

LOUISIANA HOUSE OF REPRESENTATIVES

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Office of the Governor
John Bel Edwards
P. O. Box 94004
Baton Rouge, LA 70804

Re: COVID-19 EMERGENCY SUSPENSION OF JUVENILE FEES, COSTS, and TAXES

Dear Governor Edwards,

Thank you for your leadership as we continue to navigate the COVID-19 pandemic in Louisiana. As stated in my April 7, 2020 letter,ⁱ the longstanding inequities faced by Black Louisianans are being exacerbated by the pandemic and these communities continue to disproportionately bear the brunt of its physical and economic impacts. One such area of inequity that has flown under the radar is the issue of fees incurred by the families of youth in the juvenile legal system. **I urge you today to take immediate action to correct this inequity and further protect the health and welfare of Louisiana's children and families during the COVID-19 pandemic.**

Louisianans have faced unprecedented economic and health consequences as a result of the novel coronavirus outbreak with over 56,000 confirmed cases, 3,200 deaths, and the 8th highest infection rate per capita in the nation (approximately 1,200 cases per 100,000 residents).ⁱⁱ Between February and May 2020, more Louisiana workers have filed for unemployment than during both the Great Recession of the late-2000s and in the aftermath of Hurricane Katrina in 2005.ⁱⁱⁱ While May 2020 unemployment rates are slightly lower than April 2020 rates (13.3% and 15.1% respectively),^{iv} they are still higher than the September 2005 post-Katrina statewide unemployment rate of 11.4%,^v and substantially higher than the 2019 average rate of 4.8%.^{vi} Forecasting suggests that the economy will be hit even harder if a second wave of cases erupts in the future.^{vii} In any case, public health experts project the pandemic will last well into 2021, with that projection contingent on the development of a safe and effective vaccine. The World Bank has encouraged policymakers to rebuild in both the short- and long-term by not only strengthening health services, but also by providing targeted support to families in an effort to sustain economic activity.^{viii}

Louisiana families remain in an economic crisis and we must do all we can as elected officials to support them in their recovery. One tangible way to do this is to suspend imposition and collection of fees, costs, and taxes related to juvenile delinquency adjudications.

In 2018, Louisiana's Office of Juvenile Justice (OJJ) assessed an average of \$790 in cost-of-care fees per family of a system-involved youth.^{ix} These administrative fees place undue pressure on families and many have spoken of the need to re-direct finances from basic needs or other important financial obligations to pay court fees.^x During a time when Louisianans are struggling to make ends meet in the midst of a pandemic, the imposition and collection of court fees, costs, and taxes can be particularly harmful for these youth and families.

Further, Black youth and families are disproportionately impacted by both the imposition and collection of these fees and by the COVID-19 pandemic. While Black youth made up roughly 33% of Louisiana's population under the age of 18 in 2018, 83% of incarcerated children in the state are Black,^{xi} indicating that Black youth and families face substantially more administrative court debt than non-Black youth and families. Black Louisianans make up 30% of the state's workforce, but accounted for 40% of unemployment insurance claims in Louisiana from mid-March to mid-April.^{xii} Community partners have reported that while some Black families have started to recover from the initial economic shock that came in the first two months of the pandemic, many are concerned with whether they will be able to recover in the long run, especially if schools and other childcare facilities remain closed or operating at limited capacity.

Additionally, Louisiana has garnered national attention for the disproportionate COVID-19 death rates by race, with Black residents accounting for 55.3% of COVID-19 deaths (as of mid-May 2020) but only 32% of the total population and 25% of the 65+ (highest risk) population.^{xiii} These trends indicate that Louisiana's incarcerated Black youth are more likely to have relatives who are infected with or die from COVID-19 than their non-Black counterparts—and local advocates have confirmed knowledge of at least one child who has lost a relative due to COVID-19 while in custody. Further, the recent killings of Breonna Taylor, George Floyd, Ahmaud Arbery, and too many others have amplified the continuing prevalence of deadly anti-Black racism in our country and Black Louisianans—especially youth—are suffering from increased community trauma in this moment. Juvenile court fees are placing a disproportionate burden on Black youth and families at a time when they are already facing extreme health consequences, economic pressures, and heightened collective trauma. We must act now to protect Black Louisianans from further harm.

