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Overview of State Criminal Fines and Fees and Probation Fees

PRESENTED TO:

Assembly Committee on Public Safety
Hon. Reginald Byron Jones-Sawyer, Sr.



LEGISLATIVE ANALYST'S OFFICE

Introduction

In this handout, we provide background information responding to common questions regarding both criminal fines and fees and probation fees.

- ***Criminal Fines and Fees.*** During court proceedings, trial courts typically levy fines and fees upon individuals convicted of criminal offenses (including traffic violations).
- ***Probation Fees.*** State law authorizes counties to levy fees on probationers to cover probation-related costs. For example, a probationer who is subject to electronic monitoring—such as being required to wear a Global Positioning System (GPS) unit on his or her ankle—can be charged for its costs.



How Are Criminal Fines and Fees Assessed?

Various Fines and Fees Substantially Add to Base Fines

As of January 1, 2019

	How Charge is Calculated	Stop Sign Violation (Infraction)	DUI of Alcohol/Drugs (Misdemeanor)
Standard Fines and Fees			
Base Fine	Depends on violation	\$35	\$390
State Penalty Assessment	\$10 for every \$10 of a base fine ^a	40	390
County Penalty Assessment	\$7 for every \$10 of a base fine ^a	28	273
Court Construction Penalty Assessment	\$5 for every \$10 of a base fine ^a	20	195
Proposition 69 DNA Penalty Assessment	\$1 for every \$10 of a base fine ^a	4	39
DNA Identification Fund Penalty Assessment	\$4 for every \$10 of a base fine ^a	16	156
EMS Penalty Assessment	\$2 for every \$10 of a base fine ^a	8	78
EMAT Penalty Assessment	\$4 per conviction	4	4
State Surcharge	20% of base fine	7	78
Court Operations Assessment	\$40 per conviction	40	40
Conviction Assessment Fee	\$35 per infraction conviction and \$30 per felony or misdemeanor conviction	35	30
Night Court Fee	\$1 per fine and fee imposed	1	1
Restitution Fine	\$150 minimum per misdemeanor conviction and \$300 minimum per felony conviction	—	150
Subtotals		(\$238)	(\$1,824)
Examples of Additional Fines and Fees That Could Apply			
DUI Lab Test Penalty Assessment	Actual costs up to \$50 for specific violations	—	\$50
Alcohol Education Penalty Assessment	Up to \$50	—	50
County Alcohol and Drug Program Penalty Assessment	Up to \$100	—	100
Subtotals		(—)	(\$200)
Totals		\$238	\$2,024

^a The base fine is rounded up to the nearest \$10 to calculate these additional charges. For example, the \$35 base fine for a failure to stop would be rounded up to \$40. DUI = Driving Under Influence; EMS = Emergency Medical Services; and EMAT = Emergency Medical Air Transportation.

The total amount owed by an individual begins with a base fine set in state law for each criminal offense. State law then requires courts to add certain charges to this fine. On a limited basis, counties and courts can levy additional charges depending on the specific violations and other factors. Statute gives judges some discretion to reduce the total amount owed by waiving or reducing certain charges.



How Have Fine and Fee Levels Changed Over Time?

Total Fine and Fee Level for Stop Sign Violation Has Increased Significantly Since 2005^a

	Stop Sign Violation (Infraction)		
	2005	2019	Change
Base Fine	\$35	\$35	
State Penalty Assessment	40	40	—
County Penalty Assessment	28	28	—
Court Construction Penalty Assessment	20	20	—
Proposition 69 DNA Penalty Assessment	4	4	—
DNA Identification Fund Penalty Assessment	—	16	\$16
EMS Penalty Assessment	—	8	8
EMAT Penalty Assessment	—	4	4
State Surcharge	7	7	—
Court Operations Fee	20	40	20
Conviction Assessment Fee	—	35	35
Night Court Fee	1	1	—
Totals	\$155	\$238	\$83

^a Depending on the specific violation and other factors, additional county or state assessments may apply.
EMS = Emergency Medical Services and EMAT = Emergency Medical Air Transportation

Total Fine and Fee Levels Have Increased Significantly. Since 2005, the number and size of charges added to the base fine have increased significantly—resulting in increases in the total amount owed by individuals convicted of criminal offenses. As shown in the above figure, the total penalty for a stop sign violation has increased by 54 percent since 2005.

Fine and Fee Levels Set to Serve Multiple Purposes. The state has enacted various fines and fees for various purposes. Some (such as the base fine) are generally tied to the seriousness of the crime. Others (such as the DNA assessments) were enacted to generate revenue to fund specific activities. Finally, some fines and fees were enacted to help offset state or local costs for providing particular services to individuals paying the specific charge.



