

Outline

- 1.Sycamore 101
- 2.Define Fees & Fines (definition slide)
- 3.What We've Done on the Topic
 - a) Research (slide with images of papers)
 - b)Convene
 - i. The Network (slide)
 - ii.Commonalities
- 4.The Current System + Its Intent
 - a) Laws (>360 laws slide) *well-intended incrementalism*
 - b) People (decisionmakers slide) *lots of people determining these things before they land in the clerks' offices*
- 5.Results: Some Unintended Outcomes
 - a) Lack of uniformity -> Different Debts / Different Outcomes (slide on waiver of indigent defense fee rates by county)
 - b) Unintended consequences for offenders (slides on barriers to productive life in the community)
 - c) Unintended consequences for government
 - i. Unreliable revenue (slide on collection rates)
 - ii. Extra work to collect
 - iii. Additional costs if it prolongs involvement in the system for reasons unrelated to public safety
- 6.Potential options that try to find a balance between public safety, an adequately-funded government, punishment, and avoiding unintended consequences
 - a) Collect better data - *to determine how systemic some of the unintended consequences might be (Bill to do so passed TBD?)*
 - b) Potential avenues to streamline/right-size fees and taxes – *people may actually pay more if they can afford their debts*
 - i. Uniformity in judges' application of ability-to-pay standards (NCSL slides on different standards?)
 - ii. A review of laws to ensure statutory fees make comparative sense
 - iii. Options for clerks to offer payment plans or debt relief based on circumstances
- 7.What's next? Come to the table.

Fees & Fines in Tennessee

A C L O S E R L O O K

Tennessee State Clerks of Court Association
May 16, 2024



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The Sycamore Institute is an independent, impartial public policy research center for Tennessee.

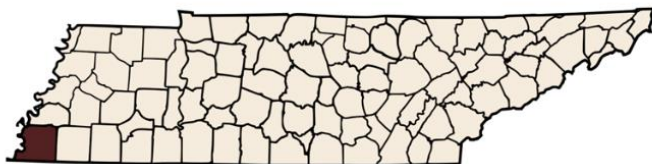
We equip Tennesseans with data-driven resources to identify, understand, and solve big challenges.

SHELBY COUNTY

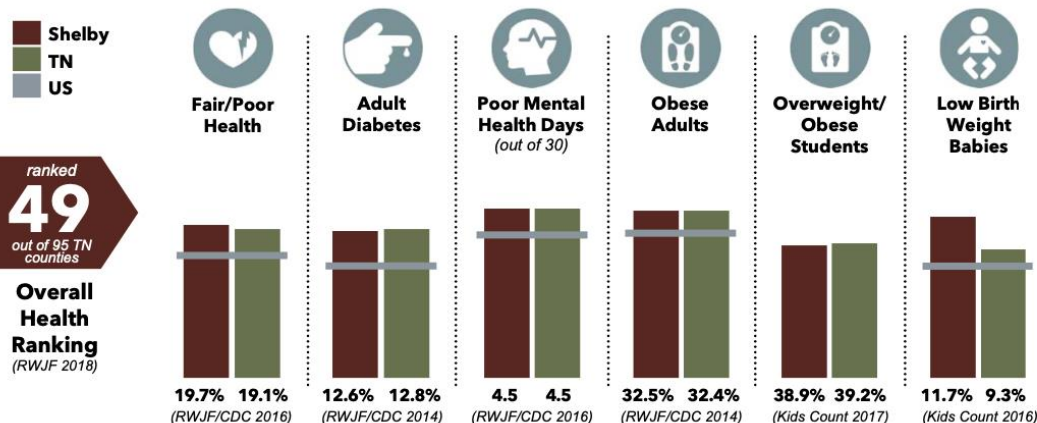


QUICK FACTS

2017 Population: **936,961**
 Age <18: **25.0%**
 Age 65+: **13.1%**
 Median Age: **36**
 Percent Rural: **2.8%**
 (Census 2010, 2017)

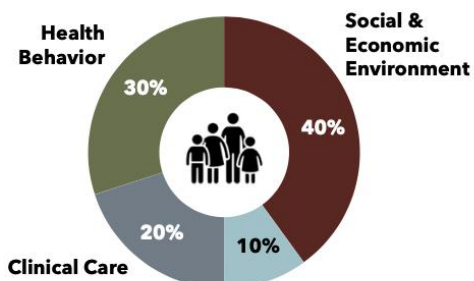


HEALTH OUTCOMES IN SHELBY COUNTY



THE DRIVERS OF HEALTH

Our behaviors, physical, social, and economic environments, and access to clinical care are all major drivers of health.



