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Kansas Appleseed Center for Law and Justice
Oral Testimony in Support of HB 2179
House Committee on Corrections and Juvenile Justice

Chair Lewis, Ranking Member Schlingensiepen, and Members of the House Committee on Corrections and Juvenile Justice,

Thank you for the opportunity to provide this testimony. I am here today in support of House Bill 2179, which would prohibit assessing children and their families fines, fees, and court costs in the youth justice proceedings.

Kansas Appleseed has a long history of unwavering commitment to advocating for the rights and well-being of children, including ending punitive youth justice practices in the state. Despite the revised youth justice code, there are still parts of the youth justice system that are failing the kids it promises to help. HB 2179 is an important and vital step in building a youth justice system in the state that is effective and achieves its rehabilitative goals.

The revised Kansas juvenile justice code establishes that the primary goals for the code include promoting public safety and improving the ability of youth to live more productively and responsibly in the community.¹ The elimination of fines and fees is an effective way of accomplishing these goals. As the U.S. Department of Justice has advised:

Fines and fees can be particularly burdensome for youth, who may be unable to pay court-issued fines and fees themselves, burdening parents and guardians who may face untenable choices between paying court debts or paying for the entire family unit's basic necessities, like food, clothing, and shelter. Children subjected to unaffordable fines and fees often suffer escalating negative consequences from the justice system that may follow them into adulthood.²

Under current practices, Kansas families may face court fines and fees up to tens of thousands of dollars.³ Kansas imposes more types of costs on youth in the juvenile justice system than

¹ K.S.A. 38-2301(a).

² U.S. Dep't of Just., Dear Colleague Letter to Courts Regarding Fees and Fines for Youth and Adults (Apr. 20, 2023) [hereinafter "Dear Colleague Letter"], <https://www.justice.gov/opa/press-release/file/1580546/dl>.

³ Nat'l Juv. Def. Ctr., *Limited Justice: An Assessment of Access to and Quality of Juvenile Defense Counsel in Kansas* 64 (Oct. 2020), <https://njdc.info/wp-content/uploads/Kansas-Assessment-Web.pdf>.

almost any other state.⁴ In Kansas, these fees can begin as soon as a case is filed.⁵ Starting with a \$34 docket fee, youth begin accruing costs at nearly every turn—there are up to 23 fees and fines that may be assessed throughout a youth’s case in Kansas. These fees range from costs associated with prosecutor training programs to automatic fees for funding law libraries. When youth are adjudicated delinquent the court may impose a fee of up to \$1,000 for each offense without assessing a youth’s ability to pay. Fees include contact with the legal system after the case as well, for example docket fees for expungement.⁶ These fines and fees can turn into multi-year struggles as they multiply with collection fees over time for those without the means to pay.

Hefty fees and fines that children and families can’t pay set children up for failure as they try to put past decisions behind them and thrive as adults. Research shows that financial penalties increase the likelihood of recidivism among youth, push youth deeper in the juvenile justice system, undermine family wellbeing, create barriers to educational and economic stability, and can prevent them from getting expungements later in life. For example:

- A study in Florida found that every young person who comes into contact with the courts, regardless of their guilt or innocence, faces fees. Once saddled with fees that many cannot pay, the study found kids are more likely to reoffend than those without. In fact, 13% of kids in the study reported resorting to criminal activity in order to get money to pay their fees.⁷
- When a failure to pay fines and fees leads to increased time under court supervision and inability to access diversion programs, it needlessly pushes youth deeper into the justice system. In Kansas, young people must pay for diversion programs, and when youth are unable to pay they may be pressured to refuse diversion and face formal processing in court instead. Court costs then function as a gatekeeper whereby youth who are unable to pay are formally processed and funneled deeper into the system while those with the ability to pay for diversion and services are able to stay in their own communities, and avoid the stigma and repercussions associated with a juvenile record.⁸ Income should not determine the type of treatment before the law a child receives.

