

1 (c) As used in this section, the term “fine” or “bail” refers to
2 the total amounts due in connection with a specific violation,
3 including, but not limited to, all of the following:

4 (1) Base fine or bail, as established by court order, by statute,
5 or by the court’s bail schedule.

6 (2) ~~Penalty assessments imposed pursuant to Section 1464 of~~
7 ~~the Penal Code, and Sections 70372, 76000, 76000.5, 76104.6,~~
8 ~~and 76104.7 of, and paragraph (1) of subdivision (c) of Section~~
9 ~~76000.10 of, the Government Code, and Section 42006 of this~~
10 ~~code.~~

11 (3) ~~State surcharges imposed pursuant to Section 1465.7 of the~~
12 ~~Penal Code.~~

13 (4) ~~Court operations assessments imposed pursuant to Section~~
14 ~~1465.8 of the Penal Code.~~

15 (5) ~~Criminal conviction assessments pursuant to Section 70373~~
16 ~~of the Government Code.~~

17 (d) ~~Notwithstanding subdivision (c), any civil assessment~~
18 ~~imposed pursuant to former Section 1214.1 of the Penal Code shall~~
19 ~~not be collected, nor shall the payment of that assessment be a~~
20 ~~requirement of participation in the amnesty program.~~

21 (e) ~~Concurrent with the amnesty program established pursuant~~
22 ~~to subdivision (b), between October 1, 2015, to March 31, 2017,~~
23 ~~inclusive, the following shall apply:~~

24 (1) ~~The court shall, within 90 days, issue and file the appropriate~~
25 ~~certificate pursuant to subdivisions (a) and (b) of Section 40509~~
26 ~~for any participant of the one-time amnesty program established~~
27 ~~pursuant to subdivision (b) demonstrating that the participant has~~
28 ~~appeared in court, paid the fine, or otherwise satisfied the court,~~
29 ~~if the driving privilege of that participant was suspended pursuant~~
30 ~~to Section 13365 in connection with a specific violation described~~
31 ~~in paragraph (1), (2), or (3) of subdivision (g). For applications~~
32 ~~submitted prior to January 1, 2017, that remain outstanding as of~~
33 ~~that date, the court shall issue and file the certificate no later than~~
34 ~~March 31, 2017. For applications submitted on or before March~~
35 ~~31, 2017, all terms and procedures related to the participant’s~~
36 ~~payment plans shall remain in effect after March 31, 2017.~~

37 (2) ~~The court shall, within 90 days, issue and file with the~~
38 ~~department the appropriate certificate pursuant to subdivisions (a)~~
39 ~~and (b) of Section 40509 for any person in good standing in a~~
40 ~~comprehensive collection program pursuant to subdivision (c) of~~

1 Section 1463.007 of the Penal Code demonstrating that the person
2 has appeared in court, paid the fine, or otherwise satisfied the court,
3 if the driving privilege was suspended pursuant to Section 13365
4 in connection with a specific violation described in paragraph (1);
5 (2), or (3) of subdivision (g). For applications submitted prior to
6 January 1, 2017, that remain outstanding as of that date, the court
7 shall issue and file the certificate no later than March 31, 2017.
8 For applications submitted on or before March 31, 2017, all terms
9 and procedures related to the participant's payment plans shall
10 remain in effect after March 31, 2017.

11 (3) Any person who is eligible for a driver's license pursuant
12 to Section 12801, 12801.5, or 12801.9 shall be eligible for the
13 amnesty program established pursuant to subdivision (b) for any
14 specific violation described in subdivision (g). The department
15 shall issue a driver's license to any person who is eligible pursuant
16 to Section 12801, 12801.5, or 12801.9 if the person is participating
17 in the amnesty program and is otherwise eligible for the driver's
18 license but for the fines or bail to be collected through the program.

19 (4) The Department of Motor Vehicles shall not deny reinstating
20 the driving privilege of any person who participates in the amnesty
21 program established pursuant to subdivision (b) for any fines or
22 bail in connection with the specific violation that is the basis for
23 participation in the amnesty program.

24 (f) In addition to, and at the same time as, the mandatory
25 one-time amnesty program is established pursuant to subdivision
26 (b), the court and the county may jointly agree to extend that
27 amnesty program to fines and bail imposed for a misdemeanor
28 violation of this code and a violation of Section 853.7 of the Penal
29 Code that was added to the misdemeanor case otherwise subject
30 to the amnesty. The amnesty program authorized pursuant to this
31 subdivision shall not apply to parking violations and violations of
32 Sections 23103, 23104, 23105, 23152, and 23153.

