Some states have rejected judicial imposition and collection of fees that do not specifically relate to the administration of the court or criminal justice system on the grounds that such authority violates the separation of powers doctrine under the state constitution. For example, the Louisiana Supreme Court held that an extra assessment added to traffic fines violates state separation of powers because it amounted to a tax, funded the police, and was not related to the administration of justice.  

Similarly, a Texas court recently held that a consolidated fee statute that allocated funds assessed on criminal defendants to purposes other than “legitimate criminal justice purposes” was facially unconstitutional in violation of separation of powers.

Fines and fees that are used to fund the courts may also pose constitutional problems if they create financial biases and conflicts of interest. These types of challenges are discussed in § 11.7.1.3 infra.

Footnotes


108 [145] Salinas v. State, 2017 WL 915525 (Tex. App. Mar. 8, 2017) (separation of powers violated “if a statute turns the courts into ‘tax gatherers,’ but the collection of fees in criminal cases is a part of the judicial function ‘if the statute under which court costs are assessed (or an interconnected statute) provides for an allocation of such court costs to be expended for legitimate criminal justice purposes’” (quoting Peraza v. State, 467 S.W.3d 508, 517 (Tex. Crim. App. 2015))).


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