⁴ See Juv. L. Ctr., *Debtor’s Prison for Kids National Map*, <https://debtorsprison.jlc.org/#!/map> (last visited Dec. 16, 2024) (showing Kansas, Arkansas, and Michigan as states with the highest number of types of fees tracked as of 2022); See also Nat’l Ctr. for Youth Law, *‘Debt Free Justice’ for Michigan youth, families; Lt. Gov. Gilchrist signs sweeping reforms* (Dec. 12, 2023), <https://youthlaw.org/news/debt-free-justice-michigan-youth-families-lt-gov-gilchrist-signs-sweeping-reforms> (noting Michigan has since abolished youth fees and fines in a bipartisan package of legislation in 2023, leaving Kansas and Arkansas as the states with the most extreme youth fees and fines structures).

⁵ Nat’l Juv. Def. Ctr., *Limited Justice: An Assessment of Access to and Quality of Juvenile Defense Counsel in Kansas* at 61.

⁶ Kansas Appleseed analysis of data and information counties, judicial districts, and KDOC provided and Nat’l Juv. Def. Ctr., *Limited Justice: An Assessment of Access to and Quality of Juvenile Defense Counsel in Kansas* at 61.

⁷ Piquero, A. & Jennings, W. “Research Note: Justice System–Imposed Financial Penalties Increase the Likelihood of Recidivism in a Sample of Adolescent Offenders.” *Youth Violence and Juvenile Justice*. 2016.

<https://journals.sagepub.com/doi/abs/10.1177/1541204016669213>; Piquero, A. R., Baglivio, M. T., and Wolff, K. T. “A Statewide Analysis of the Impact of Restitution and Fees on Juvenile Recidivism in Florida Across Race and Ethnicity.” 2023.

https://finesandfeesjusticecenter.org/content/uploads/2023/02/Piquero_et_al_Florida-juvenile-fees-study.pdf

⁸ Jessica Feierman et al., *Debtors’ Prison for Kids? The High Cost of Fees and Fines in the Juvenile Justice System* 24 (2016), <https://debtorsprison.jlc.org/documents/jlc-debtors-prison.pdf>; See Kan. Stat. Ann. § 38-2346 (2024) (noting that programs cannot deny participation to youth who cannot pay but that fees may still be assessed for such programs); see also NJDC, *Limited Justice: An Assessment of Access to and Quality of Juvenile Defense Counsel in Kansas* at 63 (“A few probation officers interviewed for this assessment suggested that some youth do not accept an offer for an [immediate intervention program] because they have to pay a fee upfront and the fee is not waived.”)

- Research has also found that fees and fines can lead to increased conflict between parents and siblings. Families have further explained the strain they experience when fees limit their ability to pay for bills and other basic necessities such as transportation and healthcare. Evidence shows that fees and fines increase the “financial and social instability of members of the debtor’s family in addition to the instability of the individual.”⁹
- Fees harm a child’s educational success, limiting their ability to thrive.¹⁰ Public Defenders in Kansas have reported that their youth clients missed school or work for payment-related court dates. Similarly, as a result of taking on more work hours to pay off debts, youth may miss school, be unable to participate in extracurricular activities, and have trouble staying on track academically.¹¹
- The financial stress imposed on families may further disrupt youth’s capacity to focus on, and succeed in, school. Families struggling with financial obligations may have less money to support their children’s schooling. Parents may also have less capacity to attend meetings or participate in school-related activities.¹²
- These harms can, in turn lead, to increased drop-out rates for system-involved youth and prevent youth from pursuing higher education. Studies show that a single childhood arrest reduces a child’s likelihood of graduating from high school and enrolling in college and is correlated with lower adult wages.¹³ Even for youth who complete primary education, fines and fees pose additional barriers as some higher education institutions may require all financial obligations to be satisfied before a student can enroll in classes or receive financial aid.¹⁴
- When fees and fines lead to greater system involvement and the associated juvenile record, that too, may decrease the young person’s ability to find employment. Juvenile records may be accessible in background checks for certain jobs, educational opportunities, or military service.¹⁵