33 (g) A violation is only eligible for amnesty if paragraph (1), (2),
34 or (3) applies, and the requirements of paragraphs (4) to (8),
35 inclusive, are met:

36 (1) The violation is an infraction violation filed with the court.

37 (2) It is a violation of subdivision (a) or (b) of Section 40508,
38 or a violation of Section 853.7 of the Penal Code that was added
39 to the case subject to paragraph (1).

1 ~~(3) The violation is a misdemeanor violation filed with the court~~
2 ~~to which subdivision (f) applies.~~

3 ~~(4) The initial due date for payment of the fine or bail was on~~
4 ~~or before January 1, 2013.~~

5 ~~(5) There are no outstanding misdemeanor or felony warrants~~
6 ~~for the defendant within the county, except for misdemeanor~~
7 ~~warrants for misdemeanor violations subject to this section.~~

8 ~~(6) The person does not owe victim restitution on any case~~
9 ~~within the county.~~

10 ~~(7) The person has not made any payments for the violation~~
11 ~~after September 30, 2015, to a comprehensive collection program~~
12 ~~in the county pursuant to subdivision (c) of Section 1463.007 of~~
13 ~~the Penal Code.~~

14 ~~(8) The person filed a request with the court on or before March~~
15 ~~31, 2017.~~

16 ~~(h) (1) Except as provided in paragraph (2), each amnesty~~
17 ~~program shall accept, in full satisfaction of any eligible fine or~~
18 ~~bail, 50 percent of the fine or bail amount, as defined in subdivision~~
19 ~~(e).~~

20 ~~(2) If the participant certifies under penalty of perjury that the~~
21 ~~participant receives any of the public benefits listed in subdivision~~
22 ~~(a) of Section 68632 of the Government Code or is within the~~
23 ~~conditions described in subdivision (b) of Section 68632 of the~~
24 ~~Government Code, the amnesty program shall accept, in full~~
25 ~~satisfaction of any eligible fine or bail, 20 percent of the fine or~~
26 ~~bail amount, as defined in subdivision (c).~~

27 ~~(i) The Judicial Council, in consultation with the California~~
28 ~~State Association of Counties, shall adopt guidelines for the~~
29 ~~amnesty program no later than October 1, 2015, and each program~~
30 ~~shall be conducted in accordance with the Judicial Council's~~
31 ~~guidelines. As part of its guidelines, the Judicial Council shall~~
32 ~~include all of the following:~~

33 ~~(1) A payment plan option created pursuant to Judicial Council~~
34 ~~guidelines in which a monthly payment is equal to the amount that~~
35 ~~an eligible participant can afford to pay per month consistent with~~
36 ~~Sections 68633 and 68634 of the Government Code. If a participant~~
37 ~~chooses the payment plan option, the county or court shall collect~~
38 ~~all relevant information to allow for collection by the Franchise~~
39 ~~Tax Board pursuant to existing protocols prescribed by the~~
40 ~~Franchise Tax Board to collect delinquent debts of any amount in~~

1 which a participant is delinquent or otherwise in default under the
2 amnesty payment plan.

3 ~~(2) If a participant does not comply with the terms of the~~
4 ~~participant's payment plan under the amnesty program, including~~
5 ~~failing to make one or more payments, the appropriate agency~~
6 ~~shall send a notice to the participant that they have failed to make~~
7 ~~one or more payments and that the participant has 30 days to either~~
8 ~~resume making payments or to request that the agency change the~~
9 ~~payment amount. If the participant fails to respond to the notice~~
10 ~~within 30 days, the appropriate agency may refer the participant~~
11 ~~to the Franchise Tax Board for collection of any remaining balance~~
12 ~~owed, including an amount equal to the reasonable administrative~~
13 ~~costs incurred by the Franchise Tax Board to collect the delinquent~~
14 ~~amount owed. The Franchise Tax Board shall collect any~~
15 ~~delinquent amounts owed pursuant to existing protocols prescribed~~
16 ~~by the Franchise Tax Board. The comprehensive collection~~
17 ~~program may also utilize additional collection efforts pursuant to~~
18 ~~Section 1463.007 of the Penal Code, except for subparagraph (C)~~
19 ~~of paragraph (4) of subdivision (c) of that section.~~