While this will relieve the burden on families, it will not create an undue burden on the state as juvenile fees, costs, and taxes in Louisiana are generally uncollectible and the practice of in-person collection poses health risks to both residents and public employees. In 2018, OJJ collected just 6.5% of cost-of-care fees from families with children in non-secure care facilities and only 3.5% of these fees from families with children in secure care facilities.^{xiv} Further, any collections that involve in-person interactions with public employees—such as probation staff, facility staff, and court administrators—pose an added health risk for all involved parties. While some collection entities could allow for fully online or remote collection, this is not a feasible alternative because it presents an additional accessibility barrier to families without access to these options, because jurisdictional technology capacities are uneven, and because implementing online processes may represent an additional cost to local jurisdictions. Ultimately, collection of these taxes occurs at incredibly low rates, causes harm to families, and cannot be executed safely during the COVID-19 pandemic.

Therefore, in order to reduce further financial burden and health risk for Louisiana children, families, and community members, **I urge you to exercise your authority under the Louisiana Health Emergency Powers Act (RS 29:760) to suspend the assessment and collection of juvenile court fees, costs, and taxes as outlined below.**

(1) The Office of Juvenile Justice (OJJ) shall do the following, effective immediately through the end of the statewide public health emergency:

- (a) Suspend assessment and collection of all cost-of-care fees for children in non-parental/guardian custody,^{xv} including in both secure and non-secure care facilities.^{xvi}
- (b) Suspend assessment and collection of all cost-of-care fees for children as provided by the Department of Children and Family Services, the Department of Health and Hospitals, and/or the Department of Public Safety and Corrections.^{xvii}
- (c) Suspend all costs to the child or a parent/guardian of all phone calls made by a juvenile held within a detention facility to family and counsel, and ensure that phone calls are made accessible with no limitations under any circumstances.^{xviii}

(2) Local Courts, Secure and Non-Secure Care Facilities, and all other public entities shall do the following, effective immediately through the end of the statewide public health emergency:

(a) Suspend assessment and collection of:

- (i) Fees that cover judicial expenses or operating expenses of the court;^{xix}
- (ii) All other special costs, taxes, and fees as outlined^{xx} in statute.

(b) Suspend all costs to the child or a parent/guardian of the child for transcripts for appeal,^{xxi} copies of requested court records, and all court-ordered physical and mental examinations.^{xxii}

(c) Suspend all costs to the child or a parent/guardian of the child for representation at every stage of the legal process.^{xxiii}

(d) Suspend authorization of payment for necessary witness travel expenses to a petitioner if the petitioner is a child or parent/guardian of the child.^{xxiv}

(e) Suspend all costs associated with expungement and sealing of juvenile records and reports.^{xxv}

(e) Suspend all orders for a child or parent/guardian of the child to pay supervision fees as a condition of the child's probation or parole^{xxvi} and suspend the practice of subjecting parents/guardians to contempt of court for failure to pay such fees.^{xxvii}

(f) Suspend costs to the child or a parent/guardian of the child for both informal and deferred dispositional agreement options—such as teen or youth court programs—if ordered by the court.^{xxviii}

(g) Suspend authorization of any collections practices diverting a family's finances for the purpose of recovering fees, costs, and/or taxes—including, but not limited to:

- (i) Wage garnishment;
- (ii) Tax return interception;
- (iii) Accrual of interest on unpaid fees, costs, or taxes.

(h) Suspend the practice of making claims of offset to the Secretary of Revenue against any amounts refundable to an individual because of overpayments of Louisiana individual income taxes for debts owed by the individual to such agencies^{xxx} for:

- (i) Debts resulting from a delinquency of adjudication;
- (ii) Debts resulting from the conviction of a person who was a child at the time of offense.

(3) The Secretary of Revenue shall suspend the practice of processing all existing and new claims of offset submitted by agencies against any amounts refundable to an individual because of overpayments of Louisiana individual income taxes for debts owed by the individual to such agencies,^{xxx} effective immediately through the end of the statewide public health emergency.