⁹ Leslie Paik & Chiara Packard, *Impact of Juvenile Justice Fines and Fees on Family Life: Case Study in Dane County, WI* 12, (2019); Eileen Funnell, *Debt-Free Delinquency: Clearing the Path for Debt-Imprisoned Juveniles*, at 1187; Eileen Funnell, *Debt-Free Delinquency: Clearing the Path for Debt-Imprisoned Juveniles*, 52 Seton Hall L. Rev. 1183, 1193 (2022).

¹⁰ Jessica Feierman et al., *Debtors’ Prison for Kids? The High Cost of Fees and Fines in the Juvenile Justice System at 24*; Paik et al., *The long reach of juvenile and criminal legal debt: How monetary sanctions shape legal cynicism and adultification* at 30.

¹¹ According to one study, youth who work more than 20 hours a week may have lower grade point averages and are more likely to drop out of school than those who work fewer hours. The study notes that overall, the negative effects of employment appear to be linked, not to whether students work, but how often and how long. Jeremy Staff, et al., *Adolescent Work Intensity, School Performance And Academic Engagement*, 83 Socio. Educ. 1-22, <https://pmc.ncbi.nlm.nih.gov/articles/PMC2926992/pdf/nihms217082.pdf>

¹² Mistry, R.S., Elenbaas, L. *It’s All in the Family: Parents’ Economic Worries and Youth’s Perceptions of Financial Stress and Educational Outcomes*. J Youth Adolescence 50, 724–738 (2021). <https://doi.org/10.1007/s10964-021-01393-4> (“Overall, youth who worried more about their family’s economic needs had lower academic achievement.”)

¹³ David S. Kirk and Robert J. Sampson, *Juvenile Arrest and Collateral Educational Damage in the Transition to Adulthood*, 86 Sociology of Ed. 36 (2013); James P. Smith, *The Long-Term Economic Impact of Criminalization in American Childhoods*, 65 Crime & Delinquency 422 (2019).

¹⁴ Feierman et al., *Debtors’ Prison for Kids?* at 23.

¹⁵ Riya Saha Shah & Jean Strout, *Future Interrupted: The Collateral Damage Caused by Proliferation of Juvenile Records* 9-11 (2016), available at <http://juvenilerecords.ilc.org/juvenilerecords/documents/publications/future-interrupted.pdf>; Nat’l Juv. Def. Ctr, *Have a*

- Fees can also undermine stability by following a child into adulthood. Unpaid court costs may then prevent expungement of juvenile records, limiting youths' ability to move forward with their lives. Additionally, unpaid fines and fees are automatically treated as civil judgements against youth in Kansas, with a risk to youth and families' credit scores and their broader financial stability. Moreover, Kansas statutes authorize interest accrual on money judgements, which allows for already impractical costs to multiply long after a case has ended.¹⁶

The research is clear. Fines and fees for youth is counterproductive to promoting restorative justice and is causing harm to children and their communities.

Vulnerable, young people already facing economic instability feel these harms most, which also unjustly affects youth of color. The legal system disproportionately impacts youth in low-income households and youth of color, and fines and fees further exacerbate these existing disparities.¹⁷ Black, Latine, and Indigenous youth are exposed to deeper juvenile legal system involvement and higher juvenile fees and fines than their white peers regardless of underlying conduct.¹⁸ For example,

- In Kansas in 2017, Black youth were detained at a rate 6 times that of their white peers, despite similar rates of conduct that typically leads to juvenile justice involvement.¹⁹
- Studies in other jurisdictions have shown that these disparities at entry to the juvenile legal system also lead to disparities in fees and fines.²⁰

HB 2179 corrects these egregious fees and fines and ensures records for mistakes that occurred when a person was a child don't hold them back from future success.