20 ~~(3) A plan for outreach that will, at a minimum, make available~~
21 ~~via an internet website relevant information regarding the amnesty~~
22 ~~program, including how an individual may participate in the~~
23 ~~amnesty program.~~

24 ~~(4) The Judicial Council shall reimburse costs incurred by the~~
25 ~~Department of Motor Vehicles up to an amount not to exceed two~~
26 ~~hundred fifty thousand dollars (\$250,000), including all of the~~
27 ~~following:~~

28 ~~(A) Providing on a separate insert with each motor vehicle~~
29 ~~registration renewal notice a summary of the amnesty program~~
30 ~~established pursuant to this section that is compliant with Section~~
31 ~~7292 of the Government Code.~~

32 ~~(B) Posting on the department's internet website information~~
33 ~~regarding the amnesty program.~~

34 ~~(C) Personnel costs associated with the amnesty program.~~

35 ~~(j) The Judicial Council, in consultation with the department,~~
36 ~~may, within its existing resources, consider, adopt, or develop~~
37 ~~recommendations for an appropriate mechanism or mechanisms~~
38 ~~to allow reinstatement of the driving privilege of any person who~~
39 ~~otherwise meets the criteria for amnesty but who has violations in~~
40 ~~more than one county.~~

1 ~~(k) A criminal action shall not be brought against a person for~~
2 ~~a delinquent fine or bail paid under the amnesty program.~~

3 ~~(l) (1) The total amount of funds collected under the amnesty~~
4 ~~program shall, as soon as practical after receipt thereof, be~~
5 ~~deposited in the county treasury or the account established under~~
6 ~~Section 77009 of the Government Code. After acceptance of the~~
7 ~~amount specified in subdivision (h), notwithstanding Section~~
8 ~~1203.1d of the Penal Code, the remaining revenues collected under~~
9 ~~the amnesty program shall be distributed on a pro rata basis in the~~
10 ~~same manner as a partial payment distributed pursuant to Section~~
11 ~~1462.5 of the Penal Code.~~

12 ~~(2) Notwithstanding Section 1464 of the Penal Code, the amount~~
13 ~~of funds collected pursuant to this section that would be available~~
14 ~~for distribution pursuant to subdivision (f) of Section 1464 of the~~
15 ~~Penal Code shall instead be distributed as follows:~~

16 ~~(A) The first two hundred fifty thousand dollars (\$250,000)~~
17 ~~received shall be transferred to the Judicial Council.~~

18 ~~(B) Following the transfer of the funds described in~~
19 ~~subparagraph (A), once a month, both of the following transfers~~
20 ~~shall occur:~~

21 ~~(i) An amount equal to 82.20 percent of the amount of funds~~
22 ~~collected pursuant to this section during the preceding month shall~~
23 ~~be transferred into the Peace Officers' Training Fund.~~

24 ~~(ii) An amount equal to 17.80 percent of the amount of funds~~
25 ~~collected pursuant to this section during the preceding month shall~~
26 ~~be transferred into the Corrections Training Fund.~~

27 ~~(m) Each court or county implementing an amnesty program~~
28 ~~shall file, not later than May 31, 2017, a written report with the~~
29 ~~Judicial Council, on a form approved by the Judicial Council. The~~
30 ~~report shall include information about the number of cases resolved,~~
31 ~~the amount of money collected, and the operating costs of the~~
32 ~~amnesty program. Notwithstanding Section 10231.5 of the~~
33 ~~Government Code, on or before August 31, 2017, the Judicial~~
34 ~~Council shall submit a report to the Legislature summarizing the~~
35 ~~information provided by each court or county.~~

36 ~~SEC. 138.~~

37 ~~SEC. 90. Section 44237 is added to the Vehicle Code, to read:~~

38 ~~44237. On and after January 1, 2020, the unpaid balance of~~
39 ~~any court-imposed costs pursuant to subdivision (e) of Section~~
40 ~~11208; Sections 23573, 23575.3, 40508.5, and 40508.6; and~~

1 ~~40508.5, and subdivision (g) of Section 40510.5, Section 40611,~~
2 ~~the imposition of the thirty-five-dollar (\$35) fee specified in~~
3 ~~paragraph (2) of subdivision (a) of Section 42007, the~~
4 ~~forty-nine-dollar (\$49) fee specified in Section 42007.1, and~~
5 ~~paragraph (2) of subdivision (i) of Section 42008.8; as those~~
6 sections read on December 31, 2019, shall be unenforceable and
7 uncollectible and any portion of a judgment imposing those costs
8 shall be vacated.

