



Testimony submitted to the Joint Committee on the Judiciary
In Support of S.777/H.2359 – An Act to Reduce the Criminalization of Poverty
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The League of Women Voters of Massachusetts promotes “self-sufficiency for individuals and families and that the most effective social programs are those designed to prevent or reduce poverty.” The League of Women Voters of the United States takes a strong position that “Fees for supportive services should be based on ability to pay and be free where necessary.”

We strongly support this bill, sponsored by Sen. Brownsberger and Rep. Tyler, which addresses fines, fees and other collateral consequences that impact an individual charged with an offense. It reduces hurdles such as record expungement, restriction of CORI records to post-arraignment, elimination of driving license suspensions or fees for non-driving offenses, and reduces impacts where minor or long-past offenses prevent individuals from obtaining jobs or housing. This bill also defines a felony to be a serious crime so we can have better outcomes for individuals committing minor infractions.

The problem of fines and fees resulting in jail time in Massachusetts is well-documented. The Massachusetts Senate Post Audit and Oversight Committee report, [Fine Time Massachusetts: Judges, Poor People, and Debtors’ Prison in the 21st Century](#)¹, reviewed all cases from 2015 in three counties. It found 105 cases that resulted in “fine time,” people doing time for nonpayment of fines and fees. None of these cases went to trial, and in only four cases did the person end up serving jail time for the offense, but all 105 served time for failure to pay fines or fees. In 38 cases, the defendant owed more than \$500. In only six cases did the defendant pay off the bill within one day of incarceration, so in most cases, incarceration was solely due to inability to pay.

At least 41 state constitutions ban debtors’ prisons, although Massachusetts is not one of them.² If the fine time portions of this bill are implemented, judges will inquire into a) the ability of a defendant to pay the fines or fees; b) alternatives to incarceration being offered; c) provision of counsel; and d) advance notice of incarceration risk. If individuals end up being held in custody for inability to pay, they will earn \$90 per day towards their amount, an increase from the current \$30 per day.

This bill will also increase the felony larceny thresholds under various statutes, increasing the lowest level from \$250 (which is the lowest in the nation) to \$1500 (although Texas and Wisconsin have levels at \$2500, which would be preferable³). We support this provision that

would remove what would now be considered petty theft from the category of a felony and return it to being a misdemeanor. This provision would be improved if it were indexed to inflation levels.

The bill limits the release of sealed juvenile data and, perhaps most important for reducing recidivism, it enables police to divert individuals committing minor infractions instead of arresting them. It also reduces recidivism by removing probation fees after release, when individuals are least able to pay monthly fees.

Thank you for your consideration, and the League urges the committee to report this bill favorably.

1 <http://senatormikebarrett.com/wp-content/uploads/2016/11/Fine-Time-the-Report-Nov.-7-2016..pdf>

2 <http://harvardlawreview.org/2016/02/state-bans-on-debtors-prisons-and-criminal-justice-debt-appendix/>

3 <http://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2016/02/the-effects-of-changing-state-theft-penalties>