Not only are fines and fees levied against justice-involved youth harmful and counterproductive, but the cost of collecting them often outweighs any revenue they generate.²¹ In fiscal year 2024, the state assessed about \$394,000 in fees. The same year, they collected about \$345,000 in

Juvenile Record in Kansas? Plan for your Future (2021),

<https://www.defendyouthrights.org/wp-content/uploads/Kansas-Collateral-Consequences.pdf>.

¹⁶ Kan. Stat. Ann. § 16-204 (2024); Kan. Stat. Ann. § 38-2312(e)(2) (2024); Kan. Stat. Ann. § 38-2361(e)(3) (2024).

¹⁷ Leigh Shapiro, *The Crippling Costs of the Juvenile Justice System: A Legal and Policy Argument for Eliminating Fines and Fees for Youth Offenders*, 69 Emory L.J. 1305, 1341 (2020).

¹⁸ See, e.g., Piquero et al., *Research Note: Justice System–Imposed Financial Penalties Increase the Likelihood of Recidivism in a Sample of Adolescent Offenders*,

<https://debtorsprison.jlc.org/documents/JLC-Debtors-Prison-criminology-study.pdf>; See also Carl E. Pope et al., U.S. Dep't of Just., *Disproportionate Minority Confinement: A Review of the Research Literature from 1989 Through 2001* 5 (2002), https://ojdp.ojp.gov/sites/g/files/xyckuh176/files/media/document/dmc89_01.pdf (25 of 34 studies comparing race and juvenile justice outcomes across the nation reported "race effects" leading to poorer outcomes for youth of color); James Bell & Laura John Ridolfi, W. Haywood Burns Inst., *Adoration of the Question: Reflections on the Failure to Reduce Racial & Ethnic Disparities in the Juvenile Justice System* 5-8 (2008), <https://www.modelsforchange.net/publications/199/> (noting disparate enforcement and punishment of Black, Indigenous, and Latinx youth).

¹⁹ Josh Rovner, Sentencing Project, *Racial Disparities in Youth Incarceration Persist* (2021), <https://www.sentencingproject.org/wp-content/uploads/2021/02/Racial-Disparities-in-Youth-Incarceration-Persist.pdf>.)

²⁰ See Piquero et al., *Research Note: Justice System at 5*, 29.

²¹ "Youth Fines and Fees in Kansas." 2023. www.debtfreejusticeks.org; see also Jeffrey Selbin et al. "High Pain, No Gain: How Juvenile Administrative Fees Harm Low-Income Families in Alameda County, California." 2016.

https://lawcat.berkeley.edu/record/1127714/files/High_Pain_No_Gain.pdf

fees – and much of this was from fees and fines assessed in previous years.²² Indeed, fees and fines may take years to be recouped, if they are at all.

This small amount collected also does not take into consideration the cost of collections. Research shows the administrative costs of collecting these fines and fees are quite high - sometimes requiring more spending on collection efforts than is actually generated in collection revenue.²³ Collecting fees from youth and their families requires multiple agencies and significant time and resources. Collections can involve the time of police, sheriffs, public defenders, detention facilities, probation and parole officers, DMV, state tax agencies, and court staff. Additionally, unpaid debt could result in additional court costs if a hearing is required for non-payment of debt. Such additional hearings cost the time of judges, bailiffs, court reports, data collection staff, and probation staff along with the cost to use facilities for the hearing. For example:

- In other states, the cost of collections have exceeded the amount collected. This may be true in Kansas as well.²⁴
- A study in Michigan found that their division of 8 full-time staff spend about 60% of their time on youth cases. Each of those 8 staff generated less than \$30,000 in collections per year or just over 2% of outstanding youth fees.²⁵ Another study from Oregon found the state spent \$866,000 to collect \$864,000 in juvenile system fees and fines.²⁶

Even assuming no costs of collections, \$345,000 is minimal revenue, particularly considering the harm of these fees to children and families. The budget for the judicial branch in the state is \$222.2 million for fiscal year 2025. The majority (\$211 million) is from the state general fund. Only \$11.2 million comes from other sources.²⁷ The revenue obtained from children and their families constitutes only 3% of the other funds in the judicial branch's budget or less than one percent of the overall budget.

