National Consumer Law Center
Fighting Together for Economic Justice

Handcuffing Heirs: How Seizing Inheritances to Collect Pay-to-Stay Prison Fees Hinders Recovery and Financial Stability

July 2025

By Nketiah "Ink" Berko, Equal Justice Works fellow, sponsored by the Rossotti Family Foundation, at the National Consumer Law Center

Introduction

An inheritance is an important family legacy that can provide a safety net for future generations. For working families struggling to keep up with rising living costs, the transfer of a family home or other inheritance can provide newfound economic security. In particular, the anticipated wealth transfer from the Baby Boomer generation to their heirs — estimated to be over $50 trillion — has the potential to provide millions of families with improved financial stability.

The hard-earned wealth of working-class families, however, has become increasingly vulnerable. Affluent families are often better situated to protect and transfer their wealth using legal tools such as trusts or business entities. By contrast, working-class families' wealth — the majority of which is held as home equity — is far more precarious and often vulnerable to seizure to cover health care costs and other expenses before it can be passed on and can face additional threats when transferred.

One example of the precarity of working-class intergenerational wealth arises in the criminal-legal context. More than half of states potentially authorize seizing the inheritances of incarcerated or formerly incarcerated people to pay for the costs of their own incarceration, known as "pay-to-stay" fees. Nearly every state charges incarcerated people these pay-to-stay fees, which may include charges for room and board, medical expenses, and other necessities.

A recent study by Professor Brittany Deitch found that, of the states that charge individuals for incarceration-related expenses, three expressly authorize seizure of inheritance assets and 25 may potentially permit it.

These seizures of inheritances for pay-to-stay fees may occur decades after a person served their sentence and can jeopardize financial stability in old age. Connecticut resident Teresa Beatty, for instance, received a bill for over $83,000, stemming from a two-year incarceration that ended 20 years prior, when her mother passed away and left her a portion of the family home.

In 2020, after her mother passed away, Connecticut resident and certified nursing assistant Teresa Beatty received an inheritance, which included a 40 percent ownership interest in the house she called home for over 50 years, and where she continued to live with her adult children, a grandchild, and her disabled older brother. The State of Connecticut moved to demand the $83,662.26 it claimed Ms. Beatty owed related to a nearly two decades-old, two-year prison stay for drug charges.

Connecticut's pay-to-stay law charges people who are incarcerated $249 per day, or $90,885 per year, for the cost of their incarceration, an amount that the ACLU of Connecticut notes is "more than what an in-state student would owe for 2.5 years' attendance at UCONN, including housing, food, and books." [Connecticut has since amended its pay-to-stay law to exempt incarcerated individuals from paying the first $50,000 of their incarceration costs and collect only from individuals convicted of "serious crimes."]

Pay-to-stay laws and, in particular, the seizure of family inheritances to cover pay-to-stay fees, exacerbate an already wide chasm between the haves and have-nots, causing poor families to grow poorer as rich families continue to grow richer.

Seizing family inheritances to pay for incarceration causes particular harm to Black communities. Due to widespread inequities across the criminal justice system, as well as historic disinvestment in Black neighborhoods, Black families have less wealth available to pass to their heirs and are more likely to lose what little wealth they manage to build to the government to pay for the costs of operating prisons and jails. Moreover, seizure of resources to collect pay-to-stay fees can make it harder for returning citizens to achieve the financial stability necessary to reintegrate into society and avoid reincarceration.

Constitutional challenges to pay-to-stay fees have largely been unsuccessful, but reformers have made progress through several state legislatures. Illinois, New Hampshire, and Missouri have repealed their pay-to-stay statutes in recent years. Additionally, in 2022, Connecticut partially reformed its pay-to-stay laws, exempting incarcerated individuals from paying the first $50,000 of their incarceration costs and collecting only from individuals convicted of "serious crimes."

Illinois, New Hampshire, and Missouri have repealed their pay-to-stay statutes in recent years, and Connecticut has partially reformed its pay-stay-laws.