The factors that drive our health are complex and interconnected. They can affect each other while also influencing health and well-being.

Research & Analysis



Engagement

ACS - 2019 1-Year Estimates

	TN		
	Total	Insured	Uninsured
<i>Below 138 percent of the poverty threshold</i>	1,381,960	1,115,972	265,988
<i>Below 100 percent of the poverty threshold</i>	921,554	742,323	179,231
<i>100-138</i>	460,406	373,649	86,757

In 2019, about 179K people under 100% of poverty were uninsured.

Technical Assistance

are who purchased Marketplace coverage.

and the uninsured rate among those folks is roughly th

insured as Kentucky's traditional expansion

Defining Our Terminology



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Procedural Punitive

Fees

Taxes

Cash Bail

Fines

Restitution

Forfeitures

Fees & Fines

Legal Financial Obligations

LFOs

Criminal Justice Financial Obligations

CJFOs

Our Work on Fees & Fines



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FEES, FINES, AND CRIMINAL JUSTICE IN TENNESSEE
How It All Works and Why It Matters

Even if not convicted, people charged with crimes in Tennessee often face substantial fees, fines, taxes, and other financial obligations. Our state and local governments use these fees and fines both as punishment and to fund the criminal justice system itself. Many policymakers may not fully appreciate the extent of their use and the trade-offs they entail.

This report explains the fees and fines people can incur through the criminal justice system and how they affect everyone from the accused, convicted, and incarcerated to victims, law enforcement, and the courts.

Future reports will look at how Tennessee's state and local governments use fees and fines to raise revenue, as well as options for policymakers who want to consider alternatives or address any unintended consequences.

- KEY TAKEAWAYS
- People can accrue a multitude of fees, fines, taxes, and other financial charges - both punitive and procedural - as they move through Tennessee's criminal justice system.
 - State law sets broad rules for fees and fines, but many state and local entities influence when and how they apply in each situation. The result is wide variation across Tennessee.
 - Fees and fines help pay for many essential functions of the criminal justice system, but the revenue is not always reliable and may create undesirable incentives.
 - For people less able to pay, fees and fines can prolong their involvement in the criminal justice system and make it harder to get ahead.

What Are Criminal Justice Fees & Fines?
Anyone moving through the criminal justice system in Tennessee is subject to certain fees, taxes, fines, and other financial charges. (1) In this report, we use "fees and fines" as a generic term for any such costs a person accused or convicted of violating state or local laws may owe - except for the costs of private legal representation. (2) (3) (4)

State law creates the framework for which fees and fines can apply in any particular situation. It lays out hundreds of optional and mandatory costs that can be levied by courts, state agencies, local officials, and sometimes private entities. These are authorized in both general statewide law and in private acts that govern specific counties and municipalities. See the **Appendix** for a full list of the over 360 distinct fees and fines authorized in general law.

Acknowledgement: This research was funded by the Annie E. Casey Foundation. We thank them for their support but acknowledge that the findings and conclusions presented in this report are those of the authors alone, and do not necessarily reflect the opinions of the Foundation.
Sycamore takes a neutral and objective approach to analyze and explain public policy issues. Funders do not determine research findings. More information on our code of ethics is available [here](#).

HOW CRIMINAL FEES AND FINES FUND STATE AND COUNTY GOVERNMENT IN TENNESSEE

Criminal fees, fines, and other financial obligations serve as both punishment and a source of funding for the criminal justice system. Many policymakers, however, may not fully appreciate the extent of their use and the trade-offs they entail. This report begins to quantify for the first time how Tennessee's state and local governments use criminal fees and fines to raise revenue.