State revenue from youth fees and fines is not necessary to fund essential functions of youth justice. The largest category of fees assessed is for reimbursement of attorney fees. In fiscal year 2023, court districts in the state received \$160,000 in payments for attorney fee reimbursement, despite only expending, on average, about 14% of those reimbursements. In total, judicial districts in the state spent only \$25,000 in the reimbursements of attorney fees.²⁸ Across 26 judicial districts that is a negligible amount of revenue.

²² Kansas Appleseed analysis of data and information counties, judicial districts, and KDOC provided. These calculations exclude restitution payments.

²³ Menendez, M. & Eisen, L. "The Steep Costs of Criminal Justice Fees and Fines." Brennan Center for Justice. 2019. <https://www.brennancenter.org/our-work/research-reports/steep-costs-criminal-justice-fees-and-fines> and Shapiro, L. "The Crippling Costs of the Juvenile Justice System: A Legal and Policy Argument for Eliminating Fines and Fees for Youth Offenders." Emory Law Journal. 2020.

<https://scholarlycommons.law.emory.edu/cgi/viewcontent.cgi?article=1398&context=elj>

²⁴ See Fees and Fines Just. Ctr., & Juv. L. Ctr., *Dreams Deferred*; George et al., *Minors Facing Major Debt*; Kaplan et al., UC Berkeley School of Law, Policy Advocacy Clinic, *High Pain, No Gain*.

²⁵ George et al., *Minors Facing Major Debt*

²⁶ Youth Rights and Justice, *Legislative Packet* (2021),

<https://youthrightsjustice.org/wp-content/uploads/2021/08/Legislative-Packet-OR-Fees-and-Fines-Repeal.pdf>

²⁷ *Judicial branch budget*, Kansas Judicial Branch (2024),

<https://kscourts.gov/About-the-Courts/Court-Administration/Budget>.

²⁸ Kansas Appleseed analysis of data and information counties, judicial districts, and KDOC provided.

Youth fees and fines collections are not reliable sources of consistent and sustainable funding for operations or programs in judicial districts. Across all counties and judicial districts that reported fees they collected from fiscal year 2022 through fiscal year 2024, yearly collection amounts varied significantly from year to year. For example, in one county the amount collected increased by 133% over the course of three years. However, in another jurisdiction, the amount collected decreased by 70% over the course of three years.²⁹ Jurisdictions cannot depend on youth fees collected to pay for evidence-based programs and operational costs. To do so is an ineffective way to ensure the justice system in Kansas meets its goals of restorative practices and positive outcomes. The varied and small collection amounts in Kansas jurisdictions shows that Kansas youth cannot and should not have to fund the justice system.

Fees and fines run the risk of violating youth and families' constitutional rights.

- The U.S. Supreme Court has recognized that certain punishments may be “especially harsh” for a child because of the practical consequences.³⁰ Adult penalties are “the same in name only” when applied to young people who require a “distinctive set of legal rules.”³¹
- Youth have a constitutionally protected right to counsel.³² “Where a right to counsel exists, that right cannot be conditioned on a defendant’s payment of fines or fees that the defendant lacks the ability to pay.”³³ Imposing the cost of representation on youth and families, who in practice are not able to pay, inherently chills the exercise of such a right.³⁴ In Kansas, even when youth are appointed public defenders, they, or their parents, can be assessed the cost.³⁵ The right to counsel applies to all youth in the juvenile justice system, not simply those who can afford to pay.³⁶ Youth who cannot afford to pay will be pressured to forego counsel; relative immaturity, fear of authority, and susceptibility to pressure will exacerbate the chilling effect of public defender fees.³⁷ Defenders in Kansas have observed this chilling effect.³⁸ Moreover, when parents face payments, they may use their authority to pressure young people into foregoing their right to counsel.³⁹

²⁹ Kansas Appleseed analysis of data and information counties, judicial districts, and KDOC provided.