State policymakers have an important role to play in reforming the laws that sentence formerly incarcerated people and their families to generations of debt. In addition to an analysis of the disparate harm that pay-to-stay laws and inheritance seizures have on low-income and Black communities. This paper provides recommendations to state lawmakers on how to end or alleviate the punishing impact of incarceration fees.

The Problem With Pay-to-Stay and Seizing Inheritances

I. Seizing inheritances to pay for the costs of incarceration imposes a regressive tax on working families and exacerbates existing class disparities.

Inheritances are a major source of wealth transfer in the United States, with an estimated 35-45 percent of wealth inherited. Not all inheritances are created equal, however: the top 1 percent of Americans inherit over $700,000. The bottom half of U.S. households, by contrast, receive an average inheritance of $9,700, with roughly three in four of those households receiving no inheritance at all. When working families do inherit, this inheritance is often a family home or

The bottom half of U.S. households receive an average inheritance of $9,700, with roughly three in four of those households receiving no inheritance at all.

home equity, rather than the more liquid forms of wealth — stocks, bonds, or other financial assets — that wealthier individuals are likely to pass down to their children. As a result, the "wealth" of working class families in the form of a home, while undeniably an important bulwark against physical and financial insecurity, can seldom be applied to cover the soaring costs of living in other facets of life, from education to health care.

Within their lifetimes, working families are far more likely to lose their wealth compared to more affluent households. Stagnant wages and fixed incomes, paired with unmanageable property tax bills, render homeowners at risk of property tax foreclosure. Working families in disaster-prone regions are less likely to have home insurance, leaving them more vulnerable to home loss should a storm strike, erasing in an instant what little wealth they may have accrued as home equity. And for households in need of long-term medical services and support, they risk losing a family home to Medicaid estate recovery. Wealthy households rarely, if ever, face such financial hazards, as they can easily cover these costs and still have enough wealth left over to pass onto the next generation.

Additionally, working-class families are more likely than wealthy ones to become enmeshed in the criminal justice system in ways that would render their inheritances vulnerable to seizure for criminal justice debt. Laws that criminalize poverty, such as anti-homelessness statutes and ordinances, the criminalization of drug use and sex work, debt-based license suspensions, and the disproportionate targeting of low-income communities for enforcement of minor infractions and crimes all expand the state's carceral reach in ways that disproportionately entangle poorer individuals in the legal system. Working-class Black families particularly feel these disparities, an issue explored further in the next section.

Working families also have fewer legal resources to avoid pre-conviction incarceration and fewer financial resources to pay bail or post bond, as was the case with Connecticut resident Teresa Beatty. As a result, they are likely to be kept in jail for longer, leading to higher pay-to-stay fees. And due to "chronically under-resourced" indigent defense programs, lower-income individuals are less likely than their wealthier counterparts to have robust legal representation that might help them avoid a conviction or longer sentence. In some cases, formerly incarcerated people have even been billed for the full length of time they were sentenced, instead of the time they actually served. Furthermore, an investigation into court records in Missouri suggests pay-to-stay fees may in some jurisdictions be imposed in a regressive manner, as those records suggest pay-to-stay charges were rarely, if ever, imposed on high-profile, wealthier individuals who are incarcerated.

Pay-to-stay fees, like many other criminal justice system fines and fees, are a regressive tax on low- and moderate-income families. Often, state policymakers — either unwilling or unable to raise taxes elsewhere — have relied instead on imposing criminal justice fines and fees to raise revenues and fund public services. Pay-to-stay fees in particular shift the state's basic responsibility for operating prisons and jails onto economically marginalized individuals, often with little in revenue to show for it.

The result is a system in which wealthy households have all the tools necessary to pass on their financial advantages to the next generation while working class families, who have little to pass down in the first place, are disproportionately at risk of state seizure to pay the costs of operating jails and prisons.

II. Seizing inheritances to satisfy pay-to-stay fees disproportionately affects Black families and other marginalized communities.