9 ~~SEC. 139.~~

10 *SEC. 91.* Section 903.3 of the Welfare and Institutions Code
11 is repealed.

12 ~~SEC. 140.~~

13 *SEC. 92.* Section 903.45 of the Welfare and Institutions Code
14 is amended to read:

15 903.45. (a) The board of supervisors may designate a county
16 financial evaluation officer pursuant to Section 27750 of the
17 Government Code to make financial evaluations of liability for
18 reimbursement pursuant to Sections 903, 903.1, 903.2, 903.25,
19 and 903.5, and other reimbursable costs allowed by law, as set
20 forth in this section.

21 (b) (1) (A) In a county where a board of supervisors has
22 designated a county financial evaluation officer, the juvenile court
23 shall, at the close of the disposition hearing, order any person liable
24 for the cost of support, pursuant to Section 903, the cost of legal
25 services as provided for in Section 903.1, supervision costs as
26 provided for in Section 903.2, or any other reimbursable costs
27 allowed under this code, to appear before the county financial
28 evaluation officer for a financial evaluation of the person's ability
29 to pay those costs. If the responsible person is not present at the
30 disposition hearing, the court shall cite the person to appear for a
31 financial evaluation. In the case of a parent, guardian, or other
32 person assessed for the costs of transport, food, shelter, or care of
33 a minor under Section 903.25, the juvenile court shall, upon request
34 of the county probation department, order the appearance of the
35 parent, guardian, or other person before the county financial
36 evaluation officer for a financial evaluation of their ability to pay
37 the costs assessed.

38 (B) (i) This paragraph does not apply to costs described in this
39 paragraph for purposes of a minor who is adjudged a ward of the
40 juvenile court, who is placed on probation pursuant to Section 725,

1 who is the subject of a petition that has been filed to adjudge the
2 minor a ward of the juvenile court, or who is the subject of a
3 program of supervision undertaken pursuant to Section 654.

4 (ii) Notwithstanding clause (i), this paragraph applies to a minor
5 who is designated as a dual status child pursuant to Section 241.1,
6 for purposes of the dependency jurisdiction only and not for
7 purposes of the delinquency jurisdiction.

8 (2) If the county financial evaluation officer determines that a
9 person so responsible has the ability to pay all or part of the costs,
10 the county financial evaluation officer shall petition the court for
11 an order requiring the person to pay that sum to the county or court,
12 depending on which entity incurred the expense. If the parent or
13 guardian is liable for costs for legal services pursuant to Section
14 903.1, the parent or guardian has been reunified with the child
15 pursuant to a court order, and the county financial evaluation officer
16 determines that repayment of the costs would harm the ability of
17 the parent or guardian to support the child, then the county financial
18 evaluation officer shall not petition the court for an order of
19 repayment, and the court shall not make that order. In addition, if
20 the parent or guardian is currently receiving reunification services,
21 and the court finds, or the county financial officer determines, that
22 repayment by the parent or guardian will pose a barrier to
23 reunification with the child because it will limit the ability of the
24 parent or guardian to comply with the requirements of the
25 reunification plan or compromise the parent's or guardian's current
26 or future ability to meet the financial needs of the child, or in any
27 case in which the court finds that the repayment would be unjust
28 under the circumstances of the case, then the county financial
29 evaluation officer shall not petition the court for an order of
30 repayment, and the court shall not order repayment by the parent
31 or guardian. In evaluating a person's ability to pay under this
32 section, the county financial evaluation officer and the court shall
33 take into consideration the family's income, the necessary
34 obligations of the family, and the number of persons dependent
35 upon this income. A person appearing for a financial evaluation
36 has the right to dispute the county financial evaluation officer's
37 determination, in which case the person is entitled to a hearing
38 before the juvenile court. The county financial evaluation officer,
39 at the time of the financial evaluation, shall advise the person of

1 the right to a hearing and of their rights pursuant to subdivision
2 (c).

