



Russell W. Hinton, State Auditor

# EXECUTIVE SUMMARY

## Court Fees October 2001

Performance Audit Operations Division  
Department of Audits and Accounts

254 Washington St., S.W.  
Atlanta, GA 30334

### Court Fees Beneficiary Programs

- ◆ Alternative Dispute Resolution Programs
- ◆ Brain and Spinal Injury Trust Fund
- ◆ Children's Trust Fund
- ◆ Crime Victims Emergency Fund
- ◆ Drug Abuse Treatment and Education Fund
- ◆ County Jail Fund
- ◆ County Law Library
- ◆ Local Victim Assistance Programs
- ◆ Peace Officers' Annuity & Benefit Fund
- ◆ Peace Officer & Prosecutor Training Fund
- ◆ Probate Court Judges' Retirement Fund
- ◆ Superior Court Clerks' Co-operative Authority
- ◆ Superior Court Clerks' Retirement Fund
- ◆ Sheriffs' Retirement Fund
- ◆ State General Fund

*Note: Local-level programs are listed in red.*

**Background:** In 1950, Georgia passed legislation providing that a deduction be taken from every criminal fine and used to support the Peace Officers' Annuity and Benefit Fund. The courts were made responsible for calculating this fee, based on a prescribed formula, collecting the money, and paying the money to the Fund. Since that time, the practice of using court-imposed fees to support state and local programs has expanded to include 21 separate court fees. These fees currently go to support nine state- and five local-level programs and the State General Fund (see list on the left).

Each of the 21 fees is specified in an individual statute, which outlines the circumstances in which it is to be assessed, the formula for calculating the amount owed, and whether application of the fee is mandatory or not. Fees are applied on criminal cases, quasi-criminal cases (i.e., violation of a local ordinance), and civil matters (i.e., divorce filings, application for a name change). The fees range in amount from \$.50 per case to 50% of the total fine amount. Multiple fees may apply to one case, and each fee requires its own unique calculation. Of the 21 fees, 15 are added to the fine amount assessed and six are deducted from the fine amount assessed. Responsibility for determining how to assess, calculate, and remit court fees rests with the states' 1,100 individual courts (including superior, state, probate, juvenile, magistrate, and municipal courts).

In fiscal year 2000, over \$51 million in court fees was remitted to the state-level beneficiary programs and the State General Fund, with each of the beneficiary programs receiving a significant portion of its annual income from fee collections. The amount collected in support of local-level programs could not be determined as this money is held at the local level and is not systematically reported to the state. Municipal courts remitted the largest portion of fees in fiscal year 2000, \$17.1 million (33.4%), while superior courts contributed the

second largest amount with \$12.2 million (23.9%).

It should be noted that the handling of partial payments made to the courts when individuals are placed on probation, either as part of their sentence or due to an ability to pay in full, further complicates the system of court fees. There are approximately 250,000 offenders on probation each year; in these cases, fines and fees are paid off over time. According to a 1993 amendment to the Clerks of Superior Courts Act, Superior Court Clerks are to distribute fee payments to the beneficiary programs according to an established priority structure. If a judge forgives a fine or the probationer absconds, the fee amounts owed to each beneficiary program must be recalculated based on the revised fine amount. However, four new applicable fees have been established since 1993 and are therefore not addressed in the statute; additionally, no statutory guidance regarding partial payments has been provided to the other five types of courts.

## Summary of Recommendations

**Consideration should be given to significantly revising the current system of court fees to improve the efficiency and effectiveness of the system as well as provide the necessary level of accountability.**

The practice of using court fees to fund state and local programs is a fragmented system that has evolved over a 50-year period. Based on our review of this system, we have concluded that the cumulative effect of trying to apply 21 fees in over 1,100 courts to a variety of cases makes the current process unwieldy. The fragmented nature of the system makes it difficult for courts or beneficiary programs to effectively manage the fees. In addition, the current system lacks sufficient accountability for the state to have assurances that the proper amount of monies are being remitted to the intended beneficiary programs.

Two options exist for developing an effective system for funding these programs: 1) make changes to the existing fragmented system to institute minimum improvements necessary to establish basic controls; or, 2) design a new comprehensive and efficient system that provides an effective mechanism for providing funding to the designated beneficiary programs. A new system could continue to use fees as a funding source, or fees could be eliminated altogether. Examples of more comprehensive options include: consolidation of all fees into one fee that the courts pay directly into the State General Fund to offset appropriations to designated programs; assessing one fee, but having the county retain a portion of the fee (for local level programs) and having the courts remit the remainder to a state entity for distribution to designated programs; or elimination of the fee system altogether. In order to effectively implement one of these options, additional analysis would be required to determine the actual fiscal impact a change to the fee structure would have on the individual beneficiaries.

**Specific recommendations for making revisions to the existing system include the following:**

- Consider designating an entity as responsible for providing appropriate personnel in all courts with complete information regarding court fees. Because courts do not have access to such information now, they may not be: aware of fees they are to apply; applying fees to all applicable cases; applying fees correctly; or remitting funds to the correct place.
- Consider establishing a state-level monitoring function to ensure the beneficiary programs are receiving the fees due to them. Under the current system, beneficiary programs do not have assurances that they are receiving the correct amount of money. It is necessary to monitor fee remittances from all courts, on all cases, in order to ensure that state and local beneficiary programs are receiving the proper amounts. However, requiring beneficiary programs to perform such a function is neither effective nor efficient. In addition, many of the problems identified during the audit were found by reviewing data across courts and across programs. By establishing a state-level monitoring function, a comprehensive review that covers all beneficiary programs and courts could be conducted.
- Consider requiring that courts' practices for handling court fees be reviewed and routinely reported. Such a review, established as part of the annual local government audit reviews or completed by a central oversight group based on a risk analysis, could provide sufficient assurances that the practices employed by the courts are in line with the requirements of the statutes.
- Clarify and standardize the penalties that may be imposed if court fees are not applied and managed as outlined in the statutes. As with monitoring, consideration may be given to centralizing enforcement authority to ensure penalties are applied consistently when problems are identified.
- Standardize the way in which courts remit funds to beneficiary programs as partial payments are received from probationers. By establishing a priority statute for all courts, the General Assembly can ensure uniformity among the courts in how the beneficiary programs are paid and ensure the programs receive funds as originally intended. Clarification is also needed to determine whether courts can hold partial payments until full payment has been received.
- Consider clarifying and standardizing the various fee statutes to facilitate their application.
- Take the necessary steps to ensure that the state's automation efforts regarding courts are coordinated among the various groups currently trying to affect improvements.

***For additional information or to request a copy of the Performance Audit, contact Paul Bernard at 404-657-5220.***