize jailing of any nonindigent defendant--either until he pays his fine, after³⁸ he has failed to pay his fine, or under both conditions.

37

Also see: DEL. CODE ANN. tit. 11, §4104; FLA. STAT. ANN. §921.15; ME. REV. STAT. ANN. tit. 15, §1983,2032; N.C. GEN. STAT. §6-47; W. VA. CODE §62-4-9.

38

Jailing until payment made: CAL. PENAL CODE §1205; COLO. REV. STAT. §16-11-502; GA. CODE ANN. §27-2804; IDAHO CODE §19-2517; IOWA CODE §789.17; KAN. STAT. ANN. §22-3425; MASS. GEN. LAWS ANN. ch. 279, §10 (West); MICH. STAT. ANN. §769.5; MINN. STAT. §574.35; MISS. CODE ANN. §99-19-20; MONT. REV. CODES ANN. §46-19-102; NEB. REV. STAT. §29-2206; NEV. REV. STAT. §176.075; N.H. REV. STAT. ANN. §618.6; N.M. STAT. ANN. §35-15-3; OHIO REV. CODE ANN. §2947.14; OR. REV. STAT. §137.320; S.D. COMP. LAWS ANN. tit. 23A, §27-22; TENN. CODE ANN. §40-410; UTAH CODE ANN. tit. 77, §18-6; WASH. REV. CODE §10.70.010; WYO. STAT. §7-16-127.

Jailing upon default: ALA. CODE §15-18-62; ALASKA STAT. §12.55.051; ARK. STAT. ANN. §41-1103; CAL. PENAL CODE §1205; COLO. REV. STAT. §16-11-502; CONN. GEN. STAT. §18-63; D.C. CODE ANN. §16-706; FLA. STAT. ANN. §951.16; GA. CODE ANN. §69-205; HAWAII REV. STAT. §706-644; ILL. REV. STAT. §1005-9-3; IND. CODE §35-1-44-8; KY. REV. STAT. §534.060; LA. CODE CRIM. PROC. ANN. §884; ME. REV. STAT. ANN. tit. 17A, §1304(1); MD. ANN. CODE art. 38, §4; MASS. GEN. LAWS ANN. ch. 279, §1 (West); MICH. STAT. ANN. §600.4815; MINN. STAT. §641.07; MISS. CODE ANN. §99-37-3; MO. ANN. STAT. §560.031; NEB. REV. STAT. §29-2206; N.H. REV. STAT. §618.9; N.J. REV. STAT. §2C:46-2; N.M. STAT. ANN. §31-12-3; N.Y. CRIM. PROC. LAW §420.10; N.C. GEN. STAT. §6-48; N.D. CENT. CODE §12.1-32-05; OHIO REV. CODE ANN. §2947.20; OKLA. STAT. tit. 22, §983; PA. STAT. ANN. tit. 18, §1372(Purdon); R.I. GEN. LAWS §12-21-9; S.C. CODE §17-25-340; TENN. CODE ANN. §40-3204; TEX. STAT. ANN. §43.03; VT. STAT. ANN. tit. 13, §7223; W.VA. CODE §62-4-9; WIS. STAT §973.07; WYO. STAT. §7-16-132.

Other statutes provide indirectly for jailing by allowing apparently willful default to be treated as contempt of court with a jail penalty for contempt.³⁹ And still other states permit jail time to be made a suspended alternative to a fine at the time of sentencing--the famous "dollars or days"⁴⁰ sentences so common in American court history. If the fine is not paid under this latter type of sentencing, the fine sentence may be converted into a jail sentence of the length originally specified. In keeping with the American Bar Association's model criminal code,⁴¹ several states have prohibited this device for enforcement and instruct judges to consider no alternative sentences until a default in fine payment has actually occurred.⁴² Or a state may prescribe that a hearing be held on the defaulter's motives for nonpayment, before any resentence to jail is decided. For example, Oklahoma statutes say: "A sentence to

39

ARIZ. REV. STAT. ANN. §13-806(A); DEL. CODE ANN. tit. 11, §4105; ILL. REV. STAT. §1005-9-3; IOWA CODE §762.32; MICH. STAT. ANN. §600.1701; MISS. CODE ANN. §99-37-3; NEB. REV. STAT. §29-2206; OR. REV. STAT. §161.685; PA. STAT. ANN. tit. 18, §1372 (Purdon); S.C. CODE §17-25-350; UTAH CODE ANN. tit. 76, §3-201.1; VA. CODE §19.2-358; WASH. REV. CODE §10.01.180.

40

ALASKA STAT. §12.55.015; CONN. GEN. STAT. §53a-24,28; MASS. GEN. LAWS. ANN. ch. 279, §10 (West); MICH. STAT. ANN. §769.3; MISS. CODE ANN. §47-7-35; N.H. REV. STAT. ANN. §618.8; N.Y. CRIM. PROC. LAW §420.10 (McKinney); N.C. GEN. STAT. §15A-1331; OR. REV. STAT. §161.675; PA. STAT. ANN. tit. 18, §1358 (Purdon); UTAH CODE ANN. tit. 77, §18-8.

41

ABA Advisory Committee on Sentencing and Review: Standards Relating to Sentencing Alternatives and Procedures (1978).

42

ARK. STAT. ANN. §41-1102(3); MO. ANN. STAT. §560.026; N.J. REV. STAT. §2C:44-2; N.D. CENT. CODE §12.1-32-05; PA. STAT. ANN. tit. 18, §1372 (Purdon).

pay a fine cannot be automatically turned into a jail term without a court hearing and a court decision that defendant refuses or neglects to pay the fine" (OKLA. STAT. ANN. tit. 22, §983 (West)). Colorado, in keeping with the U.S. Supreme Court's decision in *Tate v. Short*, limits jailing through a statutory provision which bars jailing for default where the substantive offense does not carry a possible jail penalty (COLO. REV. STAT. §16-11-502).

In most states, statutes provide that spending time in jail for default on a fine discharges the fine payment obligation. Many states stipulate an "exchange rate" of number of dollars of a fine which are considered excused for each day spent in jail for default. ⁴³ Table 6 shows the wide variation among the thirty-one states which have established such exchange rates. While several have fixed rates of five dollars credit toward fine payment per day of confinement (so that an offender would spend ten days in jail to pay off a

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See: ALA. CODE §15-18-62; ALASKA STAT. §12.55.051; ARIZ. REV. STAT. ANN. §13-145(B); ARK. STAT. ANN. §41-1103; CONN. GEN. STAT. §18-50; HAWAII REV. STAT. §706-644; IDAHO CODE §19-2517; ILL. REV. STAT. ch. 38, §1-7; IND. CODE §35-1-44-8; IOWA CODE §789.17; ME. REV. STAT. ANN. tit. 17A, §1304(1); MD. ANN. CODE art. 38, §4; MASS. GEN. LAWS ch. 127, §144 (Michie/Law. Co-op); MISS. CODE ANN. §99-19-20; MO. ANN. STAT. §543.270 (Vernon); MONT. REV. CODE ANN. §46-19-102; NEB. REV. STAT. §29-2412; NEV. REV. STAT. §176.075; N.H. REV. STAT. ANN. §618.0; N.M. STAT. ANN. §33-3-11; OHIO REV. CODE ANN. §2947.20 (Page); OKLA. STAT. tit. 28, §101 (West); OR. REV. STAT. §161.685; R.I. GEN. LAWS §11-25-15; TENN. CODE ANN. §40-3204; TEX. STAT ANN. §43.09; UTAH. CODE ANN. tit. 77, §18-6; VT. STAT. ANN. tit. 13, §7221; WASH. REV. CODE §10.01.180; WYO. STAT. §6-1-108.

Table 6

Statutory Provisions for

Satisfying Fines Through

Serving Jail Time and Performing Labor

States Having:

<u>Dollar Value of Days</u>	<u>Fixed credit toward fine payment per day of confinement</u>	<u>Minimum credit toward fine payment per day of confinement</u>	<u>Fixed credit toward fine payment per day of labor</u>
Under \$1.00	-	-	Florida
\$ 1.00	Vermont; Wyoming	-	-
1.50	-	-	Iowa
2.00	-	Alabama; Utah	Alabama; Kentucky; West Virginia,
3.00	Massachusetts	-	Minnesota
3.33	-	Iowa	-
4.00	-	Nevada	-
5.00	Illinois; Indiana; New Hampshire; Oklahoma; Rhode Island; Texas	Hawaii; Idaho; Maine; Tennessee	Kansas; New Mexico; Oregon; Tennessee; Texas
10.00	Connecticut; Missouri; Montana; Ohio	Arizona; Arkansas; Maryland; Mississippi; New Jersey	Arizona; North Dakota; Washington
20.00	-	Oregon; Washington	Connecticut
25.00	Nebraska	-	-
30.00	-	-	Delaware
50.00	-	Alaska	-

fifty dollar fine), other states set twenty-five and fifty dollar minimum credits per day, below which judges may not stray in setting a term of jail for fine default.