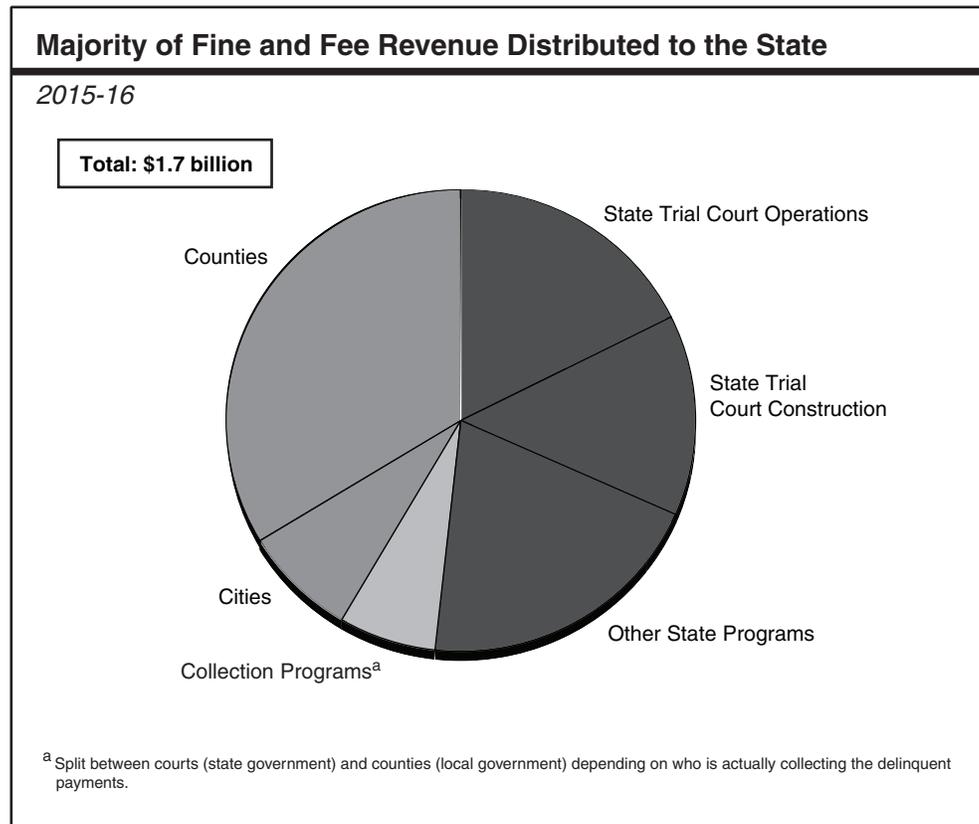
How Is Fine and Fee Revenue Distributed?

Numerous Funds Eligible to Receive Fine and Fee Revenue. Over 50 state funds—in addition to many local funds throughout the state—are eligible to receive fine and fee revenue. However, some of these funds receive very little revenue, such as those that only receive revenue from fines and fees for specific offenses that occur infrequently.

Complex Process for Distributing Fine and Fee Revenue. State law (and county resolutions for certain local charges) dictate a very complex process for the distribution of fine and fee revenue. State law currently contains at least 215 distinct code sections specifying how individual fines and fees are to be distributed to state and local funds, including additional requirements for when payments are not made in full. In order to comply with these requirements, collection programs must carefully track, distribute, and record the revenue they collect.



Who Benefits From Fine and Fee Revenue?



State Receives Majority of Revenue. According to available data compiled by the State Controller's Office and the judicial branch, we estimate that a total of \$1.7 billion in fine and fee revenue was distributed to state and local governments in 2015-16. (This is the most recent data that we have analyzed.) As shown in the figure, the state received \$881 million (or roughly half) of this revenue. Of this amount, roughly 60 percent went to support trial court operations and construction.

Local Governments Receive Most of Remaining Revenue. We estimate that local governments received \$707 million (or 42 percent) of the total amount distributed in 2015-16. Of this amount, about 80 percent went to the counties.



Who Benefits From Fine and Fee Revenue?

(Continued)

Collection Programs Receive Share of Revenue. Collection programs received \$114 million (or 7 percent) of the total amount distributed in 2015-16 for their operational costs related to the collection of delinquent payments. These funds are split between state trial courts and counties depending on which entity incurred the costs.



How Are Probation Fees Assessed?

Examples of Probation Fees for Selected Counties			
Fee	San Luis Obispo County	San Diego County	Butte County
GPS monitoring (daily)	\$12	\$9	\$5 to \$7
Supervision fees (monthly)	\$76	\$17 to \$176	\$164
Installment fee (one time) ^a	\$75	\$75	—
Transfer between counties (one time)	\$148	—	\$392
Court mandated reports (per report)	—	Up to \$1,433	Up to \$1,077
Drug testing fee (per test)	\$55	—	\$32
Probation violation (per event)	—	—	\$109

^a Fee charged in exchange for allowing probationers to pay their other fees on an installment plan
GPS = Global Position System.

Fee Levels Vary Between and Within Counties. The above figure shows certain probation fees charged by three selected counties. As shown, the number, type, and level of probation fees varies significantly by county and the specific fee levied. We note that in addition to probation fees, probationers could also be required to pay other government fines and fees, such as the criminal fines and fees assessed by trial courts.

Ability to Pay Can Impact Fees Levied. Some probation fees can be adjusted based on a probationer's ability to pay. In addition, some counties have policies stating that inability to pay shall not prevent a probationer from receiving services such as supervision and electronic monitoring.



What Is the Total Amount of Probation Fees That Probationers Are Charged?

Hypothetical Examples of Probation Fees Charged for Three Selected Counties

Estimates Over a Three-Year Period

Probationer	San Luis Obispo County	San Diego County	Butte County
Low supervision and fees ^a	\$3,000	\$2,000	\$1,000
High supervision and fees ^b	18,000	18,000	16,000

^a On probation for a misdemeanor, has one pre-sentence report, is on the lowest level of active supervision, and is on an installment plan, which allows the probationer to pay fees on an installment basis

^b On probation for a felony, has one pre-sentence report, is on the highest level of active supervision, is on GPS monitoring, receives random drug testing once a month, committed one felony probation violation, and is on an installment plan

Fees Owed Can Vary Substantially Between Probationers. The figure above provides hypothetical examples of the total probation fees that two probationers might be charged over a three-year period. These examples are intended to demonstrate the magnitude of (1) the fees a probationer can owe and (2) the difference between fee levels for similar probationers in different counties.

Level of Supervision Significantly Impacts Fee Amounts. A probationer on low-level supervision (such as someone convicted for a misdemeanor) is generally charged fewer fees compared to a probationer on high-level supervision (such as someone convicted of a felony) who must also follow certain other requirements (such as being on GPS monitoring and receiving random drug tests on a regular basis).