This suspension is a necessary step in providing immediate relief for Louisianans in an unprecedented economic and public health crisis. **I remain hopeful that you will continue to prioritize the wellbeing of our children, families, and community members by taking immediate action on this issue.**

I look forward to hearing from you on this important matter.

Sincerely,



Representative Royce Duplessis
State Representative - District 93

¹Letter from Royce Duplessis, La. House of Representatives, District 93, to John Bell Edwards, Governor, State of La. (Apr. 7, 2020), <https://twitter.com/RoyceDuplessis/status/1247892757420445698>.

² *United States COVID-19 Cases and Deaths by State*, CENTERS FOR DISEASE CONTROL & PREVENTION, <https://www.cdc.gov/covid-data-tracker/#cases> (last visited July 10, 2020).

³ Robert Habans, *COVID-19 Economic Analysis*, DATA CTR. (Apr. 16, 2020), <https://www.datacenterresearch.org/covid-19-data-and-information/covid-19-economic-analysis/>.

⁴ *Economy at a Glance—Louisiana*, U.S. BUREAU LAB. STAT., https://www.bls.gov/eag/eag.la.htm#eag_la.f.p (last visited July 10, 2020).

⁵ Sharon P. Brown et al., *The Effect of Hurricane Katrina on Employment and Unemployment*, MONTHLY LAB. REV. 52, 55 (2006), <https://www.bls.gov/opub/mlr/2006/08/art5full.pdf>.

⁶ *Local Area Unemployment Statistics—Louisiana*, U.S. BUREAU LAB. STAT., https://data.bls.gov/timeseries/LASST220000000000003?amp%253bdata_tool=XGtable&output_view=data&include_graphs=true (last visited July 10, 2020).

⁷ *OECD Economic Outlook June 2020: The World Economy on a Tightrope*, ORG. FOR ECON. CO-OPERATION & DEV. (June 2020), <http://www.oecd.org/economic-outlook/june-2020/>.

⁸ *The Global Economic Outlook During the COVID-19 Pandemic: A Changed World*, THE WORLD BANK (June 8, 2020), <https://www.worldbank.org/en/news/feature/2020/06/08/the-global-economic-outlook-during-the-covid-19-pandemic-a-changed-world>.

⁹ Data obtained directly from the Office of Juvenile Justice through a public records request submitted by the Berkeley Law Policy Advocacy Clinic.

¹⁰ This information was gathered through conversations with local community partners and impacted families in Louisiana.

¹¹ Data obtained directly from the Office of Juvenile Justice through a public records request submitted by the Berkeley Law Policy Advocacy Clinic.

¹² Neva Butkus, *Race, Unemployment and COVID-19 in Louisiana*, LA. BUDGET PROJECT (June 17, 2020), <https://www.labudget.org/2020/06/race-unemployment-and-covid-19-in-louisiana/>.

¹³ Rachel Weinstein, *Monitoring the COVID-19 Pandemic in New Orleans and Louisiana*, DATA CTR. (Apr. 20, 2020), <https://www.datacenterresearch.org/covid-19-data-and-information/covid-19-data/>.

¹⁴ Data obtained directly from the Office of Juvenile Justice through a public records request submitted by the Berkeley Law Policy Advocacy Clinic.

¹⁵ LA. CHILD. CODE ANN. art. 783 (authorizing imposition of cost-of-care fees on parents when any disposition assigns the child to non-parental custody of any kind).

¹⁶ LA. STAT. ANN. § 15:910 (authorizing the collection of cost-of-care fees for a child assigned to a secure juvenile institution).

¹⁷ *Id.* § 15:1086 (requiring the parent/guardian of a child who receives treatment or care under these departments to contribute to the cost of care).

¹⁸ *Id.* § 15:1110 (regulating standards for juvenile detention facility conditions).

¹⁹ LA. CHILD. CODE ANN. art. 405(F) (authorizing the deposit of specific fees into the judicial expense fund of the respective court).