³⁰ *Miller*, 567 U.S. at 475 (quoting *Graham*, 560 U.S. at 70, and recognizing that a life sentence imposes a greater term of years on a child than on an adult).

³¹ *Id.*; *J.D.B. v. North Carolina*, 564 U.S. 261, 272 (2011) (quoting *Eddings v. Oklahoma*, 455 U.S. 104, 115 (1982)) (“A child’s age is far ‘more than a chronological fact’”).

³² *In re Gault*, 387 U.S. 1, 13 (1967).

³³ U.S. Dep’t of Just., Dear Colleague Letter at 13 (citing *Fuller v. Oregon*, 417 U.S. 40, 52-53 (1974)).

³⁴ *Fuller v. Oregon*, 417 U.S. 40, 54 (1974) (where a statute allowing for imposition of attorneys’ fees was upheld only after determining that it took into account ability to pay.).

³⁵ Kan. Stat. Ann. § 38-2306 (2024).

³⁶ *See id.*

³⁷ Hannah R. Gourdie, *The Guiding Hand of Counsel, for a Price: Juvenile Public Defender Fees and Their Effects*, 62 Wm. & Mary L. Rev. 999, 1019 (2021), <https://scholarship.law.wm.edu/wmlr/vol62/iss3/6>.

³⁸ NJDC, *Limited Justice: An Assessment of Access to and Quality of Juvenile Defense Counsel in Kansas* at 6 (referring to a defender describing that they “believed the juvenile court judge used costs to dissuade a youth from appealing their case: ‘Client filed an appeal and the judge immediately ordered the kid to pay for the cost of the transcripts and costs of the appeal.’”); Kan. Stat. Ann. §38-2384 (2024); *see also Griffin v. Illinois*, 351 U.S. 12, 19 (1956) (holding that when a state affords a right to appeal and procedures required that a lower court transcript be produced as part of the appeal, it is a due process violation to deny indigent defendants access to such transcripts simply because they are unable to pay).

³⁹ *See NJDC, Limited Justice: An Assessment of Access to and Quality of Juvenile Defense Counsel in Kansas* at 80 (“Charging youth and families for the services of a constitutionally required defense attorney may create pressure for youth to not fully challenge the charges against them...all in an effort to limit their family’s financial exposure.”)

Abolishing these fees can therefore further protect the rights of vulnerable, young Kansans.

Fines and fees simply do not work. They run contrary to the stated goals of public safety and rehabilitation enshrined in Kansas law by increasing the likelihood of youth reoffending. They inefficiently generate limited and diminishing revenue for the state while imposing significant burdens on low-income Kansans and make existing disparities worse. They also potentially violate constitutional rights for Kansas children.

We should follow what the data and research shows about the effectiveness of restorative justice practices in achieving true accountability and building empathy. Eliminating fines and fees for justice-involved youth is a real solution. Seventeen other states have already passed statewide fee or fine elimination bills since 2015, including Louisiana, Texas, Colorado, Montana, New Mexico, Virginia, and Oregon, with many other states passing partial elimination or other reform actions.⁴⁰

I urge you to listen to your colleagues in other states who have seen the ineffectiveness and counterproductive results of youth fines and fees, and vote in favor of HB 2179. In doing so, you will be keeping a promise to Kansas kids that a mistake they make as a child will not set them up for a lifetime of failure, but instead will get them the support they need to thrive as adults.

Thank you for your time,

Brenna Visocsky

⁴⁰ The Debt Free Justice Campaign. State Activity. 2024.
<https://debtfreejustice.org/states-have-repealed-youth-fees-fines>