Whether or not a state has set an exchange rate between fines and jailing, it often places an absolute limit on the jail term that an offender may be required to serve for default on a fine.⁴⁴ Table 7 shows statutory maximum incarceration periods for failing to pay fines levied as punishment for misdemeanor and felony offenses. The modal limits on default jailing for felony offenses are six and twelve months; for misdemeanors, some of the state legislatures have clearly opted for shorter confinement, with the modes at one, three and six months. And, clearly in keeping with the U.S. Supreme Court's decision in Williams v. Illinois,⁴⁵ eleven states have provisions that no one shall serve longer for default

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ARIZ. REV. STAT. ANN. §13-806(C); ARK. STAT. ANN. §41-1103; CAL. PENAL CODE §19A; COLO. REV. STAT. §16-11-502; DEL. CODE ANN. tit. 11, §4105(d); D.C. CODE ANN. §16-706; ILL. REV. STAT. §1005-9-3(b); IOWA CODE §665.4; KY. REV. STAT. §534.060; LA. CODE CRIM. PROC. ANN. §884 (West); MO. ANN. STAT. §560.031 (Vernon); N.M. STAT. ANN. §33-2-40; N.Y. CRIM. PROC. LAW §420.10 (McKinney); N.C. GEN. STAT. §15A-1364; N.D. CENT. CODE §12.1-32-05; OHIO REV. CODE ANN. §2947.14 (Page); OR. REV. STAT. §161.685; PA. STAT. ANN. tit. 18, §1372 (Purdon); TENN. CODE ANN. §40-3204; VT. STAT. ANN. tit. 13, §7223; VA. CODE §19.2-358; WASH. REV. CODE §10.01.180; W. VA. CODE §62-4-10; WIS. STAT. ANN. §973.07 (West).

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Supra, note 35.

Table 7
Statutory Maximum Confinement
for Default in Fine Payment

<u>Statutory Maximum</u>	<u>For felony offenses</u>	<u>For misdemeanor offenses</u>
1 month	2	9
2 months	2	2
3 months	2	7
6 months	11	8
12 months	8	1
	<u>25</u>	<u>27</u>

than the statutory maximum jail or prison term for the substantive offense involved in the case.⁴⁶

Eight states allow time spent in jail during pre-trial detention to discharge a fine payment obligation.⁴⁷ And three states allow time being served in jail or prison for a separate offense to be applied to the satisfaction of a fine. (DEL. CODE ANN. tit. 11, §4105; N.Y. CRIM. PROC LAW §430.20 (McKinney); OKLA STAT. tit. 57, §20 (West)).

In over half of the states, offenders paying off fines may be sentenced to do so under probation supervision, with fine payment as a condition of satisfactory probation completion. Under these conditions, the threat and commencement of probation revocation proceedings serve to enforce fine payments, although statutory provisions rarely specify that probation may be revoked and the offender therefore jailed for failure to pay a fine. One state, Indiana, makes a point of limiting the conditions under which probation can be revoked for nonpayment: "Probation may not be revoked for failure to comply with conditions of a sentence that imposes

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CA. PENAL CODE §1205; COLO. REV. STAT. §16-11-502; MD. ANN. CODE art. 38, §4; MISS. CODE ANN. §99-19-20; NEB. REV. STAT. §29-2412; NEV. REV. STAT. §176.065; N.Y. CRIM. PROC. LAW §420.10 (McKinney); PA. STAT. ANN. tit. 18, §1372 (Purdon); S.D. COMP. LAWS ANN. tit. 23A, §27-22; TENN. CODE ANN. §40-3204; TEX. STAT. ANN. §43.03.

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CONN. GEN. STAT. §18-97; ILL. REV. STAT. ch. , §1-2-12; IND. CODE ANN. §35-50-5A-1; IOWA CODE §813.2; KY. REV. STAT. §431.150; MD. RULES OF PROC. 772(f); MONT. REV. CODE ANN. §46-18-403; OR. REV. STAT. §137.320.

financial obligations on the person unless the person recklessly, knowingly, or intentionally fails to pay" (IND. CODE ANN. §35-7-2-2(e) (Burns)).⁴⁸

Public (or public-benefit) employment and prison labor are ways in which twenty-three state legislatures have suggested that fine obligations be satisfied. Such work may be offered to assist jailed offenders to work off their fines quickly, but it is more common for statutes to prescribe that work be ordered rather than offered. An apparently humane version of "forced labor" is authorized by Kansas statutes in what they term a "system of day fines." In Kansas, a condition of probation or suspended sentence may be that community service be performed to work off a fine, costs or restitution (KAN. STAT. ANN. §21-4610). And in Minnesota "prisoners shall be protected from insult and annoyance while at labor by officer in charge of them" (MINN. STAT. ANN. §641.07). Less enlightened language is found in the statutes of the state of Washington, where if an offender defaults in payment of a fine to a municipality "such person may be compelled on each day...except Sundays, to perform eight hours labor upon

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States allowing fine payment to be condition of probation:

ALA. CODE §15-18-8; ALASKA STAT. §12.55.100;
 ARIZ. REV. STAT. ANN. §13-805(b); CAL. PENAL CODE §1203.1;
 DEL. CODE ANN. tit. 11, §4204; FLA. STAT. ANN. §948.011 (West);
 GA. CODE ANN. §27-2529; HAWAII REV. STAT. §706-642; ILL. REV.
 STAT. §1005-9-1; KAN. STAT. ANN. §21-4610; ME. REV. STAT. ANN.
 tit. 17A, §1303; MD. ANN. CODE art. 38, §4; MASS. GEN. LAWS ch.
 279, §1 (Michie/Law. Co-op); MICH. STAT. ANN. §769.3; NEB. REV.
 STAT. §29-2219; N.J. REV. STAT. §2C:46-1; N.Y. CRIM. PROC. LAW
 §420.10 (McKinney); N.C. GEN. STAT. §15A-1343; OR. REV. STAT.
 §161.675; PA. STAT. ANN. tit. 18, §1354 (Purdon); TENN. CODE ANN.
 §40-3201; TEX. STAT. ANN. §42.13; VT. STAT. ANN. tit. 28, §304;
 VA. CODE §19.2-356; WIS. STAT. ANN. §973.05; WYO. STAT. §7-13-305.

the streets, public buildings and grounds of such city and to wear an ordinary ball and chain while performing such labor" (WASH. REV. CODE ANN. §9.92.130).⁴⁹ As shown in Table 7, a number of states set a fixed rate at which such labor works off a fine,⁵⁰ most commonly at five or ten dollars per day. Other states do not set a rate, such as Wyoming where males who are jailed for default in fine payment may be put to work, with their rate depending on the "willingness, industry and good conduct of the prisoner" (WYO. STAT. §7-11-517). Sometimes it is not merely that credit toward fine payment is authorized for days worked, but rather that actual earnings from work are to be diverted to pay fines to the court. An example of diverting the earnings of prisoners to payment of their fines is a statute passed by the Virginia legislature in 1980: any wages earned by inmates in work release programs may be diverted (by court order) to the administrator of the program who will pay out, inter alia,

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Prison work opportunities to be made available: N.H. REV. STAT. ANN. §619.21; TENN. CODE ANN. §41-1107; WASH. REV. CODE §10.82.040; WIS. STAT ANN. §

Work may be ordered: ALA. CODE §15-18-63; ARIZ. REV. STAT. ANN. §31-145(C); DEL. CODE ANN. tit. 11, §4105; D.C. CODE ANN. §22-109; GA. CODE ANN. §69-205; IOWA CODE §356.16; KY. REV. STAT. §534.060; MASS. GEN. LAWS ch. 279, §7 (Michie/Law. Co-op); MISS. CODE ANN. §99-19-20; NEB. REV. STAT. §29-2405; N.M. STAT. ANN. §35-15-3; N.D. CENT. CODE §40-18-12; OHIO REV. CODE ANN. §2947.15 (Page); OR. REV. STAT. §221.923; TENN. CODE ANN. §41-1222; TEX. STAT. ANN. §43.09; W. VA. CODE §62-4-10; WYO. STAT. §7-11-517.

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ALA. CODE §15-18-63; ARIZ. REV. STAT. ANN. §13-145(A); CONN. GEN. STAT. §18-50; DEL. CODE ANN. tit. 11, §4105; FLA. STAT. ANN. §951.15 (West); IOWA CODE §356.22; KAN. STAT. ANN. §22-4603; KY. REV. STAT. §441.180; MINN. STAT. ANN. §641.10 (West); N.M. STAT. ANN. §35-15-3; N.D. CENT. CODE §40-18-12; OR. REV. STAT. §221.923; TENN. CODE ANN. §41-1223; TEX. STAT. ANN. §43.09; WASH. REV. CODE §10.82.030; W. VA. CODE §62-4-10.

"any fines, restitution or costs as ordered by the court" (VA. CODE §53-166.1). In Wisconsin, prisoners on work-release are to have their wages deposited in a trust checking account to be disbursed to satisfy monetary obligations, including fines (WIS. STAT. ANN. §56.08 (West)). And in Ohio, "the sheriff shall collect the proceeds of the labor, and pay it into the county treasury" (OHIO REV. CODE ANN. §2947.15 (Page)).

Nine states have statutes that authorize the sale of goods belonging to an offender who has an unpaid fine balance. As in England, Maine statutes term this process "distress", and the clerk of court is empowered to issue a "warrant of distress" authorizing a sheriff to proceed with such a sale (ME. REV. STAT. ANN. tit. 15, §1942). In Massachusetts, "distress" process may be used to compel fine payment by a corporation (MASS. GEN. LAWS ch. 279, §42 (Michie/Law. Co-op)). South Carolina statutes stipulate that sale of property should be attempted before jailing of a fine defaulter and that the property shall be sold "in the same manner as property is sold under execution in civil cases..." (S.C. CODE §17:25-330).⁵¹ It is usual, however, that in states authorizing distress sales, the civil process need not be invoked to seize an offender's property since a criminal warrant or writ suffices.

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See also: NEB. REV. STAT. §29-2404; N.H. REV. STAT. ANN. §618.13; N.Y. JUDICIARY LAW §792 (McKinney); VT. STAT. ANN. tit. 13, §7173; OHIO REV. CODE ANN. §2949.09 (Page); WASH. REV. CODE §10.82.030.