A prior report [explains the fees and fines people can incur](#) through Tennessee's criminal justice system and how they affect everyone from the accused, convicted, and incarcerated to victims, law enforcement, and the courts. Future work will look at options for policymakers who want to consider alternatives or address any unintended consequences.

- KEY TAKEAWAYS
- Fees and fines collected by the Dept. of Revenue are a relatively small and shrinking part of the state budget (\$37.9 million in 2019). Other agencies' collections are not public.
 - In recent years, Tennessee's county governments collected about \$180 million in annual fee and fine revenues. That may be as little as one quarter of the amount they assessed.
 - Despite wide variation, fees and fines are generally small and shrinking compared to other county revenues. On average they pay for about 15% of local spending on criminal justice.
 - Our analysis suggests that differences in fees and fines may have more to do with local decisions and policies than with more easily-measured factors like crime or demographics.

Overview
Fees and fines help pay for many essential functions of the criminal justice system, but they can have unwanted side effects. As our [previous report explains](#), they may incentivize governments to focus on law enforcement activities that raise revenue - and that revenue is not always reliable. (1) For people who have trouble paying, meanwhile, fees and fines can prolong their involvement in the criminal justice system and make it harder to get ahead.

Tracking Fees & Fines
In Tennessee, complex allocation formulas, decentralized collection, and insufficient data make it hard to track how this money is used. (2) State law authorizes over 360 fees, fines, taxes, and other legal financial obligations (LFOs), which various authorities within the criminal justice system collect. Since defendants can accumulate numerous LFOs in any given case that each have specific collectors, recipients, and purposes, it is difficult to track who gets the revenue and how they spend it.

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Terminology
"Criminal justice fees and fines," "criminal justice financial obligations," "legal financial obligations," and criminal justice debt all refer to costs a person may owe as they move through the criminal justice system.

CRIMINAL JUSTICE FEES & FINES
11 Options for Tennessee Policymakers

Fees and fines are a central part of Tennessee's criminal justice system - both to punish criminal acts and to fund a basic government function. However, they can also have unintended side effects that make it harder for some people to be productively report outlines in broad terms numerous ways address these challenges. Future reports will e detail.

Two prior reports looked at the [different types](#) their impact on different stakeholders, as well i state and local governments.

- KEY TAKEAWAYS
- A lack of robust data and varied policies/criminal justice fees and fines. However, p
 - To start, lawmakers could require state an they charge and why, to whom debts are
 - Governments may want to streamline law in how courts weigh a person's ability to p
 - Officials could also jail fewer people befo more of the costs of holding and monitori
 - Other options include revising collection i the criminal and financial consequences c
- KEY TAKEAWAYS
- A lack of information makes it harder to und fines, their effect on broader policy goals, ai
 - State and local officials should have clear ru central, publicly accessible repository with s
 - Policymakers can also expand courts' report finances, and connect data across systems, i

Background on Fees and Fines
Governments at all levels need money to fu basic services. Compared to other major sou small role in funding state and local goverme that governments' dependency on fees and fin

Starting in the 1980s, the number of people grew significantly - raising incarceration, co budgets and the public generally averse to hig some of this financial burden to people charge

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FOUR WAYS TO IMPROVE TENNESSEE'S CRIMINAL FEE & FINE DATA INFRASTRUCTURE

Fines and fees are a central [part of Tennessee's criminal justice system](#) - both to punish criminal acts and to [fund essential government functions](#). However, incomplete data make it hard to track how much people are charged and by whom, as well -- [Tennessee's criminal justice system](#) -- more robust data would help Tennessee policiyr of criminal fees and fines. This report highlights l answer, best practices to collect better informati

- KEY TAKEAWAYS
- A lack of information makes it harder to und fines, their effect on broader policy goals, ai
 - State and local officials should have clear ru central, publicly accessible repository with s
 - Policymakers can also expand courts' report finances, and connect data across systems, i

Defining the Problem
Tennessee's complex fee and fine framework court system, and limited data collection obsc and impact of legal financial obligations (LFOs. Tennessee has added at least 50 new fees and fi Yet, there is little research or available data to he questions like:

- Basic Landscape of Fees & Fines in Tennesse*
- What is the typical amount of fees and fir expect to face for any given crime?
 - Are fees and fines for different offenses f severity of the crime?
 - What practices are typically used to debt financial obligations, a person's ability to
 - To what extent are fees and fines used tc government?
 - How do each of these things vary from o
 - What groups or areas are most affected i

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HOW TENNESSEE JUDGES LOOK AT DEFENDANTS' ABILITY TO PAY FEES AND FINES

Fees and fines are an important part of Tennessee's criminal justice system - both to punish criminal acts and fund an essential government function. This report dives deeper into one item on our list of [potential policy options](#) to address the side-effects of fees, fines, and other legal financial obligations (LFOs). Specifically, it looks at how a person's ability to pay fees and fines factors into what they ultimately owe and highlights several options for state-level policy change.

Prior reports [walk through](#) the 360+ LFOs people can accrue in the state's criminal justice system, their effects on different stakeholders, the [revenue they generate](#) for our state and local governments, and opportunities to [improve data collection](#).

- KEY TAKEAWAYS
- The effect that fees, fines, and other legal financial obligations have on people required to pay them (and the justice system overall) largely depends on their ability to pay them.
 - A patchwork of provisions in Tennessee code offers wide flexibility but little consistency in how courts should address defendants' ability to pay fees and fines.
 - Judges across the state vary in when and how they determine a defendant's ability to pay.
 - The judicial discretion baked into current law recognizes that each case is unique but can also generate unequal outcomes that diverge by jurisdiction and/or defendants' economic status.
 - Options to address these challenges include gathering better data on current practices and making state law more consistent. Policymakers could also consider graduated fines.

Background
People can accrue a multitude of fees and fines as they move through Tennessee's criminal justice system (Figure 1). The amounts owed depend on the offense, the actors involved, and a case's ultimate outcome, but they can add up quickly. (1) While publicly available data is limited, it is not unusual for total debts to reach several thousand dollars or more. (2)

Terminology
Criminal justice fees and fines, criminal justice financial obligations, legal financial obligations, and criminal justice debt all refer to costs a person may owe as they move through the criminal justice system. These terms do not include the costs of private legal representation.