In addition to intensifying class disparities, seizing inheritances hampers the preservation and transfer of wealth across generations for marginalized communities, and Black communities in particular. An exhaustive literature documents the racial wealth gap: White families are "nearly four times more likely to receive an inheritance than Black families and about five times more likely than Hispanic families," and white families inherit over five times as much as their Black counterparts. Black families also own more debt relative to assets, compared to white families. Moreover, families of color are vulnerable to the forms of home loss outlined above, such as tax foreclosures, estate recovery, or the loss of an uninsured home. Forty-five percent of Black household wealth is tied to home equity, compared to only 19 percent of white household wealth. Communities of color are also less likely to have an estate plan, thwarting their ability to avoid state seizure of inheritances.

White families inherit over five times as much as their Black counterparts.

These wealth disparities mirror similar inequities in the criminal justice system. Black Americans comprise nearly half of the state prison population, despite being roughly 13 percent of the U.S. population. Black people are incarcerated at nearly six times the rate of white people and they spend more time in jail and in prisons, resulting in higher pay-to-stay fees. Black individuals spent "about two weeks more in jail [annually] than white people on average," according to data from 2021 and 2022. In addition to the above-mentioned criminalization of poverty, Black individuals suffer from prosecutorial, parole board, and jury bias whenever these or other criminal justice system actors exercise discretion, leading to disproportionate rates of punishment. Black Americans are over-represented and over-punished in the criminal justice system, and pay-to-stay fees are no exception. As a result, Black families have more to lose from state seizures of inheritances for pay-to-stay fees.

Other populations, such as individuals with disabilities are also disproportionately harmed by state seizures of inheritances due to higher healthcare needs. Two in five people incarcerated in state prisons have a disability, compared to 15 percent of the general population; similarly, twofifths of the state prison population and one-third of the federal prison population have a chronic health condition. Seizing inheritances to cover pay-to-stay fees can prevent these currently or formerly incarcerated individuals—who are often uninsured—from accruing the resources needed to support themselves post-incarceration, increasing their likelihood of either forgoing medical care or sinking into crushing medical debt.

III. The seizure of inheritances to satisfy pay-to-stay fees can cost communities more than they recoup.

In addition to exacerbating existing class and racial wealth disparities, seizing family inheritances to cover incarceration expenses has a number of negative and counter-productive impacts that may cost families, government, and society more broadly. In particular, such seizures can frustrate efforts at reintegration, destabilize financially vulnerable families and undermine children's likelihood of success, and may cost communities more than these seizures gain.

First, the seizure of an inheritance from a formerly incarcerated person can significantly undermine their chances of successfully reintegrating into society, particularly for those recently incarcerated and trying to get back on their feet. Returning citizens face a constrained housing market due to tenant screening policies that review and deny housing based on one's criminal history, limited access to public housing, and a dearth of stable employment opportunities. Additionally, they may be denied government benefits such as Supplemental Nutrition Assistance Program (SNAP) and Temporary Assistance for Needy Families (TANF). One researcher estimates that returning citizens face "over 44,000 legal barriers impacting reentry." Consequently, a family inheritance, be it a home or a bequest of liquid wealth, may be a formerly incarcerated person's only option for achieving a semblance of economic stability, particularly since their annual income in the first year post-incarceration is often paltry. One study found that previously incarcerated individuals "see their subsequent annual earnings reduced by an average of 52%," in yet another example of the economic precarity returning citizens' experience. The Chicago Tribune documented how Johnny Melton, a formerly incarcerated man, "was forced to get on food stamps and go into a homeless shelter after his parole," eventually dying "penniless" due to a pay-to-stay suit by the Illinois Department of Corrections. By seizing inheritances, states make successful reintegration and self-sufficiency more difficult.