Nevertheless, civil collection methods to recover unpaid fines are authorized in almost three-fourths of the states' statutes, regardless of what other fine enforcement methods may be authorized. In typical language, found in the Arizona statutes, it is provided that: "Upon any default in the payment of a fine or restitution or any installment of such fine or restitution, execution may be levied and such other measures taken...as...for the collection of an unpaid civil judgment entered against the defendant in an action on a debt" (ARIZ. REV. STAT. ANN. §13-806).⁵²

Seventeen states' statutes provide specifically that a lien exists on the real property of a defendant sentenced to pay a fine,⁵³ usually from the time of sentencing, to prevent the defendant from transferring his assets. Garnishments of

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Also see: ALASKA STAT. §12.55.025; ARK. STAT. ANN. §41-1104; CAL. PENAL CODE §1206; COLO. REV. STAT. §16-11-502; DEL. CODE ANN. tit. 11, §4101; FLA. STAT. ANN. §922.02; HAWAII REV. STAT. §706-645; IDAHO CODE §19-2702; ILL. REV. STAT. ch. 38, §1-7; IND. CODE ANN. §35-1-44-8 (Burns); IOWA CODE §909.6; KY. REV. STAT. §534.060; LA. CODE CRIM. PROC. ANN. §886 (West); ME. REV. STAT. ANN. tit. 17A, §1304; MD. ANN. CODE art. 38, §1; MASS. GEN. LAWS ch. 280, §1 (Michie/Law. Co-op); MICH. STAT. ANN. §600.6001; MINN. STAT. ANN. §574.33 (West); MISS. CODE ANN. §99-37-13; MO. ANN. STAT. §547.870; MONT. REV. CODES ANN. §46-19-102; NEB. REV. STAT. §17-564; N.H. REV. STAT. ANN. §616.1; N.J. REV. STAT. §2C:46-2; N.Y. CRIM. PROC. LAW §420.10 (McKinney); N.D. CENT. CODE §29-27-02; OKLA. STAT. tit. 28, §101; OR. REV. STAT. §137.450; S.D. COMP. LAWS ANN. tit. 23A, §27-23; TENN. CODE ANN. §40-3205; TEX. STAT. ANN. §43.07; UTAH CODE ANN. tit. 77, §18-6; VA. CODE §19.2-340; WASH. REV. CODE §10.64.080.

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See: ALASKA STAT §12.55.025(f); ARIZ. REV. STAT. ANN. §13-801; ARK. STAT. ANN. §41-1104; CAL PENAL CODE §1206; IDAHO CODE §19-2518; ILL. REV. STAT. §180-4; IOWA CODE §909.6; MO. ANN. STAT. §546.860; MONT. REV. CODES ANN. §46-18-601; NEB. REV. STAT. §29-2407; NEV. REV. STAT. §176.275; N.C. GEN. STAT. §15A-1365; N.D. CENT. CODE §29-26-22; OR. REV. STAT. §137.270; S.D. COMP. LAWS ANN. TIT. 23A, §27-23; UTAH CODE ANN. tit. 77, §18-6; WASH. REV. CODE §10.64.080.

wages, a process which would normally be pursued through civil court. is authorized in one state, Delaware, where the court may direct that up to one third of a Delaware resident's or worker's earnings may be withheld to satisfy a fine obligation (DEL. CODE ANN. tit. 11, §4104). Finally, among civil enforcement methods authorized by statutes, the driver's license of a motor vehicle offender who has not paid his fine may be suspended in many states (e.g.: HAWAII REV. STAT. §287-15, MD. ANN. CODE art. 27, §130; TENN. CODE ANN. §40-3204).

Researchers found seven states which explicitly authorize that cash bail be applied to the satisfaction of fine judgments, and there are undoubtedly more states which allow this procedure in motor vehicle cases. If bail may be automatically applied, the trouble of enforcement efforts is saved. Wisconsin's statutes say, for example: "When a judgment for a fine or costs or both is entered, in which a deposit had been made for bail, the balance of such deposit, after deduction of the bond costs, shall be applied to the payment of the judgment"⁵⁴ (WIS. STAT. ANN. §969.02, .03 (West)).

VI. The Fining of Indigent Offenders

As mentioned in connection with statutes governing enforcement of fine payment, installment and deferred payment plans have been the main response of state legislatures to U.S. Supreme Court decisions limiting imprisonment of indigent

offenders for fine nonpayment. While it was approved before the Court's decision in Williams, Article 14 of the 1970 Illinois Constitution is typical of this thinking: "No person shall be imprisoned for failure to pay a fine in a criminal case unless he has been afforded adequate time to make payment, in installments if necessary, and has willfully failed to make payment." While installment payment plans in most states may be freely granted at the discretion of the judge, under Michigan's statutes, the defendant must petition the court for installment payments (MICH. STAT. ANN. §600:6205).⁵⁵ The petition must be supported by an affidavit "setting forth his inability to pay said judgment with funds other than those earned by him in wages. It must also include the name of his employer and the amount of pay he receives. And in Virginia, a defendant who wishes to pay a fine in installments may be required to file a petition detailing his financial condition (VA. CODE §14.2-355).

Statutory provisions such as the following, which calls for immediate fine payment by an indigent, are rare holdovers from pre-Williams days and might possibly be overturned if a test case was brought: "A vagrant shall be imprisoned for not more than six months or fined not more than \$100.00. The court may further order, in case a fine is imposed, that, if such fine is not paid within twenty-four hours, the respondent be imprisoned for as many days as twice the number of dollars in

⁵⁵Michigan has not yet adopted a revised criminal code, although a proposed code was completed in June 1979, and at least one other state (New Hampshire) has adopted the fine amounts suggested in Michigan's proposal.

the sentence, including the costs of detention and commitment" (VT. STAT. ANN. tit 13, §3902).

Almost two-thirds of the states (31 out of 51) have additional special statutory provisions about the fining of (or collection of fines from) indigent offenders. Table 8 summarizes these provisions. Five states discourage fine sentences where they are likely to cause hardship to the offender or his dependents--evidence of humane legislative intent--and eight states prohibit fine sentences when the offender is unlikely to have money to pay the fine--evidence of humanity mixed with practicality.

No state's statutes establish a real system of day-fines, but ten states permit the amount of a fine to be adjusted to the offender's ability to pay, as long as the fine does not exceed the statutory ceiling for that offense. Indigent offenders in these states are legally eligible to receive low fines even for relatively serious offenses carrying high statutory maximums. For example, in New Jersey, a state with high statutory fine ceilings, judges are instructed that: "In determining the amount and method of payment of a fine, the court shall consider the financial resources of the defendant

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CAL. GOV'T CODE §13967; FLA. STAT. ANN. §775.089 (West); N.D. CENT. CODE §12.1-32-05; OHIO REV. CODE ANN. §2929.12 (Page); OR. REV. STAT. §161.645.

57

CAL. GOV'T CODE §13967; FLA. STAT. ANN. §775.089 (West); HAWAII REV. STAT. §706-641; ME. REV. STAT. ANN. tit. 17A, §1302; N.J. REV. STAT. §2C:44-2; OHIO REV. CODE ANN. §2929.02 (Page); OR. REV. STAT. §161.645; PA. STAT. ANN. tit. 18, §1326 (Purdon).

Table 8

The Fining of Indigent Offenders:
Special Provisions in U.S. State Statutes

State Statutes Which Contain Provision

	<u>Number</u>	<u>Percent*</u>
Prohibition on fine sentences in hardship cases	5	9.8
Prohibition on fine sentences where fine unlikely to be collected	8	15.7
Fine amounts may be tailored to offender's means (within statutory ranges)	10	19.6
"Indigent" default (in fine payment) distinguished from "willful" default	21	41.2
Indigent defaulters may be given additional time to pay or reduction in amount of fine	21	41.2
Indigent defaulters may have their fines excused	16	31.4
Prohibition on jailing indigents solely for default	9	17.6
Special limit on length of jail term served by defaulters who are indigent	5	9.8

*District of Columbia included as state; therefore base for percents is 51.

and the nature of the burden that its payment will impose"
 58
 (N.J. REV. STAT. §2C:44-2).

An important provision in almost half of all state statutes is the legal distinction between nonpayment of fines by reason of indigency and nonpayment through lack of effort.
 59 These states usually specify that those who have defaulted in payment of a fine by reason of indigency are to be treated differently from other defaulters. Most commonly, indigent defaulters may at the discretion of the court, be given additional time to pay or a reduction in the amount of their fine.
 60 Often the court is also authorized, under these conditions, to excuse the nonpayment of all or the balance of a fine. In typical wording: "If it

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See also: ALASKA STAT. §12.55.035(a); HAWAII REV. STAT. §706-641; ILL. REV. STAT. §1005-9-1; KAN. STAT. ANN. §21-4607(3); KY. REV. STAT. §534.060; ME. REV. STAT. ANN. tit. 17A, §1302; MO. REV. STAT. §560.026; OR. REV. STAT. §161.645; PA. STAT. ANN. tit. 18, §1326 (Purdon).

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ALA. CODE §15-18-62; ALASKA STAT. §12.55.051; ARK. STAT. ANN. §41-1103; CAL. GOV'T. CODE §1205 (West); HAWAII REV. STAT. §706-644; ILL. REV. STAT. §1005-9-3; KAN. STAT. ANN. §22-3425; KY. REV. STAT. §534.060; ME. REV. STAT. ANN. tit. 17A, §1304(1); MD. ANN. CODE art. 38, §4; MISS. CODE ANN. §99-37-3; MO. ANN. STAT. §560.031 (Vernon); N.M. STAT. ANN. §31-12-3; N.C. GEN. STAT. §15A-1364; N.D. CENT. CODE §12.1-32-05; OKLA. STAT. ANN. tit. 22, §983 (West); OR. REV. STAT. §161.685; PA. STAT. ANN. tit. 18, §1372 (Purdon); TENN. CODE ANN. §40-3204; VA. CODE §19.2-358; WASH. REV. CODE §10.01.180.