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Memphis

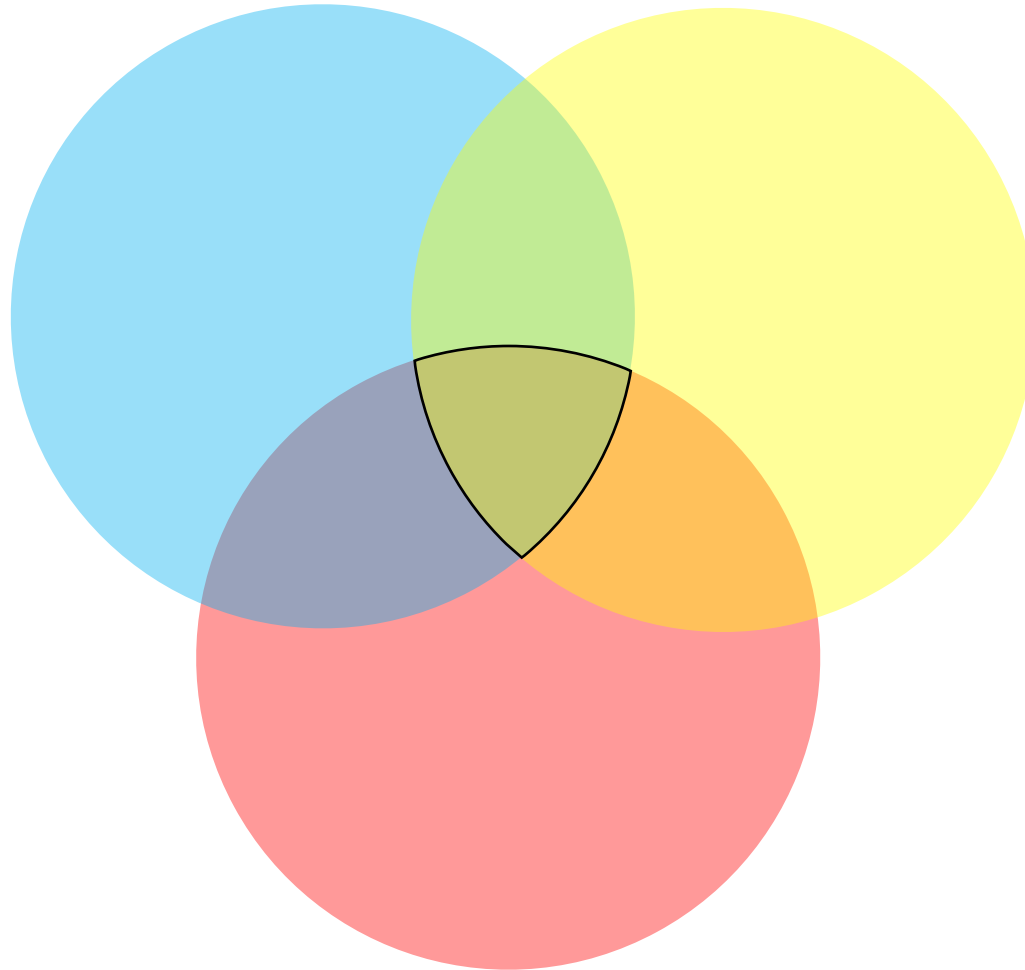


Chattanooga



The Sycamore Institute's
Policy Network on Criminal Fees and Fines
connects and convenes a diverse group of practitioners and advocates to support learning and community-driven policy and practice improvements in Tennessee.

Looking for Areas of Agreement



Tennessee's System of Fees & Fines



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≥ 250



Pre-Trial

- Booking & Processing Fee
- Daily Jail Fee
- Cash Bail or Bail Bond Fee
- Public Defender Fees
- Electronic Traffic Citation Fee
- Public Record Search Fee
- BAC Test Fee
- Transportation Fee
- Citation in Lieu of Arrest Fee
- Petition, Warrant, & Citation Issued Fees
- Credit Card Processing Fee



Trial & Other Court

- Litigation Taxes
- Institution of Criminal Case Fee
- Record Fees
- Victim-Offender Mediation Center Litigation Tax
- Victim Assistance Program Fee
- Jail/Courtroom Construction/Renovation Tax
- General Sessions Judge Tax
- Courthouse Security Tax
- Judge/Clerk Training Fee
- Failure to Appear Fees
- Cert. of Criminal History Fee
- Drug Testing Fees
- Criminal Contempt Fee
- Subpoena Issuance Fee
- Continuance Request Fee
- Filing Fee
- Filing Subscription Fee
- Copy Fees
- Certification Fees
- Service of Process Fees
- Data Processing Fees
- Jury Security Fees
- Court Case Fee
- Law Library Fees
- Prisoner Escort Fee



Conviction & Incarceration

- Fines
- Restitution
- Offense-Specific Conviction Fees & Contributions
- Property Seizures
- Property Seizure Fee
- Property Seizure Storage Fee
- Jailers' Fee
- Fees for Incidentals (uniforms, soap, etc.)
- Medical Co-Pays
- Telephone Fees
- Transportation Costs
- Work Release Fees
- Education Testing Fees (e.g. GED)



Community Supervision

- Supervision Fee
- Electronic Monitoring Fee
- Ignition Interlock Fee
- Technology Fee
- Drug Testing Fee
- DNA Testing Fee
- Transaction Fee
- Sex Offender Registry Fee
- Supervision Violation Proceedings Fee
- Behavioral Health Treatment Costs
- Records Expungement Fee
- Drivers License Reinstatement Fee



