

PUNISHING POVERTY

The high cost of probation fees in Massachusetts

Wendy Sawyer, December 2016

In Massachusetts, probation is a much bigger part of correctional control than incarceration in prison or jail. Almost three out of four people under state correctional control are on some form of probation. If you are one of these 67,000 people, the state tells you probation is “an opportunity for you to make positive changes in your life,” allowing you to remain in the community, work, and be with family and friends instead of serving time in jail or prison. While this may sound like a great deal, it comes at a price.

Probation service fees in Massachusetts cost probationers more than \$20 million every year. People sentenced to probation are currently charged \$50-\$65 per month. That might not seem like much, but with an average probation sentence of 17-20 months, a resident sentenced to probation is charged between \$850-\$1,300 in total monthly probation service fees. These fees make up the bulk of the financial burden imposed by the two dozen different court-ordered fines and fees defendants can face.

Poor communities foot the bill

Our analysis of probation caseload data from the state’s 62 District Court locations, along with income data for the population served by each court location, finds that as incomes go up, probation rates go down. That means the people who can least afford additional fees are more likely to be on probation and expected to pay up every month. We find that:

- The courts serving the populations with per capita incomes below \$30,000 have probation rates 88% higher than in those serving the populations with incomes over \$50,000.
- Just ten court locations where the populations have below-average incomes account for a full third of District Court probation cases.
- Residents of Holyoke are sentenced to probation at a rate more than three times higher than in Newton. But Holyoke’s probationers can scarcely afford to pay this regressive tax; the average income in that area is \$21,671.

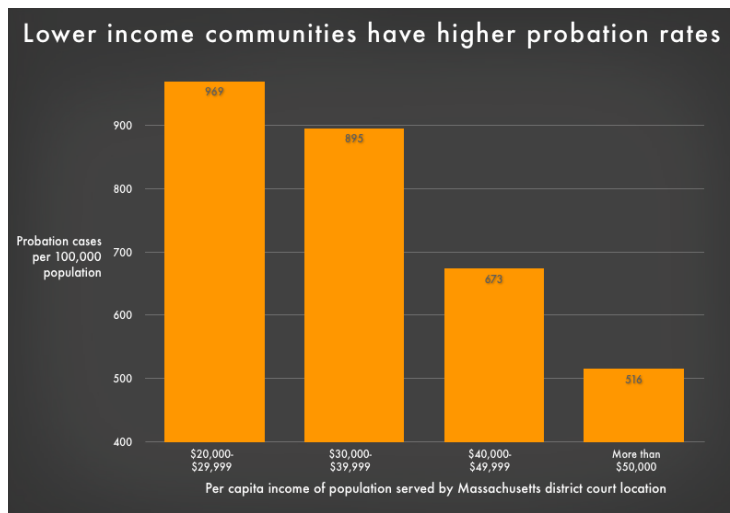
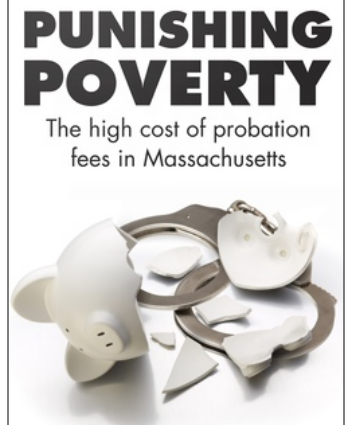
Failure to pay probation fees: compounding consequences

The state cannot incarcerate a probationer for nonpayment of fines and fees if it determines the defendant is unable to pay them. But Massachusetts judges often do not concern themselves with the distinction between defendants who *choose* not to pay and those who are *unable* to pay. They waive fees infrequently and inconsistently, and neglect to conduct hearings on ability to pay before assessing fees or when people fail to pay. As a result, probation fees end up landing people in jail because they are too poor to make payments.

Incarceration is the most dramatic consequence of failure to pay fees, but there are many other, equally insidious penalties. When you fail to pay your probation fee:

- The court issues a default warrant to force you to return to court. This warrant comes with its own \$50 fee; if you are arrested on the warrant, you pay a \$75 fee.
- The RMV may suspend your driver’s license until the court clears the warrant, and if your license is revoked, it will cost you another \$100 to reinstate it. Without a license, it is even harder to work, manage family responsibilities, and meet the other conditions of your probation.
- A judge may find you in violation of your probation conditions. As a result, the judge may change or add conditions of your probation. He or she may also consider failure to pay among other offenses to revoke your probation — a chain of events that also ends with incarceration.

The time to challenge court fines and fees is now. We know too much about the real costs of probation fees in Massachusetts to let this policy stand. We know that probation disproportionately impacts poor communities, and the current waiver system doesn’t adequately protect them. Poverty is being punished; people are locked up for court debts, including probation fees. And while probation fees aren’t substantial enough to make or break the state budget, they are enough to break the bank for thousands of probationers.



The full report is available at <https://www.prisonpolicy.org/probation/>