²⁰ LA. STAT. ANN. §§ 15:1093 (allowing for the levying of special costs against a defendant who is adjudicated delinquent, convicted of a felony, or who enters a plea of guilty or nolo contendere or forfeits bond), 15:1094.7 (authorizing the deduction of like amounts to special costs from any fine imposed prior to the disposition of the fine), 15:1097.7 (authorizing the imposition of a fee of \$50 against every juvenile who is found to have committed a traffic violation or who is adjudicated delinquent in the following parishes: Bienville, Claiborne, DeSoto, Natchitoches, Red River, Sabine, and Webster); LA. CHILD. CODE ANN. arts. 405(D) (authorizing the imposition of costs after a plea of guilty or a conviction in municipalities with a population in excess of 400,000 inhabitants), 405(E) (authorizing the imposition of costs in proceedings where the defendant has violated the terms of a court order and is adjudged guilty of contempt in municipalities with a population between 225,000 and 450,000 inhabitants), 405(G) (authorizing the imposition of collection fees against persons owing a support obligation in cases where support rights have been assigned to the Department of Children and Family Services (DCFS) as a condition of eligibility for the Family Independence Temporary Assistance Program (FITAP); these fees should not be imposed if the persons owing this support obligation are children or parents/guardians of children involved in the juvenile delinquency system), 793.4(A) (allowing for the imposition of taxes and fees (\$25 for each misdemeanor and \$50 for each felony) against every defendant who is convicted after trial or after a plea of guilty or nolo contendere or who forfeits his bond, in addition to all other fines, costs, or forfeitures lawfully imposed; these fees are specifically earmarked for early intervention funds), 811.2 (allowing for the levying and collection of special costs against any nonindigent juvenile defendant who is found to have committed a traffic violation resulting in injury or property loss, or who pleads guilty to or is adjudicated convicted of a juvenile offense, and these fees are earmarked for the Victims of Juvenile Crime Compensation Fund and the Crime Victims Reparations Fund as provided in section 46:1801 of the Louisiana Revised Statutes).

²¹ LA. CHILD. CODE ANN. art. 335(D) (authorizing the courts to charge financially able children and families to pay for transcripts).

²² *Id.* arts. 774(B), 888 (authorizing the courts to charge children and families for costs arising from court-ordered physical and/or mental examinations and evaluations), 868 (authorizing the courts to order the parents to pay costs for medical treatment of children).

²³ *Id.* arts. 321 (outlining partial reimbursement for costs of counsel by indigent adults); 607(C) (authorizing the court to order parents to pay some or all of the costs associated with the child's representation if the court finds that the parents are financially able); 809 (outlining the right to counsel at every stage of proceedings under the Title in the statute, but not making explicitly clear that the right to counsel should be at no expense to children and families); 848 (outlining the process for courts to determine the financial ability of parents to pay for legal representation for the child; also indicating that the child or parent/guardian of the child can choose to proceed without the assistance of a lawyer, which should be the only case in which no-cost counsel is not provided).

²⁴ *Id.* art. 405(B) (allowing courts to authorize payment to petitioners to cover necessary witness travel expenses and court costs related to hearings).

²⁵ *Id.* art. 924(B)-(C) (authorizing courts to exempt specific juveniles from payment of fees related to expungement and sealing of records and reports). This provision should be extended to all juvenile defendants during the COVID-19 pandemic.

²⁶ *Id.* arts. 781.1, 901.1(A) (authorizing the imposition of a monthly supervision fee as a condition of probation or parole); 897(B)(2)(g) (authorizing imposition of supervision fees after adjudication of a felony-grade delinquent act); 899(B)(2)(g) (authorizing imposition of supervision fees after adjudication of a misdemeanor-grade delinquent act).

²⁷ *Id.* arts. 781.1(B), 901.1(B) (authorizing parents to be held in contempt of court for failure to pay monthly supervision fees as assessed by the court as a condition of probation or parole).

²⁸ *Id.* arts. 839 (authorizing courts to assess fees for participation in a teen or youth court program under informal adjustment agreements); 896 (authorizing courts to assess fees for participation in a teen or youth court program under deferred disposition agreements).

²⁹ LA. STAT. ANN. § 47:299 (authorizing agencies to submit claims of offset to the Secretary of Revenue).