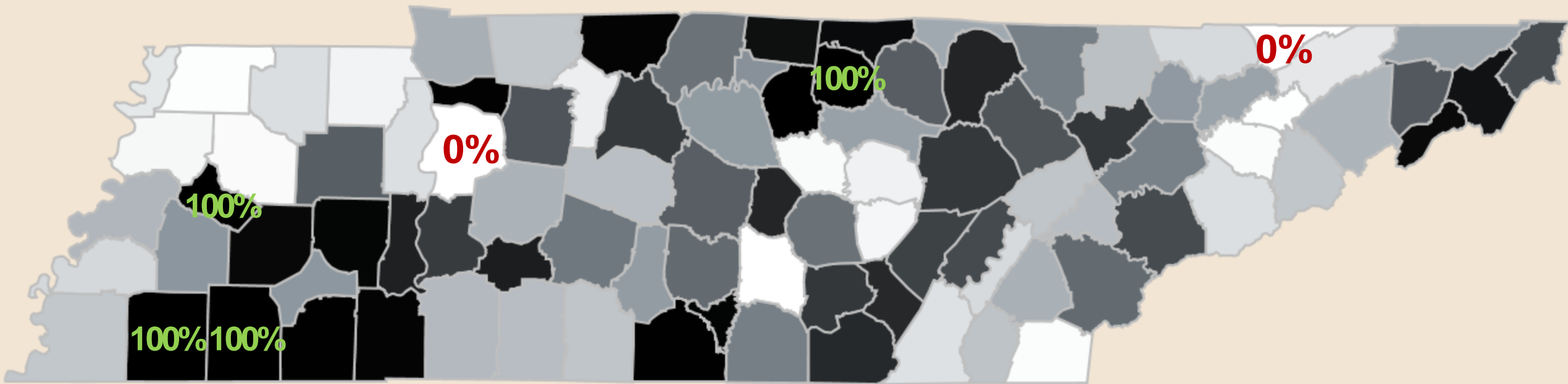
Some Unintended Outcomes



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Indigent Defense Administrative Fee (\$50-\$200)

2022 Waiver Rate



Source: The Sycamore Institute's analysis of the Tennessee Administrative Office of the Courts' (AOC) Administrative Fee for Appointed Counsel (CY 2022) Report the General Assembly