3 (3) At the hearing, a person responsible for costs is entitled to
4 have, but shall not be limited to, the opportunity to be heard in
5 person, to present witnesses and other documentary evidence, to
6 confront and cross-examine adverse witnesses, to disclosure of
7 the evidence against them and to receive a written statement of
8 the findings of the court. The person has the right to be represented
9 by counsel, and, if the person is unable to afford counsel, the right
10 to appointed counsel. If the court determines that the person has
11 the ability to pay all or part of the costs, including the costs of any
12 counsel appointed to represent the person at the hearing, the court
13 shall set the amount to be reimbursed and order them to pay that
14 sum to the county or court, depending on which entity incurred
15 the expense, in a manner in which the court believes reasonable
16 and compatible with the person's financial ability.

17 (4) If the person, after having been ordered to appear before the
18 county financial evaluation officer, has been given proper notice
19 and fails to appear as ordered, the county financial evaluation
20 officer shall recommend to the court that the person be ordered to
21 pay the full amount of the costs. Proper notice to the person shall
22 contain all of the following:

23 (A) That the person has a right to a statement of the costs as
24 soon as it is available.

25 (B) The person's procedural rights under Section 27755 of the
26 Government Code.

27 (C) The time limit within which the person's appearance is
28 required.

29 (D) A warning that if the person fails to appear before the county
30 financial evaluation officer, the officer will recommend that the
31 court order the person to pay the costs in full.

32 (5) If the county financial evaluation officer determines that the
33 person has the ability to pay all or a portion of these costs, with or
34 without terms, and the person concurs in this determination and
35 agrees to the terms of payment, the county financial evaluation
36 officer, upon the officer's written evaluation and the person's
37 written agreement, shall petition the court for an order requiring
38 the person to pay that sum to the county or the court in a manner
39 that is reasonable and compatible with the person's financial ability.
40 This order may be granted without further notice to the person,

1 provided that a copy of the order is served on the person by mail
2 or by electronic means pursuant to Section 212.5.

3 (6) However, if the county financial evaluation officer cannot
4 reach an agreement with the person with respect to either the
5 liability for the costs, the amount of the costs, the person's ability
6 to pay the costs, or the terms of payment, the matter shall be
7 deemed in dispute and referred by the county financial evaluation
8 officer back to the court for a hearing.

9 (c) At any time prior to the satisfaction of a judgment entered
10 pursuant to this section, a person against whom the judgment was
11 entered may petition the rendering court to modify or vacate the
12 judgment on the basis of a change in circumstances relating to
13 their ability to pay the judgment.

14 (d) Execution may be issued on the order in the same manner
15 as on a judgment in a civil action, including any balance remaining
16 unpaid at the termination of the court's jurisdiction over the minor.

17 ~~SEC. 141.~~

18 *SEC. 93.* Section 904 of the Welfare and Institutions Code is
19 amended to read:

20 904. (a) The monthly or daily charge, not to exceed cost, for
21 care, support, and maintenance of minor persons placed or detained
22 in or committed to any institution by order of a juvenile court, and
23 the cost of supervision referred to by Section 903.2 shall be
24 determined by the board of supervisors. The cost of
25 dependency-related legal services referred to by Section 903.1
26 shall be determined by the court. Any determination made by a
27 court under this section shall be valid only if either (1) made under
28 procedures adopted by the Judicial Council or (2) approved by the
29 Judicial Council.

30 (b) (1) This section does not apply to a minor who is adjudged
31 a ward of the juvenile court, who is placed on probation pursuant
32 to Section 725, who is the subject of a petition that has been filed
33 to adjudge the minor a ward of the juvenile court, or who is the
34 subject of a program of supervision undertaken pursuant to Section
35 654.

36 (2) Notwithstanding paragraph (1), this section applies to a
37 minor who is designated as a dual status child pursuant to Section
38 241.1, for purposes of the dependency jurisdiction only and not
39 for purposes of the delinquency jurisdiction.

1 ~~SEC. 142.~~
2 *SEC. 94.* If the Commission on State Mandates determines that
3 this act contains costs mandated by the state, reimbursement to
4 local agencies and school districts for those costs shall be made
5 pursuant to Part 7 (commencing with Section 17500) of Division
6 4 of Title 2 of the Government Code.

