

Introduced by Senator Mitchell

January 18, 2019

An act relating to criminal fees.

LEGISLATIVE COUNSEL'S DIGEST

SB 144, as introduced, Mitchell. Fees: criminal administrative fees.

Existing law imposes various fees contingent upon a criminal arrest, prosecution, or conviction for the cost of administering the criminal justice system, including administering probation and diversion programs, collecting restitution orders, processing arrests and citations, administering drug testing, incarcerating inmates, facilitating medical visits, and sealing or expunging criminal records.

This bill would state the intent of the Legislature to enact legislation to eliminate the range of administrative fees that agencies and courts are authorized to impose to fund elements of the criminal legal system, and to eliminate all outstanding debt incurred as a result of the imposition of administrative fees.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) State law authorizes counties to charge criminal
- 4 administrative fees. These financial exactions are imposed in
- 5 addition, in many cases, to serving time in prison, and are intended
- 6 to generate revenue for public programs and to fund their
- 7 operations.

1 (b) Administrative fees, penalty assessments, and surcharges
2 are extraordinarily burdensome. Individuals exiting the criminal
3 justice system are often charged dozens of administrative fees and
4 surcharges, totaling thousands of dollars per person. In Los Angeles
5 County, for example, someone with a 3-year term of probation
6 accumulates over \$5,500 in probation fees alone.

7 (c) These fees are charged to people who have already paid their
8 debt to society and serve no formal punitive function, and are often
9 assigned to people who simply cannot afford to pay them.

10 (d) This practice often pushes families into poverty and can trap
11 them in a cycle of debt. They serve as a perpetual punishment by
12 pushing vulnerable families further into economic insecurity and
13 peril, as well as increased mental stress, with low-income people
14 and people of color often hit the hardest. Additionally, a national
15 survey of formerly incarcerated people found that families often
16 bear the burden of fees, and that 83 percent of the people
17 responsible for paying these costs are women.

18 (e) Due to overpolicing and systemic racial bias, these fees are
19 disproportionately imposed on communities of color and are
20 especially harmful for Black and Latinx people, who are
21 overrepresented in the criminal legal system across the state.
22 Despite making up only 7 percent of the state population, Black
23 people make up 23 percent of the probation population and are
24 also grossly overrepresented in felony and misdemeanor arrests.
25 Moreover, close to half of Black and Latinx households in
26 California live on the brink of poverty as they struggle to put food
27 on the table and pay for housing.

28 (f) The vast majority of people exiting jail or prison are
29 unemployed, have unstable housing, have no steady source of
30 income, and find work difficult or nearly impossible to obtain after
31 release. Approximately 80 percent of individuals in jail are
32 indigent. Yet, after someone has already served their time, they
33 frequently receive a bill for a long list of fines and fees to pay for
34 probation, fingerprinting, and mandated user fees. According to a
35 report by the Ella Baker Center for Human Rights, the average
36 debt incurred for court-related fines and fees of over 700 people
37 surveyed was \$13,607, nearly equal to the annual income for
38 respondents in the survey.

39 (g) Criminal fees also undermine public safety. The goal of a
40 successful postincarceration period is to reintegrate into the

1 community, yet these fees create significant barriers to successful
2 reentry. These financial burdens frequently hit individuals at the
3 precise moment they are trying to turn their lives around. The
4 nonpayment of criminal fees can lead to wage garnishment, bank
5 account levies, tax refund intercepts, driver’s and professional
6 license suspensions, negative credit scores, and even incarceration
7 or deportation. These consequences can, in turn, limit access to
8 employment, housing, education, and public benefits, which creates
9 additional barriers to successful reentry. Research also shows that
10 the fees can push individuals into underground economies and can
11 result in individuals turning to criminal activity or predatory
12 lending to pay their debts.

13 (h) Criminal fees are also an inefficient source of government
14 revenue. Research shows that the fees are expensive and difficult
15 to collect. For instance, in one year, Alameda County Central
16 Collections spent approximately \$1.6 million toward collection of
17 adult fines, fees and restitution for all cases, resulting in a net loss
18 of \$1.3 million. Similarly, a study of comparable juvenile
19 administrative fees found that counties typically netted very little
20 or even lost revenue after accounting for collections costs.

21 (i) Momentum to end criminal fees is growing in the state and
22 individual counties have begun to recognize that these fees are
23 “high pain, low gain,” and are taking steps to eliminate them. In
24 May 2018, San Francisco eliminated all criminal administrative
25 fees under its control, freeing over 21,000 people of more than
26 \$32,000,000 in outstanding criminal administrative fees and
27 surcharges. Additionally, in December of 2018, the Alameda
28 County Board of Supervisors voted to eliminate a host of
29 county-imposed criminal fees. The board voted to eliminate
30 \$26,000,000 in fees for tens of thousands of Alameda County
31 residents. In 2017, the County of Los Angeles eliminated its public
32 defender registration fee.

33 (j) With the passage of Senate Bill 190 in 2017 and other
34 important criminal justice reform bills, California is a national
35 leader in criminal justice reform. In order to live up to our
36 progressive values of fairness, equity, and opportunity for all, the
37 Legislature should continue its work on criminal justice reform
38 and take all measures necessary to ensure all California families
39 have a chance to achieve economic stability and are treated fairly.

1 SEC. 2. It is the intent of the Legislature to enact legislation
2 to eliminate the range of administrative fees that agencies and
3 courts are authorized to impose to fund elements of the criminal
4 legal system, and to eliminate all outstanding debt incurred as a
5 result of the imposition of administrative fees.

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