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Modern-Day Debtors' Prisons: Report Exposes How Court-Imposed Debts Punish People for Being Poor

The report describes a counterproductive debt system that punishes people for their poverty while bringing little benefit to government or the public. At its worst, it results in poor people being locked up because they lack the money to pay off debts imposed by the legal system – creating a modern version of the despised debtors' prison. The report provides profiles of individuals and recommends a series of reforms to bring fairness to the system.

The report focuses on the state's system of Legal Financial Obligations (LFOs) – fees, fines, costs and restitution imposed by courts on top of criminal sentences. The debts accrue interest at an exorbitant rate of 12% a year and can amount to a lifetime sentence for someone without the means to pay them off. In some instances, the expense of running the system costs a county more than the debts it collects.

“Our criminal justice system should help people re-enter their communities, but excessive court-imposed debt is a formidable barrier. Unfair practices keep individuals tethered to the criminal justice system for years, sometimes for life,” said ACLU-WA staff attorney Vanessa Hernandez.

“Washington must create better systems that ensure no person is punished simply because of his poverty while holding accountable people who are able to pay but choose not to. We cannot afford to waste scarce government resources attempting to collect court-ordered debt from those without the resources to pay,” said Nick Allen, staff attorney with Columbia Legal Services.

For the report, the ACLU and CLS reviewed state LFO laws and examined practices in four counties (Benton, Clark, Clallam, and Thurston). Among the key findings:

- Courts impose discretionary LFOs without considering a person's present or future ability to pay.
- Courts incarcerate people for failure to pay even when they are destitute.
- Courts require individuals to transfer public payments for subsistence to pay off court debts, to the detriment of personal and family welfare.
- While state law says restitution payments to victims should take precedence, county clerks' offices garner collection fees prior to paying restitution.
- Courts fail to notify debtors of their legal right to be represented by counsel.

A bill (HB 2751) introduced in the Washington Legislature addresses problems with the state's LFO system. The bill would end the incarceration of poor people simply because they cannot pay debt. It would require courts to consider an individual's poverty before imposing any court

costs or fees, would allow courts to waive any fines and fees if payment could cause undue hardship to the defendant. To ensure that LFOs already imposed don't spiral out of control, the bill reduces the 12% interest rate and suspends interest while a person is incarcerated and unable to earn enough money to pay off the debt. Further, it requires that no court collections fees be paid before restitution payments to victims are satisfied. Sponsored by Rep. Mary Helen Roberts, the measure will have a joint hearing on **Wed., Feb. 12 at 8:00 am** before the House Judiciary and Public Safety committees.

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