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See: ALASKA STAT. §12.55.051(c); ARK. STAT. ANN. §41-1103; COLO. REV. STAT. §16-11-502; HAWAII REV. STAT. §706-645; ILL. REV. STAT. §1005-9-3; KY. REV. STAT. §534.060; ME. REV. STAT. ANN. tit. 17A, §1304(2); MD. ANN. CODE art. 38, §4; MISS. CODE ANN. §99-37-11; MO. ANN. STAT. §560.031 (Vernon); NEV. REV. STAT. §176.085; N.J. REV. STAT. §2C:46.3; N.M. STAT. ANN. §31-12-3; N.Y. CRIM. PROC. LAW §420.10 (McKinney); N.C. GEN. STAT. §15A-1364; OR. REV. STAT. §161.685; TENN. CODE ANN. §40-3204; UTAH CODE ANN. tit. 76, §3-201.1; VA. CODE §19.2-358; WASH. REV. CODE §10.01.180.

appears to the satisfaction of the court that the circumstances which warranted the imposition of the fine have changed, or that it would otherwise be unjust to require payment, the court may revoke the fine or the unpaid portion thereof in whole or in part" (HAWAII REV. STAT. §706-645).⁶¹

The defendant's indigency must be demonstrated to the court in some fashion, but the statutes do not define indigency for this purpose. In Mississippi, the defendant must swear "in writing to the court" that he is "financially unable to pay the fine" (MISS. CODE ANN. §99-19-20(2)). In many states, the burden is placed on the defendant to "show cause" why he should not be imprisoned for nonpayment, but the means through which he may prove his indigency are never specified.

Nine states have passed provisions which absolutely prohibit the jailing of indigents solely for nonpayment of fines.⁶² In addition, Indiana, North Carolina and Oregon statutes are less direct, but convey the same message; judges are given specific authority to imprison those whose default is intentional, but are provided with different options, not including imprisonment, for dealing with indigent defaulters

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See also: ARIZ. REV. STAT. ANN §13-806(D); ARK. STAT. ANN. §41-1103; COLO. REV. STAT. §16-11-502; ILL. REV. STAT. §1005-9-3; ME. REV. STAT. ANN. tit. 17A, §1304(2); MISS. CODE ANN. §99-37-11; MO. ANN. STAT. §560.031 (Vernon); N.J. REV. STAT. §2C:46-3; N.M. STAT. ANN. §31-12-3; N.Y. CRIM. PROC. LAW §420.10 (McKinney); N.C. GEN. STAT. §15A-1364; OR. REV. STAT. §161.685; UTAH CODE ANN. tit. 76, §3-201.1; VA. CODE §19.2-358; WASH. REV. CODE §10.01.180.

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ALASKA STAT. §12.55.035(a); COLO. REV. STAT. §16-11-502; FLA. STAT. ANN. §922.04; ILL. CONST. art.1, §14; KAN. STAT. ANN. §22-3425; ME. REV. STAT. ANN. tit. 17A, §1302; MISS. CODE ANN. §99-19-20(2); NEB. REV. STAT. §29-2412; N.D. CENT. CODE §40-11-12.

(IND. CODE §35-1-44-8; N.C. GEN. STAT. §15A-1364; OR. REV. STAT. §161.685; PA. STAT. ANN. tit. 18, §1372 (Purdon)). In New Hampshire the statutes champion discretion--judges "may order the [indigent] prisoner to be discharged upon such terms as they may think proper" (N.H. REV. STAT. ANN. §618.10). Nebraska explicitly prohibits imprisonment of indigents for nonpayment of fines, but indigent Nebraska defendants who have defaulted on "payment due pursuant to an installment agreement arranged by the court" may be held in contempt and jailed (NEB. REV. STAT. §29-2412, 29-2206.0) And an additional state, South Carolina, has a nonimprisonment provision which only bars imprisonment for inability to pay a fine "in full at the time of conviction" (S.C. CODE §17-25-350).

Six states provide a special limit on the number of days that an indigent must spend in jail for nonpayment of a fine. In Massachusetts, for example, this limit is set at 3 months (MASS. ANN. LAWS ch. 127, §145 (Michie/Law. Co-op), but in Oklahoma an indigent may be jailed for 6 months before any review of his case,--and before discharge if he is found to be indigent (OKLA. STAT. ANN. tit. 57, §15 (West)).⁶³

Finally, Michigan's unrevised criminal code contains a provision excepting public welfare and unemployment payments from assignment or garnishment to satisfy unpaid fines, a unique provision in the state statutes (MICH. COMP. LAWS ANN. §400.63, 412.21).

APPENDIX

1. Data collection form
2. Data coding form
3. Tables of statutory fine ceilings

VERA INSTITUTE OF JUSTICE
FINES PROJECT LEGAL REVIEW
AUTUMN 1980

Jurisdiction
Control Sheet

JURISDICTION: _____

INITIAL ABSTRACTING OF LEGAL INFORMATION BY SUBJECT AREA:

Date: _____ Preparer: _____

Statute(s)/law(s) reviewed (note dates of most recent revisions):

Other statute(s)/law(s) to be reviewed, if any:

ADDITIONS OR ALTERATIONS TO SUBJECT AREA PAGES:

Date: _____ Preparer: _____

Added statute(s)/law(s), if any:

Date: _____ Preparer: _____

Added statute(s)/law(s), if any:

VERA INSTITUTE OF JUSTICE

FINES PROJECT LEGAL REVIEW

CODING FORM

FOR INFORMATION EXTRACTED FROM STATUTES, CRIMINAL CODES AND CASE LAW

JURISDICTION _____

For items with coding boxes, enter an appropriate number(s) (right-justified).
For items with coding lines, enter "✓" if jurisdiction has such a provision.

- | | | A | McBee
Card C |
|----------------------------------|---|-----------------------------|-----------------|
| A. Use of Fine Sentences: | | | |
| 1. | Code particular offense(s) or offender(s) for which fine sentences are recommended | 1. <input type="checkbox"/> | R 1-4 |
| | | <input type="checkbox"/> | R 5-8 |
| | 1 = Minor offenses/traffic offenses | | |
| | 2 = First offenders | | |
| | 3 = Crimes of gain | | |
| | 4 = White collar/corporate crimes | | |
| | 5 = Organized crime | | |
| | 6 = | | |
| 2. | Code punishment purpose(s) which fine sentences are expected to serve | 2. <input type="checkbox"/> | R 9-12 |
| | 1 = Deterrence | <input type="checkbox"/> | R 13-16 |
| | 2 = Correction/retribution | | |
| | 3 = Rehabilitation | | |
| | 4 = Public safety | | |
| | 5 = Deprivation of crime gains | | |
| | 6 = | | |
| 3. | Code conditions under which restitution order is to be considered by judge instead of (or in addition to) a fine sentence | 3. <input type="checkbox"/> | R 17-20 |
| | 1 = Personal victim | <input type="checkbox"/> | R 21-24 |
| | 2 = Limited means of offender | | |
| | 3 = | | |
| 4. | Imprisonment or probation is mandated, in addition to any fine, for habitual felony offenders | 4. _____ | R 25 |
| 5. | Imprisonment or probation is mandated, in addition to any fine, for a violent felony conviction | 5. _____ | R 26 |
| 6. | Imprisonment or probation is mandated, in addition to any fine, for any felony conviction | 6. _____ | R 27 |
| 7. | Imprisonment or probation is mandated, in addition to any fine, for those convicted of crimes against elderly persons | 7. _____ | R 28 |
| 8. | Imprisonment or probation is mandated, in addition to any fine, for those convicted of crimes using a firearm | 8. _____ | R 29 |
| B. Enforcement of Fines: | | | |
| 1. | Judges are authorized to set alternative jail sentence at time of sentencing to fine (to impose "dollars or days" sentence) | 1. _____ | R 30 |
| 2. | Judges are prohibited from setting alternative jail sentence at time of sentencing to fine | 2. _____ | R 31 |
| 3. | Offender may be jailed at time of sentencing to fine until fine is satisfied | 3. _____ | R 32 |
| 4. | Offender who has defaulted on payment of a fine may be taken into custody on a warrant (or other writ, such as "capias pro fine") | 4. _____ | R 33 |
| 5. | Offender who has defaulted on payment of a fine may be jailed as a means of enforcing sentence | 5. _____ | R 34 |
| 6. | Jailing for default is prohibited when jail penalty not authorized for original offense | 6. _____ | R 35 |
| 7. | Note maximum months that a <u>felony</u> offender may be jailed for default | 7. <input type="checkbox"/> | 1-8 |
| 8. | Note maximum months that a <u>misdemeanor</u> offender may be jailed for default | 8. <input type="checkbox"/> | 9-16 |
| 9. | Jail term for default may not exceed (alone or in combination with confinement sentence) confinement authorized by statute for original offense | 9. _____ | 17 |
| 10. | Serving time in jail or prison for default "works off" fine | 10. _____ | 18 |