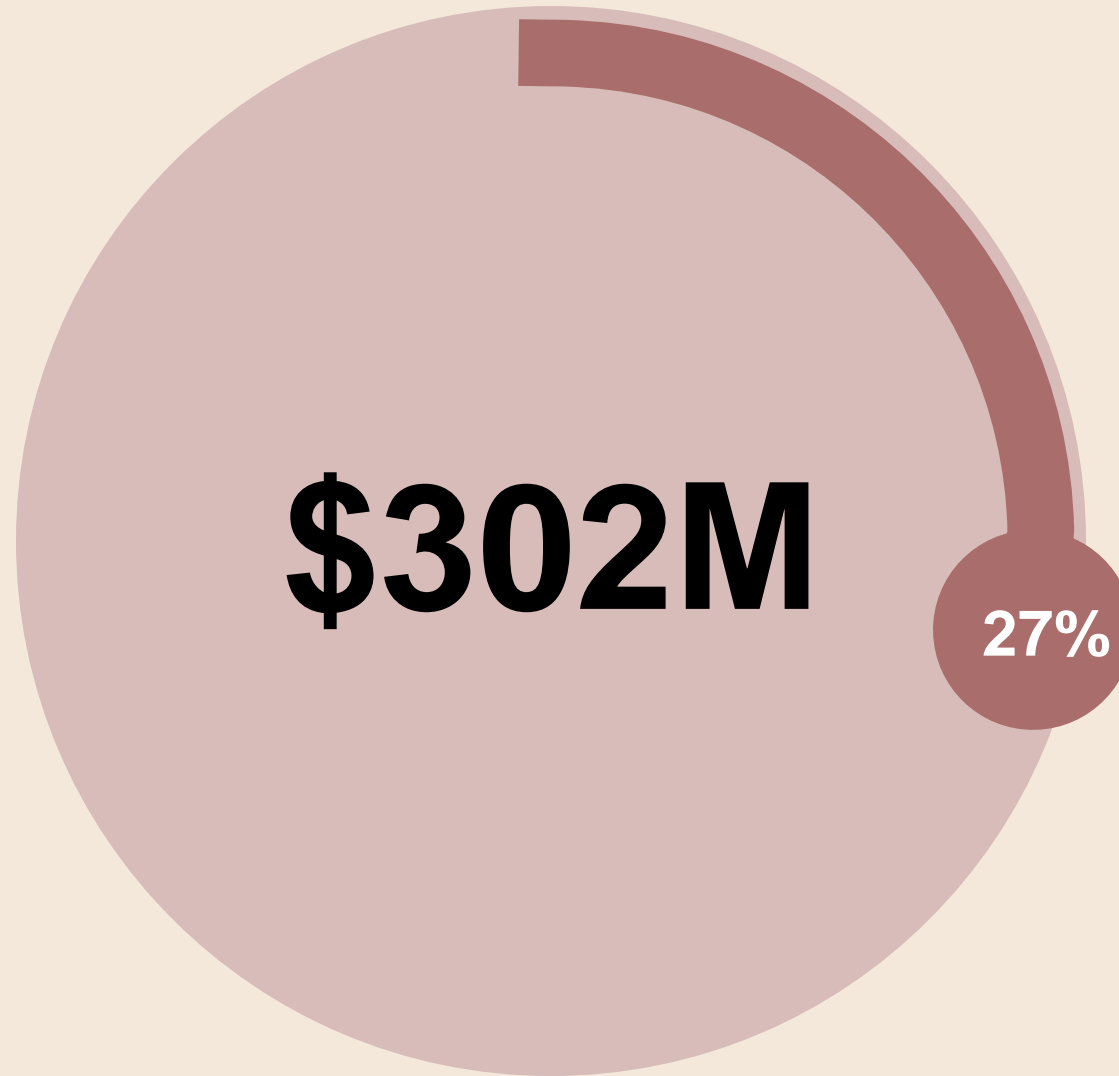
Productive, Prosperous Life



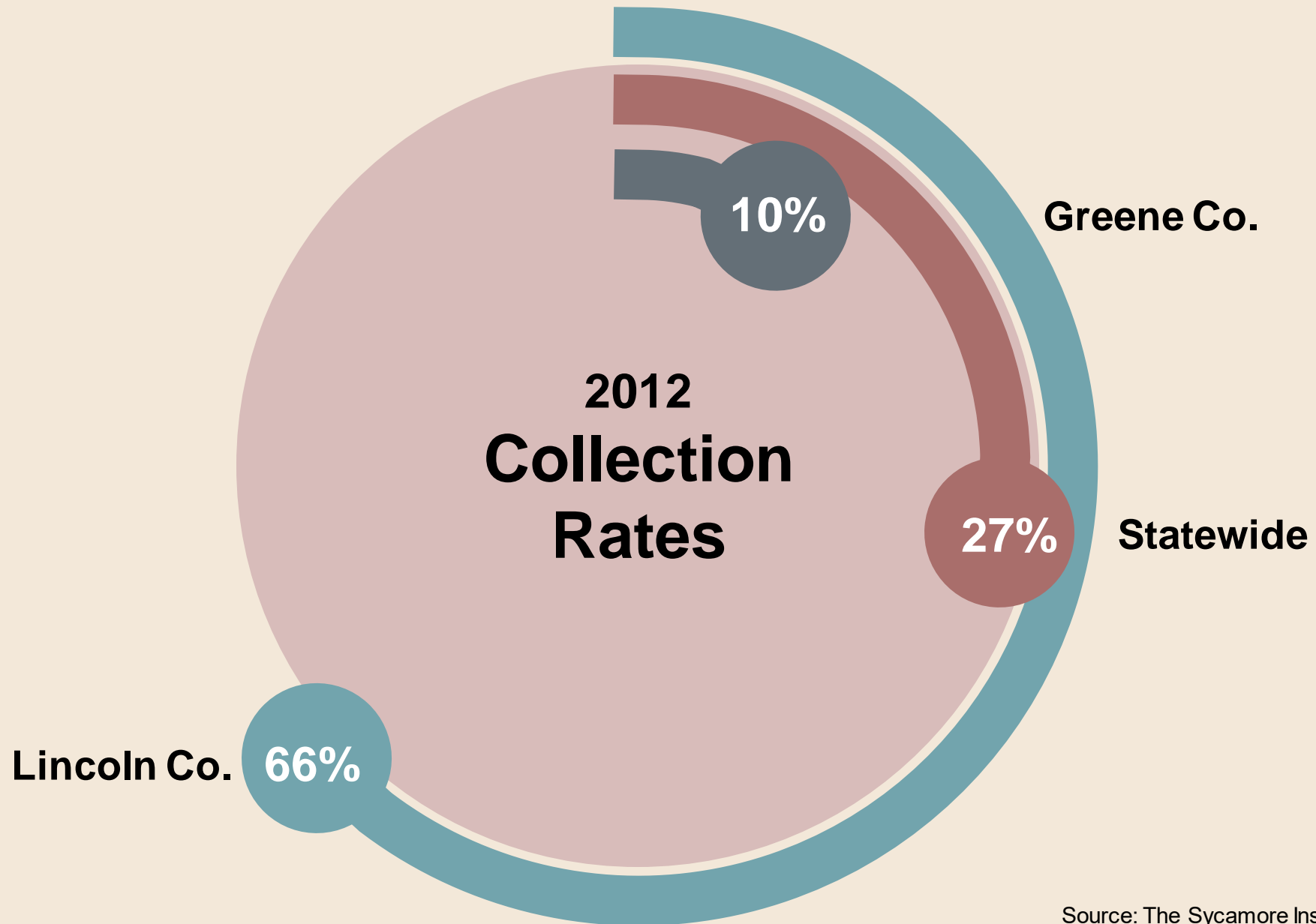
Fee & Tax Assessments Per Resident



Source: The Sycamore Institute's analysis of FY 2012 data from the Tennessee Administrative Office of the Courts (AOC) as reported by the Tennessee Advisory Commission on Intergovernmental Relations (TACIR)



Source: The Sycamore Institute's analysis of financial data from the Tennessee Administrative Office of the Courts (AOC) as reported by the Tennessee Advisory Commission on Intergovernmental Relations (TACIR)



Source: The Sycamore Institute's analysis of financial data from the Tennessee Administrative Office of the Courts (AOC) as reported by the Tennessee Advisory Commission on Intergovernmental Relations (TACIR)

Are There Ways for This to Work Better?



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A Few Options to Consider

**Collect More & Better
Information**

How much outstanding criminal debt is there in Tennessee?

How do criminal debt affect offender outcomes?

Or their involvement in the criminal justice system?

Who is most affected by criminal debt?

How reliant are state and local governments on fees and fines?

How do fee and fine levies vary across the state?

How much does it cost to collect these debts?



A Few Options to Consider

**Collect More & Better
Information**

**Streamline
Fees & Taxes**

**Comprehensive Review
of Statutory Fees**

**More Uniformity in
Determining Ability-to-Pay**