Even for those who receive an inheritance vulnerable to seizure years or decades after being incarcerated, a seizure can be a financially debilitating event. As noted above, working-class inheritances often take the form of a home, rather than liquid assets. Consequently, a pay-to-stay suit may force a person to sell a family home to satisfy the fees — even if, as in the case of Ms. Beatty, the person and their loved ones reside in the home. Further, if someone has been unable to pay off the costs of their incarceration after years or even decades, it is likely because they have been consistently low-income over time and lack financial resources. Seizing a home or limited inheritance that could finally provide some relief from continued financial insecurity, years after serving their time, will increase the risk of financial destitution.

Children and families of formerly incarcerated people are also hurt by seizures of inheritances. Fifty-four percent of the incarcerated population are parents with minor children, and almost two-thirds of families with an incarcerated member struggle to cover basic costs of living. The economic precarity foisted upon families via incarceration also leads to children who struggle both academically and psychologically. These downstream effects are not only socially destructive and individually devastating — they are also expensive. Indigent families with an incarcerated member are more likely to require publicly funded social services.

Seizing inheritances may not even lead to increased revenues for states, particularly in the case of small inheritances, as the costs of pursuing and collecting may exceed the amount recovered. As an ACLU Ohio study of three Ohio counties found, pay-to-stay fees lead to "larger, outstanding bills, but [do] not translate into higher collection rates," given that most individuals in jail are "low income, and cannot afford high pay-to-stay fees." Similarly, prior to the state's repeal of its pay-to-stay laws, one Illinois state representative noted how pay-to-stay lawsuits on the state's behalf were "a significant use of resources, a lot of wasted staff hours, an effort for very little return," particularly as many of those lawsuits were overturned on appeal.

Additionally, by seizing a family inheritance that might mitigate the adverse impacts of incarceration and lessen the need for public assistance, state governments are robbing Peter to pay Paul.

> **"What we discovered was that in the course of the 10 years that it had been on the books, we had only recovered something short of a half of million dollars through about a dozen lawsuits, most of which were overturned on appeal. So, it was a significant use of resources, a lot [wasted staff hours, an effort for very little return."**
>
> (State of Illinois, April 4, 2019)
>
> **"This Bill will bring an end to a practice that more than anything else has been a clear failure."**
>
> (State of Illinois, May 25, 2019)

Finally, seizing inheritances to reimburse pay-to-stay fees leads to perverse incentives for state governments. By nominally shifting the costs of imprisonment onto incarcerated and formerly incarcerated people and their families, states can ignore the rising, though often hidden costs of incarceration and avoid taking responsibility for the social and fiscal failures of their criminal justice systems. Stripping families of the little financial cushion they may have to pay for prison and jail costs discourages serious criminal justice system reform and conflicts with the goals of succession: promoting the transfer of familial wealth and "[avoiding] property escheating to the government."

Recommendations

Seizing inheritances to satisfy pay-to-stay fees threatens the financial and physical wellbeing of formerly incarcerated people, their families, their communities, and taxpayers writ large. As a result, states should take the following steps to end or, at minimum, alleviate harm:

- Repeal all statutes that charge individuals for incarceration costs (such as, but not limited to, room and board, medical expenses, and transportation).

- End the seizure of inheritances to pay for pay-to-stay fees in general.
  - Absent a repeal of pay-to-stay statutes or inheritance seizures, exempt the first $100,000 amount of an estate, as well as homes and primary motor vehicles, from state seizure.
- Prohibit collection of pay-to-stay fees, including inheritance seizures, after a set number of years following the completion of an incarceration sentence.
- Collect demographic data on the individuals against whom pay-to-stay fees are levied and inheritances seized, as well as how much in total assets are seized.
- Collect data on the amounts incarcerated and formerly incarcerated individuals are charged, how much of their inheritances are seized to satisfy these pay-to-stay charges, and the types of assets seized.

Thank you to Ariel Nelson, Andrew Pizor, and Abby Shafroth for editorial contributions to this issue brief; NCLC Legal Intern Sam Segal for legal research; and Ella Halpine for layout and design.