CODING FORM
FOR INFORMATION EXTRACTED FROM STATUTES, CRIMINAL CODES AND CASE LAW

- | | |
|--|---|
| 11. Note number of dollars to be credited toward fine payment for each day of imprisonment | 11. <input type="checkbox"/> <input type="checkbox"/> 21-28 |
| 12. Fined offenders may be credited with dollar equivalent of time spent in pretrial detention . | 12. ___ 29 |
| 13. Fined offenders may be credited with dollar equivalent of time served on concurrent jail/prison sentence | 13. ___ 30 |
| 14. Fined offenders should be offered public work (or prison labor or work-release) to work off fine | 14. ___ 31 |
| 15. Public work (or prison labor or work-release) may be ordered to work off unpaid fine | 15. ___ 32 |
| 16. Note number of dollars to be credited toward fine payment for each day of labor | 16. <input type="checkbox"/> <input type="checkbox"/> 33-40 |
| 17. Fined offender must also be placed on probation so that probation may be revoked and offender imprisoned in event of default on fine payment | 17. ___ 41 |
| 18. Fine payment may be made a condition of probation, with probation revocation and imprisonment as possible responses to default | 18. ___ 42 |
| 19. Default is to be treated as contempt of court, with imprisonment as possible sentence for contempt | 19. ___ 43 |
| 20. Authority is given to apply bail (or deposit in lieu of bail) to satisfy unpaid fine | 20. ___ 44 |
| 21. Authority is given to accept cash bond or surety posted in lieu of immediate fine payment (or on appeal of conviction resulting in fine) | 21. ___ 45 |
| 22. Warrant may be issued for collection of fine through sale of offender's property | 22. ___ 46 |
| 23. Fine judgment constitutes a lien on defendant's property, which may be satisfied by sale of property | 23. ___ 47 |
| 24. Lawful civil collection procedures are authorized for unpaid fines, apart from any other enforcement actions | 24. ___ 48 |
| 25. Judges (or prosecutors) are to be informed about overdue fine payments | 25. ___ L 1 |
| 26. Notifications are to be made to offenders concerning overdue fine payments | 26. ___ L 2 |
| <u>C. Fining of Poor and Indigent Offenders:</u> | <u>C</u> |
| 1. Offender should not be sentenced to fine when it is likely to cause hardship to offender or offender's dependents | 1. ___ L 3 |
| 2. Offender should not be sentenced to fine when there is no expectation that he will be able to pay it | 2. ___ L 4 |
| 3. Size of fine may be tailored to means of offender | 3. ___ L 5 |
| 4. Judges are given discretion to delay fine payment and/or allow installment payments | 4. ___ L 6 |
| 5. Judges are given power to cancel fines (or any unpaid portions) | 5. ___ L 7 |
| 6. Judges are given power to modify amounts of fines and methods of payment | 6. ___ L 8 |
| 7. In cases of nonpayment, indigent (nonwillful or excusable) default to be determined by the court | 7. ___ L 9 |
| 8. Indigent offender must show cause why (s)he should not be imprisoned for nonpayment of fine | 8. ___ L 10 |
| 9. Indigent offenders are <u>not</u> to be held in jail solely for nonpayment of fine | 9. ___ L 11 |
| 10. Length of jail sentence for defaulting indigent offender is specially limited by statute | 10. ___ L 12 |
| 11. Indigent offenders are not to be held in jail solely for nonpayment of <u>costs</u> | 11. ___ L 13 |

CODING FORMFOR INFORMATION EXTRACTED FROM STATUTES, CRIMINAL CODES AND CASE LAW

- D. Fine Collection and Revenues: D
1. Courts are mandated to keep written records on fine payments 1. ___ L 14
 2. Court official(s) are subject to penalties for improper accounting or slow forwarding of fine payments 2. ___ L 15
 3. Court officials are subject to penalties for noncollection of fines 3. ___ I 16
 4. Fine collection fees are authorized 4. ___ L 17
 5. Fine surcharges are authorized 5. ___ L 18
 6. Court costs may be levied on convicted offenders, in addition to any fine 6. ___ L 19
 7. Probation personnel are empowered to collect fines from probationers 7. ___ L 20
 8. Probation costs are due from probationers, in addition to any fine 8. ___ L 21
 9. Corrections personnel are empowered to collect fines from inmates 9. ___ L 22
 10. Prison costs are to be charged to inmates, in addition to any fine 10. ___ L 23
 11. All fine revenues from nontraffic cases become part of the state's general fund 11. ___ L 24
 12. Fine revenues accrue (at least partly) to the jurisdictions within which fines collected 12. ___ L 25
 13. State courts are to be supported (at least partly) with fine revenues 13. ___ L 26
 14. County and local courts or prosecutors are to be supported (at least partly) with fine revenues 14. ___ L 27
 15. Local courts are allowed to keep fines they collect for violations/infractions of local ordinances 15. ___ L 28
 16. Fine revenues are to be paid, in whole or part, into a crime victim's compensation fund 16. ___ L 29
 17. Motor vehicle fine revenues are to go (at least partly) to highway fund 17. ___ L 30
 18. Law enforcement is to be supported (at least partly) with fine revenues 18. ___ L 31
 19. State or local schools are to be supported (at least partly) with fine revenues 19. ___ L 32
 20. Code\other public services to be supported (at least partly) with fine revenues 20. - L 33-35
 B 1-4
- 1 = Regulatory functions 3 =
2 = 4 =

- E. Authorized Fine Amounts: E
1. Amount of fine may be based on gain realized from crime 1. ___ B 5
 2. Amount of fine may be set at double the gain realized from crime 2. ___ B 6
 3. Larger fine maximums are authorized for same offenses committed by repeat felony offenders 3. ___ B 7
 4. Larger fine maximums are authorized for same offenses committed by corporations 4. ___ B 8
 5. The amount of a fine may be challenged by the defendant after sentencing 5. ___ B 9

(Maximum fine amounts authorized for specific offenses are to be typed directly onto McBee Cards, rather than coded.)

Statutory Fine Ceilings for Sample of Offenses

<u>Offenses</u>	<u>Offenses</u>	<u>Offenses</u>
1. Murder with intent	8. Criminal trespass	15. Disorderly conduct/breach of the peace
2. Criminally negligent homicide	9. Automobile theft	16. Reckless driving (1st off.)
3. Armed robbery	10. Petit larceny	17. Driving while intoxicated
4. Purse snatch	11. Criminal mischief	18. Driving while intoxicated (1st off.)
5. Assault	12. Confidence swindle/theft by deception	19. Sale of marijuana
6. Carrying concealed unlicensed handgun	13. Prostitution	20. Possession of heroin
7. Burglary of residence	14. Pimping	21. Rape
		22. Embezzlement of funds
	<u>States</u>	
	<u>Alabama</u>	
1) \$20,000; 2) \$2,000; 3) \$20,000; 4) \$10,000; 5) \$2,000; 6) \$500; 7) \$10,000; 8) \$200; 9) \$10,000; 10) \$5,000; 11) \$2,000; 12) \$5,000; 13) \$2,000; 14) \$5,000; 15) \$500; 16) \$500; 17) \$1,000; 18) \$1,500; 19) \$25,000*; 20) \$25,000*; 21) - ; 22) \$12,000		
	<u>Alaska</u>	
1) \$75,000*; 2) \$50,000; 3) \$50,000*; 4) \$50,000; 5) \$5,000; 6) \$1,000; 7) \$50,000; 8) \$1,000; 9) \$50,000; 10) \$5,000; 11) \$5,000; 12) \$5,000; 13) \$1,000; 14) \$50,000; 15) \$1,000; 16) \$1,000; 17) \$5,000; 18) \$5,000; 19) \$20,000; 20) \$5,000*; 21) \$50,000*; 22) \$50,000		
	<u>Arizona</u>	
1) - ; 2) \$150,000; 3) \$150,000; 4) \$150,000; 5) \$1,000; 6) \$1,000; 7) \$150,000; 8) \$750; 9) \$150,000; 10) \$1,000; 11) \$150,000; 12) \$150,000; 13) \$500; 14) \$150,000; 15) \$1,000; 16) \$750; 17) \$1,000*; 18) \$1,000*; 19) \$172,500; 20) \$172,500; 21) \$150,000; 22) \$150,000		
	<u>Arkansas</u>	
1) - ; 2) \$1,000; 3) \$15,000; 4) \$15,000; 5) \$1,000; 6) \$200; 7) \$15,000; 8) \$500; 9) \$15,000; 10) \$1,000; 11) \$1,000; 12) \$10,000; 13) \$100; 14) \$1,000; 15) \$100; 16) \$500; 17) \$500; 18) \$1,000; 19) \$2,000; 20) \$2,000; 21) - ; 22) \$12,000*		

* = cannot be sole sentence
 - = no fine authorized

Statutory Fine Ceilings for Sample of Offenses

<u>Offenses</u>	<u>Offenses</u>	<u>Offenses</u>
1. Murder with intent	8. Criminal trespass	15. Disorderly conduct/breach of the peace
2. Criminally negligent homicide	9. Automobile theft	16. Reckless driving (1st off.)
3. Armed robbery	10. Petit larceny	17. Driving while intoxicated
4. Purse snatch	11. Criminal mischief	(1st off.)
5. Assault	12. Confidence swindle/theft by deception	18. Driving while intoxicated (2nd off.)
6. Carrying concealed unlicensed handgun	13. Prostitution	19. Sale of marijuana
7. Burglary of residence	14. Pimping	20. Possession of heroin
		21. Rape
		22. Embezzlement of funds

States

California

1) \$5,000*; 2) \$5,000*; 3) \$5,000*; 4) \$5,000*; 5) \$1,000; 6) \$500; 7) \$5,000*; 8) \$500; 9) \$5,000*; 10) \$1,000
 11) \$500; 12) \$500*; 13) \$500; 14) \$5,000*; 15) \$500; 16) \$250; 17) \$500; 18) \$1,000; 19) \$20,000*; 20) \$20,000*;
 21) \$5,000*; 22) \$500*

Colorado

1) - ; 2) \$5,000; 3) - ; 4) - ; 5) \$5,000*; 6) \$1,000; 7) - ; 8) \$500; 9) \$1,000; 10) \$1,000; 11) - ;
 12) - ; 13) \$750; 14) - ; 15) \$500; 16) \$500; 17) \$1,000; 18) \$1,000; 19) - ; 20) - ; 21) - ; 22) -