Ability to Pay

wide flexibility, little consistency

**Completely
Undefined**

**General
Framework**

**Specifically
Defined**



**hardship
indigency
ability-to-pay
financial situation
future ability to pay
inability to pay
sufficient funds to pay
without anticipated
future funds to pay
financial resources
financial conditions**

indigent
consideration of income,
property, poverty guidelines,
cost of representation

consideration of income,
property, poverty guidelines,
cost of drug treatment

consideration of income,
expenses, assets, debts

hardship
receipt of social security or
welfare, have uncovered medical
expenses exceeding 25% of
gross monthly income, etc.

indigent
after-tax income <185% FPL

**cap of 10% of
net income**

The Tennessee code is often silent or confusing on **if, when, and how a judge is to make these considerations and how it should affect financial obligations.**

A Few Options to Consider

**Collect More & Better
Information**

**Streamline
Fees & Taxes**

**Revisit Debt Collection
Practices**

**Comprehensive Review
of Statutory Fees**

**Assess the Criminal &
Financial Consequences of
Unpaid Debt**

**More Uniformity in
Determining Ability-to-Pay**

**Options for Payment Plans
or Debt Relief**

Let's Continue the Conversation

**Join the
Policy Network
on Criminal Fees
& Fines**





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BUILDING A STRONGER TENNESSEE THROUGH DATA AND RESEARCH

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