

March 16, 2016

Letter of Support for the “End of Debtor’s Prison Act of 2016”

The undersigned civil rights, human rights and criminal justice reform organizations urge your support for the “End of Debtor’s Prison Act of 2016,” sponsored by U.S. Rep. Mark Takano of California. This legislation would help stop the perversion of our judicial system by private, for-profit companies that extort money from the poor by threatening them with jail when they cannot pay court debt.

Debtors’ prisons were abolished in our country in the 1830s, and in 1983 the U.S. Supreme Court ruled in *Bearden v. Georgia* that it was unconstitutional for judges to send people to prison simply because they were too poor to pay a fine.

Nevertheless, this practice has been revived in many communities.

Currently, hundreds of thousands of people living in poverty are trapped in a cycle of debt as they struggle to pay fines and court costs associated with minor offenses, such as traffic tickets. In at least 1,000 courts in more than a dozen states, an indigent person who cannot immediately pay debt to the court is placed under the supervision of a private “probation” company that requires regular payments until the debt is paid off.

This scheme is known as “pay-only probation,” because these companies do not provide traditional probation services. In reality, they are simply court-sanctioned debt collectors operating under contract with municipal or county governments. They profit by tacking on fees to payments made by probationers. There is no limit to the fees they can charge. In Alabama, the typical fee is \$40 per month. In Georgia, it’s estimated that these companies collected for themselves nearly \$40 million in fees in 2012 alone.

When a probationer cannot keep up with the payments, these companies typically threaten them with jail. If the person still cannot pay, they are referred back to the court. Judges then, quite often, send them to jail – essentially, debtors’ prison – for violating the terms of their “probation.”

This scheme has created a two-tiered system of justice: one where people of means pay and go, and another where low-income people are trapped in debt for months or even years, their ordeal prolonged by the added fees they must pay while on “probation” and the fear of jail hanging over them constantly.

The problem is further exacerbated by the escalation of fines and court fees in recent years as municipal and county governments have increased their reliance on

court-generated revenue. Many people in poverty, and people of color who are often disproportionately impacted, find themselves owing thousands of dollars for minor offenses and are confronted with the difficult decision of paying for necessities or paying a private probation company to stay out of jail. If they are then sent to jail, many stand to lose their jobs and the income they need to support themselves and their families.

As we have seen in places like Ferguson, Missouri, the burden of court debt falling on our most impoverished and vulnerable citizens has contributed to a serious erosion of trust and confidence in the fairness of our judicial system. Clearly, poor people are facing not only an economic gap in this country but a justice gap as well.

We must stop these grossly unfair practices.

The “End of Debtor’s Prison Act of 2016” is a strong step toward restoring fundamental fairness to our courts. It withholds Edward Byrne Memorial Justice Assistance Grants from local governments that contract with private probation companies.

This legislation will help ensure that “justice” is not tied to a family’s bank account and that low-income people and communities of color no longer face the prospect of jail, job loss and financial ruin because of minor offenses such as traffic tickets.

We, the undersigned organizations, have worked diligently to protect the rights of those living in poverty and to reform the criminal justice system. We believe this legislation will provide much-needed relief to many poor and working-class families while helping restore faith in the American ideal of equal justice under the law. Please stand up for these families by supporting the “End of Debtor’s Prison Act of 2016.”

Advancing Justice - Asian Law Caucus; American Civil Liberties Union; Asian Pacific American Labor Alliance, AFL-CIO (APALA); Asian Prisoner Support Committee; Center for New Community; Ella Baker Center for Human Rights; Justice For Families; Kentucky Equal Justice Center; LatinoJustice PRLDEF; Lawyers' Committee; Leadership Conference on Civil and Human Rights; Mindful Peacebuilding; Mothers of Incarcerated Sons & Daughters; Mississippi Center for Justice; NAACP; National Association of Social Workers; National Center for Transgender Equality; National LGBTQ Task Force Action Fund; North Carolina Justice Center; PICO National Network, LIVE FREE Campaign; Pretrial Justice Institute; Public Justice Center; Real Cost of Prisons Project; Sargent Shriver National Center on Poverty Law; SC Appleseed Legal Justice Center; Southeast Asia Resource Action Center (SEARAC); Southern Center for Human Rights; Tennessee Justice Center; The Sentencing Project and the Southern Poverty Law Center.