Connecticut

1) \$10,000; 2) \$1,000; 3) - ; 4) \$5,000; 5) \$1,000; 6) \$1,000 7) \$5,000; 8) \$1,000; 9) \$6,000; 10) \$1,000;
 11) \$1,000; 12) \$1,000; 13) \$1,000; 14) \$5,000; 15) \$1,000; 16) \$100; 17) \$500; 18) - ; 19) \$1,000;
 20) \$3,000; 21) \$10,000; 22) \$12,000

Delaware

1) - ; 2) + ; 3) + ; 4) + ; 5) \$1,000; 6) + ; 7) + ; 8) + ; 9) + ; 10) \$1,000; 11) \$1,000; 12) + ;
 13) \$500; 14) + ; 15) \$500; 16) \$200; 17) \$1,000; 18) \$2,000*; 19) \$1,000; 20) \$3,000; 21) - ; 22) +

* = cannot be sole sentence
 - = no fine authorized
 + = no statutory ceiling

Statutory Fine Ceilings for Sample of Offenses

Offenses

1. Murder with intent
2. Criminally negligent homicide
3. Armed robbery
4. Purse snatch
5. Assault
6. Carrying concealed unlicensed handgun
7. Burglary of residence

Offenses

8. Criminal trespass
9. Automobile theft
10. Petit larceny
11. Criminal mischief
12. Confidence swindle/theft by deception
13. Prostitution
14. Pimping

Offenses

15. Disorderly conduct/breach of the peace
16. Reckless driving (1st off.)
17. Driving while intoxicated (1st off.)
18. Driving while intoxicated (2nd off.)
19. Sale of marijuana
20. Possession of heroin
21. Rape
22. Embezzlement of funds

States

District of Columbia

1) - ; 2)\$1,000; 3) - ; 4) - ; 5)\$500; 6)\$1,000; 7) - ; 8)\$100; 9)\$1,000; 10)\$200; 11)\$100; 12)\$1,000; 13)\$250; 14)\$1,000; 15)\$250; 16)\$250; 17)\$500; 18)\$1,000; 19)\$15,000; 20)\$5,000; 21) - ; 22)\$1,000

Florida

1)\$15,000*; 2)\$10,000; 3)\$10,000; 4)\$500; 5)\$500; 6)\$500; 7)\$10,000; 8)\$500; 9)\$6,000; 10)\$500; 11)\$1,000; 12)\$1,000; 13)\$500; 14)\$500; 15)\$500; 16)\$530; 17)\$700; 18)\$700; 19)\$5,000; 20)\$10,000; 21)\$10,000; 22)\$12,000

Georgia

1)\$10,000*; 2)\$1,000; 3) - ; 4)\$10,000*; 5)\$1,000; 6)\$1,000; 7)\$10,000*; 8)\$1,000; 9)\$1,000; 10)\$1,000; 11)\$1,000; 12)\$1,000; 13)\$1,000; 14)\$5,000; 15)\$1,000; 16)\$500; 17)\$1,000; 18)\$1,000; 19)\$10,000*; 20)\$10,000*; 21)\$10,000*; 22)\$10,000*

Hawaii

1) - ; 2)\$5,000; 3)\$10,000; 4)\$10,000; 5)\$1,000; 6)\$500; 7)\$10,000; 8)\$500; 9)\$6,000; 10)\$1,000; 11)\$1,000; 12)\$900; 13)\$500; 14)\$5,000; 15)\$500; 16)\$1,000; 17)\$1,000; 18)\$1,000; 19)\$10,000; 20)\$10,000; 21)\$10,000; 22)\$12,000

* = cannot be sole sentence
 - = no fine authorized

Statutory Fine Ceilings for Sample of Offenses

<u>Offenses</u>	<u>Offenses</u>	<u>Offenses</u>
1. Murder with intent	8. Criminal trespass	15. Disorderly conduct/breach of the peace
2. Criminally negligent homicide	9. Automobile theft	16. Reckless driving (1st off.)
3. Armed robbery	10. Petit larceny	17. Driving while intoxicated
4. Purse snatch	11. Criminal mischief	18. Driving while intoxicated (1st off.)
5. Assault	12. Confidence swindle/theft by deception	19. Sale of marijuana (2nd off.)
6. Carrying concealed unlicensed handgun	13. Prostitution	20. Possession of heroin
7. Burglary of residence	14. Pimping	21. Rape
		22. Embezzlement of funds

States

Idaho

1) - ; 2)\$1,000; 3) - ; 4) - ; 5)\$100; 6)\$200; 7) - ; 8)\$300; 9) - ; 10)\$300; 11)\$300; 12)\$300; 13)\$300; 14)\$5,000; 15)\$300; 16)\$300; 17)\$300; 18) - ; 19)\$15,000; 20)\$5,000; 21) - ; 22) -

Illinois

1)\$10,000*; 2)\$10,000*; 3)\$10,000*; 4)\$1,000; 5)\$1,000; 6)\$1,000; 7)\$10,000*; 8)\$500; 9)\$10,000*; 10)\$1,000; 11)\$10,000*; 12)\$1,000; 13)\$1,000; 14)\$1,000; 15)\$500; 16)\$500; 17)\$1,000; 18)\$1,000; 19)\$500; 20)\$100,000*; 21)\$10,000*; 22)\$10,000*

Indiana

1)\$10,000*; 2)\$10,000*; 3)\$10,000*; 4)\$10,000*; 5)\$5,000; 6)\$5,000; 7)\$10,000*; 8)\$5,000; 9)\$10,000*; 10)\$10,000; 11)\$5,000; 12)\$10,000*; 13)\$5,000; 14)\$10,000*; 15)\$1,000; 16)\$1,000; 17)\$5,000; 18)\$10,000*; 19)\$5,000; 20)\$10,000*; 21)\$10,000*; 22)\$12,000*

Iowa

1) - ; 2)\$1,000; 3) - ; 4)\$5,000; 5)\$5,000; 6)\$5,000; 7)\$5,000; 8)\$100; 9)\$1,000; 10)\$1,000; 11)\$5,000; 12)\$5,000; 13)\$5,000; 14)\$1,000; 15)\$100; 16)\$100; 17)\$1,000; 18)\$5,000; 19)\$1,000; 20)\$1,000; 21)\$5,000; 22)\$5,000

* = cannot be sole sentence
 - = no fine authorized

Statutory Fine Ceilings for Sample of Offenses

<u>Offenses</u>	<u>Offenses</u>	<u>Offenses</u>
1. Murder with intent	8. Criminal trespass	15. Disorderly conduct/breadth of the peace
2. Criminally negligent homicide	9. Automobile theft	16. Reckless driving (1st off.)
3. Armed robbery	10. Petit larceny	17. Driving while intoxicated (1st off.)
4. Purse snatch	11. Criminal mischief	18. Driving while intoxicated (2nd off.)
5. Assault	12. Confidence swindle/theft	19. Sale of marijuana
6. Carrying concealed unlicensed handgun	13. Prostitution	20. Possession of heroin
7. Burglary of residence	14. Pimping	21. Rape
		22. Embezzlement of funds

States

Kansas

1) - ; 2)\$5,000; 3)\$10,000*; 4)\$10,000; 5)\$1,000; 6)\$1,000; 7)\$5,000; 8)\$500; 9)\$5,000; 10)\$2,500;
 11)\$5,000; 12)\$5,000; 13)\$1,000; 14)\$2,500; 15)\$500; 16)\$500; 17)\$500; 18)\$500; 19)\$5,000;
 20)\$10,000; 21)\$10,000*; 22)\$6,000

Kentucky

1) - ; 2)\$10,000*; 3)\$10,000*; 4)\$10,000*; 5)\$500; 6)\$500; 7)\$10,000*; 8)\$250; 9)\$10,000*; 10)\$500;
 11)\$600; 12)\$10,000*; 13)\$250; 14)\$10,000*; 15)\$250; 16)\$100; 17)\$500; 18)\$500; 19)\$500; 20)\$5,000;
 21)- ; 22)\$12,000*

Louisiana

1) - ; 2) - ; 3) - ; 4) - ; 5)\$200; 6)\$500; 7) - ; 8)\$500; 9)\$3,000; 10)\$500; 11)\$500; 12)\$2,000;
 13)\$500; 14) - ; 15)\$200; 16)\$200; 17)\$400; 18)\$500; 19)\$15,000; 20)\$5,000; 21) - ; 22)\$3,000

Maine

1) - ; 2) - ; 3) - ; 4) - ; 5)\$1,000; 6)\$250; 7)\$2,500; 8)\$500; 9)\$6,000; 10)\$500; 11)\$1,000;
 12)\$900; 13)\$500; 14)\$1,000; 15)\$500; 16)\$500; 17)\$1,000; 18)\$2,000; 19)\$1,000; 20)\$2,500; 21) - ;
 22)\$12,000

* = cannot be sole sentence
 - = no fine authorized

Statutory Fine Ceilings for Sample of Offenses

<u>Offenses</u>	<u>Offenses</u>	<u>Offenses</u>
1. Murder with intent	8. Criminal trespass	15. Disorderly conduct/breach
2. Criminally negligent homicide	9. Automobile theft	of the peace
3. Armed robbery	10. Petit larceny	16. Reckless driving (1st off.)
4. Purse snatch	11. Criminal mischief	17. Driving while intoxicated
5. Assault	12. Confidence swindle/theft	(1st off.)
6. Carrying concealed unlicensed handgun	13. Prostitution	18. Driving while intoxicated
7. Burglary of residence	14. Pimping	(2nd off.)
		19. Sale of marijuana
		20. Possession of heroin
		21. Rape
		22. Embezzlement of funds

States

Maryland

- 1) - ; 2)\$500; 3) - ; 4) - ; 5) + ; 6)\$2,500; 7) - ; 8)\$1,000; 9)\$1,000*; 10)\$500*; 11)\$2,500;
- 12)\$1,000*; 13)\$500; 14)\$500; 15)\$100; 16)\$500; 17)\$500; 18)\$500; 19)\$15,000; 20)\$25,000;
- 21) - ; 22)\$1,000*

Massachusetts

- 1) - ; 2)\$1,000; 3) - ; 4) - ; 5)\$500; 6) - ; 7)\$500; 8)\$100; 9)\$10,000; 10)\$300; 11)\$3,000;
- 12)\$600; 13)\$200; 14)\$5,000*; 15)\$300; 16)\$200; 17)\$1,000; 18)\$1,000; 19)\$5,000; 20)\$2,000;
- 21) - ; 22)\$600

Michigan

- 1) - ; 2)\$2,000; 3) - ; 4) - ; 5)\$500; 6)\$2,500; 7)\$2,000; 8)\$2,000; 9)\$2,500; 10)\$100; 11)\$2,000;
- 12)\$2,500; 13)\$100; 14) - ; 15)\$100; 16)\$100; 17)\$100; 18)\$1,000; 19)\$2,000; 20) - ; 21) - ;
- 22)\$5,000

Minnesota

- 1) - ; 2)\$7,000; 3)\$20,000; 4)\$10,000; 5)\$500; 6)\$1,000; 7)\$5,000; 8)\$500; 9)\$10,000; 10)\$500;
- 11)\$500; 12)\$5,000; 13)\$1,000; 14)\$3,000; 15)\$500; 16)\$500; 17)\$500; 18)\$500; 19)\$15,000; 20)\$5,000;
- 21) - ; 22)\$10,000

* = cannot be sole sentence

- = no fine authorized

+ = no statutory ceiling

Statutory Fine Ceilings for Sample of Offenses

<u>Offenses</u>	<u>Offenses</u>	<u>Offenses</u>
1. Murder with intent	8. Criminal trespass	15. Disorderly conduct/breach
2. Criminally negligent homicide	9. Automobile theft	of the peace
3. Armed robbery	10. Petit larceny	16. Reckless driving (1st off.)
4. Purse snatch	11. Criminal mischief	17. Driving while intoxicated
5. Assault	12. Confidence swindle/theft	(1st off.)
6. Carrying concealed unlicensed	by deception	18. Driving while intoxicated
handgun	13. Prostitution	(2nd off.)
7. Burglary of residence	14. Pimping	19. Sale of marijuana
		20. Possession of heroin
		21. Rape
		22. Embezzlement of funds

States

Mississippi

1) - ; 2)\$500; 3) - ; 4) - ; 5)\$500; 6)\$500; 7) - ; 8)\$500; 9)\$1,000; 10)\$100; 11)\$600; 12)\$1,350;
 13)\$200; 14)\$200; 15)\$200; 16)\$100; 17)\$500; 18)\$1,000; 19)\$30,000; 20)\$3,000; 21) - ; 22)\$1,000

Missouri

1) - ; 2)\$500; 3) - ; 4) - ; 5)\$1,000; 6) - ; 7)\$5,000; 8)\$500; 9)\$6,000; 10)\$1,000; 11)\$1,000;
 12)\$5,000; 13)\$500; 14)\$5,000; 15)\$500; 16) - ; 17)\$500; 18)\$1,000; 19) - ; 20) - ; 21) - ; 22)\$12,000

Montana

1) - ; 2) - ; 3) - ; 4) - ; 5)\$500; 6)\$500; 7) - ; 8)\$500; 9) - ; 10)\$500; 11) - ; 12) - ; 13)\$500;
 14)\$500; 15)\$100; 16)\$300; 17)\$500; 18)\$500; 19) - ; 20) - ; 21) - ; 22) -

Nebraska

1) - ; 2)\$25,000; 3)\$25,000; 4) - ; 5)\$1,000; 6)\$10,000; 7)\$25,000; 8)\$1,000; 9)\$25,000; 10)\$1,000;
 11)\$10,000; 12)\$10,000; 13)\$100; 14)\$10,000; 15)\$300; 16)\$100; 17)\$500; 18)\$300; 19)\$25,000; 20)\$10,000;
 21) - ; 22)\$25,000

* = cannot be sole sentence
 - = no fine authorized

Statutory Fine Ceilings for Sample of Offenses

<u>Offenses</u>	<u>Offenses</u>	<u>Offenses</u>
1. Murder with intent	8. Criminal trespass	15. Disorderly conduct/breach of the peace
2. Criminally negligent homicide	9. Automobile theft	16. Reckless driving (1st. off.)
3. Armed robbery	10. Petit larceny	17. Driving while intoxicated (1st off.)
4. Purse snatch	11. Criminal mischief	18. Driving while intoxicated (2nd off.)
5. Assault	12. Confidence swindle/theft by deception	19. Sale of marijuana
6. Carrying concealed unlicensed handgun	13. Prostitution	20. Possession of heroin
7. Burglary of residence	14. Pimping	21. Rape
		22. Embezzlement of funds

States

Nevada

- 1) - ; 2)\$5,000; 3) - ; 4) - ; 5)\$500; 6)\$1,000; 7)\$10,000 8)\$500; 9)\$10,000; 10)\$500; 11)\$500;
- 12)\$10,000; 13)\$500; 14)\$5,000; 15)\$500; 16) - ; 17) - ; 18)\$500; 19)\$20,000; 20)\$5,000;
- 21) - ; 22)\$10,000

New Hampshire

- 1) - ; 2)\$2,000; 3)\$2,000; 4)\$2,000; 5)\$1,000; 6)\$1,000; 7)\$2,000; 8)\$1,000; 9)\$6,000; 10)\$1,000;
- 11)\$1,000; 12)\$1,000; 13)\$1,000; 14)\$1,000; 15)\$100; 16)\$500; 17)\$1,000; 18)\$1,000; 19)\$2,000;
- 20)\$2,000; 21)\$2,000; 22)\$12,000

New Jersey

- 1)\$100,000; 2)\$100,000; 3)\$100,000; 4)\$7,500; 5)\$1,000; 6)\$7,500; 7)\$7,500; 8)\$500; 9)\$7,500;
- 10)\$1,000; 11)\$1,000; 12)\$7,500; 13)\$500; 14)\$7,500; 15)\$500; 16)\$200; 17)\$400; 18)\$1,000;
- 19)\$15,000; 20)\$15,000; 21)\$100,000; 22)\$100,000

New Mexico

- 1) - ; 2)\$5,000*; 3)\$5,000*; 4)\$100; 5)\$100; 6)\$100; 7)\$5,000*; 8)\$1,000; 9)\$15,000*; 10)\$100;
- 11)\$100; 12)\$5,000*; 13)\$100; 14)\$100; 15)\$100; 16)\$100; 17)\$200; 18)\$1,000; 19)\$5,000*;
- 20)\$5,000*; 21)\$10,000*; 22)\$5,000*

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 - = no fine authorized

Statutory Fine Ceilings for Sample of Offenses

<u>Offenses</u>	<u>Offenses</u>	<u>Offenses</u>
1. Murder with intent	8. Criminal trespass	15. Disorderly conduct/breach of the peace
2. Criminally negligent homicide	9. Automobile theft	16. Reckless driving (1st off.)
3. Armed robbery	10. Petit larceny	17. Driving while intoxicated (1st off.)
4. Purse snatch	11. Criminal mischief	18. Driving while intoxicated (2nd off.)
5. Assault	12. Confidence swindle/theft by deception	19. Sale of marijuana
6. Carrying concealed unlicensed handgun	13. Prostitution	20. Possession of heroin
7. Burglary of residence	14. Pimping	21. Rape
		22. Embezzlement of funds

States

New York

1) \$5,000*; 2) \$5,000; 3) \$5,000*; 4) \$5,000; 5) \$1,000; 6) \$5,000*; 7) \$5,000; 8) \$500; 9) \$6,000; 10) \$1,000;
 11) \$5,000; 12) \$1,000; 13) \$250; 14) \$5,000; 15) \$250; 16) \$100; 17) \$500; 18) \$5,000; 19) \$5,000; 20) \$1,000;
 21) \$5,000*; 22) \$12,000

North Carolina

1) - ; 2) + ; 3) - ; 4) + ; 5) \$50; 6) \$500; 7) + ; 8) + ; 9) + ; 10) + ; 11) + ; 12) + ; 13) + ; 14) + ;
 15) \$500; 16) \$500; 17) \$500; 18) \$500; 19) \$5,000; 20) \$500,000; 21) - ; 22) +

North Dakota

1) - ; 2) \$5,000; 3) \$10,000; 4) \$500; 5) \$500; 6) \$5,000; 7) \$5,000; 8) \$1,000; 9) \$5,000; 10) \$1,000; 11) \$500;
 12) \$5,000; 13) \$500; 14) \$1,000; 15) \$500; 16) \$500; 17) \$100; 18) \$500; 19) \$10,000; 20) \$1,000; 21) \$10,000;
 22) \$500

Ohio

1) \$15,000*; 2) \$1,000; 3) \$10,000*; 4) \$7,500*; 5) \$100; 6) \$100; 7) \$10,000*; 8) \$250; 9) \$5,000*; 10) \$1,000;
 11) \$1,000; 12) \$2,500*; 13) \$500; 14) \$1,000; 15) \$100; 16) \$100; 17) \$1,000*; 18) \$1,000*; 19) \$2,500*;
 20) \$7,500*; 21) \$10,000*; 22) \$2,500*

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 + = no statutory ceiling

Statutory Fine Ceilings for Sample of Offenses

<u>Offenses</u>	<u>Offenses</u>	<u>Offenses</u>
1. Murder with intent	8. Criminal trespass	15. Disorderly conduct/breach of the peace
2. Criminally negligent homicide	9. Automobile theft	16. Reckless driving (1st off.)
3. Armed robbery	10. Petit larceny	17. Driving while intoxicated (1st off.)
4. Purse snatch	11. Criminal mischief	18. Driving while intoxicated (2nd off.)
5. Assault	12. Confidence swindle/theft by deception	19. Sale of marijuana
6. Carrying concealed unlicensed handgun	13. Prostitution	20. Possession of heroin
7. Burglary of residence	14. Pimping	21. Rape
		22. Embezzlement of funds

States

Oklahoma

- 1) \$200*; 2) \$1,000; 3) \$200*; 4) \$200*; 5) \$100; 6) \$200*; 7) \$200*; 8) \$500; 9) \$200*; 10) \$100; 11) \$500;
- 12) \$5,000; 13) \$200*; 14) \$200*; 15) \$500; 16) \$500; 17) \$500; 18) \$5,000; 19) \$5,000; 20) \$200*; 21) \$200*;
- 22) \$200*

Oregon

- 1) - ; 2) \$2,500; 3) \$2,500; 4) \$2,500; 5) \$1,000; 6) \$200; 7) \$2,500; 8) \$250; 9) \$6,000; 10) \$1,000;
- 11) \$1,000; 12) \$2,500; 13) \$1,000; 14) \$2,500; 15) \$500; 16) \$500; 17) \$1,000; 18) \$1,000; 19) \$2,500;
- 20) \$2,500; 21) \$2,500; 22) \$12,000

Pennsylvania

- 1) - ; 2) \$10,000; 3) \$25,000; 4) \$10,000; 5) \$5,000; 6) \$10,000; 7) \$25,000; 8) \$2,500; 9) \$15,000;
- 10) \$5,000; 11) \$5,000; 12) \$10,000; 13) \$2,500; 14) \$15,000; 15) \$300; 16) \$25; 17) \$2,500; 18) \$2,500;
- 19) \$15,000; 20) \$5,000; 21) \$25,000; 22) \$15,000

Rhode Island

- 1) - ; 2) - ; 3) - ; 4) - ; 5) \$500; 6) - ; 7) \$2,000; 8) \$500; 9) \$5,000; 10) \$500; 11) \$500; 12) \$500;
- 13) - ; 14) \$1,000; 15) \$500; 16) \$500; 17) \$500; 18) \$500; 19) \$30,000; 20) \$1,000; 21) - ; 22) \$3,000

* = cannot be sole sentence
 - = no fine authorized

Statutory Fine Ceilings for Sample of Offenses

<u>Offenses</u>	<u>Offenses</u>	<u>Offenses</u>
1. Murder with intent	8. Criminal trespass	15. Disorderly conduct/breach
2. Criminally negligent homicide	9. Automobile theft	of the peace
3. Armed robbery	10. Petit larceny	16. Reckless driving (1st off.)
4. Purse snatch	11. Criminal mischief	17. Driving while intoxicated
5. Assault	12. Confidence swindle/theft	(1st off.)
6. Carrying concealed unlicensed	by deception	18. Driving while intoxicated
handgun	13. Prostitution	(2nd off.)
7. Burglary of residence	14. Pimping	19. Sale of marijuana
		20. Possession of heroin
		21. Rape
		22. Embezzlement of funds

States

South Carolina

1) - ; 2) - ; 3) - ; 4) - ; 5) - ; 6)\$2,000; 7) - ; 8)\$200; 9) - ; 10) - ; 11) + ; 12) - ; 13)\$100;
 14)\$100; 15)\$100; 16)\$100; 17)\$100; 18)\$1,000; 19)\$5,000; 20)\$25,000; 21) - ; 22) -

South Dakota

1) - ; 2)\$10,000; 3)\$25,000; 4)\$10,000; 5)\$1,000; 6)\$1,000; 7)\$15,000; 8)\$100; 9)\$10,000; 10)\$100;
 11)\$10,000; 12)\$10,000; 13)\$100; 14)\$2,000; 15)\$100; 16)\$1,000; 17)\$1,000; 18)\$1,000; 19)\$100;
 20)\$10,000; 21)\$25,000; 22)\$10,000

Tennessee

1) - ; 2) - ; 3) - ; 4) - ; 5)\$500; 6)\$1,000; 7) - ; 8)\$500; 9) - ; 10) - ; 11)\$50; 12) - ; 13)\$50;
 14) - ; 15)\$200; 16)\$500; 17)\$500; 18)\$750; 19)\$1,000; 20)\$1,000; 21) - ; 22) -

Texas

1) - ; 2)\$2,000; 3) - ; 4)\$5,000; 5)\$2,000; 6)\$2,000; 7) - ; 8)\$200; 9)\$5,000; 10)\$2,000; 11)\$5,000;
 12)\$5,000; 13)\$200; 14)\$5,000; 15)\$200; 16)\$200; 17)\$100; 18)\$5,000; 19)\$5,000; 20)\$10,000; 21)\$10,000;
 22)\$5,000

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Statutory Fine Ceilings for Sample of Offenses

Offenses

1. Murder with intent
2. Criminally negligent homicide
3. Armed robbery
4. Purse snatch
5. Assault
6. Carrying concealed unlicensed handgun
7. Burglary of residence

Offenses

8. Criminal trespass
9. Automobile theft
10. Petit larceny
11. Criminal mischief
12. Confidence swindle/theft
13. Prostitution
14. Pimping

Offenses

15. Disorderly conduct/breach of the peace
16. Reckless driving (1st off.)
17. Driving while intoxicated (1st off.)
18. Driving while intoxicated (2nd off.)
19. Sale of marijuana
20. Possession of heroin
21. Rape
22. Embezzlement of funds

States

Utah

- 1) - ; 2)\$10,000; 3)\$10,000; 4)\$10,000; 5)\$299; 6)\$5,000; 7)\$10,000; 8)\$299; 9)\$10,000; 10)\$299;
- 11)\$1,000; 12)\$5,000; 13)\$299; 14)\$5,000; 15)\$299; 16)\$299; 17)\$299; 18)\$299*; 19)\$5,000; 20)\$299;
- 21)\$10,000; 22)\$10,000

Vermont

- 1) - ; 2)\$1,000; 3) - ; 4) - ; 5)\$1,000; 6)\$200; 7)\$1,000; 8)\$500; 9)\$500; 10)\$300; 11)\$1,000;
- 12)\$1,000; 13)\$100; 14)\$2,000; 15)\$500; 16)\$1,000; 17)\$500; 18)\$500; 19)\$10,000; 20)\$1,000;
- 21)\$10,000; 22)\$500

Virginia

- 1) - ; 2)\$1,000*; 3) - ; 4) - ; 5)\$1,000; 6)\$1,000; 7)\$1,000; 8)\$1,000; 9)\$1,000; 10)\$1,000;
- 11) - ; 12)\$1,000; 13)\$1,000; 14) - ; 15)\$500; 16)\$1,000; 17)\$500; 18)\$1,000; 19)\$1,000; 20)\$1,000;
- 21) - ; 22)\$1,000*

Washington

- 1)\$10,000*; 2)\$5,000; 3)\$10,000*; 4)\$10,000; 5)\$1,000; 6)\$500; 7)\$10,000; 8)\$1,000; 9)\$10,000;
- 10)\$1,000; 11)\$600; 12)\$5,000; 13)\$500; 14)\$5,000; 15)\$500; 16)\$500; 17)\$500*; 18)\$1,000*; 19)\$10,000;
- 20)\$10,000; 21)\$10,000; 22)\$12,000

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Statutory Fine Ceilings for Sample of Offenses

<u>Offenses</u>	<u>Offenses</u>	<u>Offenses</u>
1. Murder with intent	8. Criminal trespass	15. Disorderly conduct/breach
2. Criminally negligent homicide	9. Automobile theft	of the peace
3. Armed robbery	10. Petit larceny	16. Reckless driving (1st off.)
4. Purse snatch	11. Criminal mischief	17. Driving while intoxicated
5. Assault	12. Confidence swindle/theft	(1st off.)
6. Carrying concealed unlicensed handgun	by deception	18. Driving while intoxicated
7. Burglary of residence	13. Prostitution	(2nd off.)
	14. Pimping	19. Sale of marijuana
		20. Possession of heroin
		21. Rape
		22. Embezzlement of funds

States

West Virginia

1) - ; 2)\$1,000; 3) - ; 4) - ; 5)\$500; 6) - ; 7) - ; 8)\$100; 9)\$500; 10)\$500; 11)\$500; 12)\$500;
13)\$100; 14)\$500; 15)\$50; 16)\$500; 17)\$100; 18) - ; 19)\$25,000; 20)\$1,000; 21)\$10,000; 22)\$500

Wisconsin

1) - ; 2)\$10,000; 3) - ; 4)\$10,000; 5)\$10,000; 6)\$10,000; 7)\$10,000; 8)\$500; 9)\$10,000; 10)\$10,000;
11)\$10,000; 12)\$10,000; 13)\$10,000; 14)\$10,000; 15)\$1,000; 16)\$200; 17)\$500; 18)\$1,000; 19)\$5,000;
20)\$25,000; 21)\$10,000; 22)\$10,000

Wyoming

1)\$1,000*; 2)\$1,000*; 3)\$1,000*; 4)\$1,000*; 5)\$50; 6)\$100; 7)\$1,000*; 8)\$500; 9)\$1,000*; 10)\$100;
11)\$100; 12)\$1,000; 13)\$50; 14)\$1,000*; 15)\$50; 16)\$100; 17)\$200; 18)\$200; 19)\$10,000; 20)\$1,000;
21)\$1,000*; 22)\$1,000*

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