O

THIRD READING

Bill No: SB 144
Author: Mitchell (D) and Hertzberg (D), et al.
Amended: 5/21/19
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 5-2, 4/23/19
AYES: Skinner, Bradford, Jackson, Mitchell, Wiener
NOES: Moorlach, Morrell

SENATE APPROPRIATIONS COMMITTEE: 4-2, 5/16/19
AYES: Portantino, Bradford, Hill, Wieckowski
NOES: Bates, Jones

SUBJECT: Criminal fees

SOURCE: A New Way of Life
All of Us or None
American Civil Liberties Union
Anti-Recidivism Coalition
East Bay Community Law Center
Ella Baker Center for Human Rights
Homeboy Industries
Insight Center for Community Economic Development
Legal Services for Prisoners with Children
Policy Link
San Francisco Financial Justice Project
San Francisco Public Defender
Western Center on Law and Poverty
Youth Justice Coalition

DIGEST: This bill eliminates numerous fees imposed on criminal offenses and Vehicle Code violations.

ANALYSIS:

Existing law:

- 1) Provides that in any case in which a party is provided legal assistance, either through the public defender or private counsel appointed by the court, upon the conclusion of the proceedings or upon the withdrawal of the public defender or private counsel, after a hearing on the matter the court may make a determination of the party to pay all or a portion of the cost of such legal assistance. If the court determines that the party has the ability to pay all or part of the cost, it shall order the party to pay the sum to the county in any installments and manner in which it believes reasonable and compatible with the party's ability to pay. (Government Code § 27712)
- 2) Provides that prior to furnishing counsel of legal assistance by the court, the court shall give notice to the defendant that after a hearing the court will make an ability to pay determination and that the person may be ordered to pay all or part of the costs of the legal assistance. (Government Code § 27753)
- 3) Provides that any county whose officer or agent arrests a person is entitled to recover from the arrested person a criminal justice administrative fee for the administrative costs it incurs in conjunction with the arrest if the person is convicted of any criminal offense related to the arrest. The fee may be imposed as part of the judgment of conviction or as a condition of probation. (Government Code 29550 (c) (d))
- 4) Allows any city, special district, school district, community college district, college, university or other local agency to collect the criminal justice administrative fee. (Penal Code §§ 29550.1; 29550.2; 299550.3)
- 5) Provides that an administrative screening fee of \$25 shall be collected from each person arrested and released on his own recognizance upon conviction of any criminal offense related to an arrest other than an infraction. The fee shall be deposited in the General Fund. (Government Code 29550 (f))
- 6) Provides that a citation processing fee in the amount of \$10 shall be collected from each person cited and released by any peace officer in the filed or at a jail facility upon conviction of any criminal offense, other than an infraction. The fee shall be deposited in the General Fund. (Government Code 29550 (f))
- 7) Provides that notwithstanding any other provision, a person who is sentenced to state prison or confined in a county jail shall pay a partial amount of the trial court filing fees and costs. To apply for an initial fee waiver, a person who is

sentenced to state prison or confined in a county jail the person shall fill out the appropriate judicial council form. Existing law sets forth a process for determining if the person has an ability to pay and process for collecting the fees from the inmates accounts. (Government Code § 6835)

- 8) Provides for a \$4 fee imposed upon every conviction for a violation of the Vehicle Code or a local ordinance adopted pursuant to the Vehicle Code, except for parking tickets that go to fund Emergency Medical Air Transportation. This provision provides that the assessment of penalties shall stop on January 1, 2020, although fees imposed prior to that date shall still be collected after that date. This provision sunsets on January 1, 2022. (Government Code § 76000.10)
- 9) Provides that any person who receives probation for child endangerment or infliction of corporal punishment on a child shall be required to complete no less than one year of child abuser's treatment program and to pay for the full costs of the treatment program including any drug tests. The law further provides that the term of probation shall not be lifted until all reasonable fees due to the counseling program have been paid in full. (Penal Code §§ 273a; 273d; 273.1)
- 10) Provides that every defendant shall be assessed a registration fee of \$50 to be represented by the public defender. (Penal Code § 987.5)
- 11) Creates a pretrial diversion program for specified drug offenses. (Penal Code § 1000 *et seq*)
- 12) Provides that when a defendant completes pretrial diversion, or if pretrial diversion is terminated early, the defendant shall reimburse the probation department for the reasonable cost of any program investigation or progress report filed with the court. (Penal Code § 1000.3)
- 13) Allows a judge to require the payment of an administrative fee, as part of enrollment in a diversion program, to cover the cost of any criminalistics laboratory analysis, not to exceed \$500. In addition the court may require the payment of the actual costs of enrollment in diversion and a fee for the cost of supervising the divertee. (Penal Code §§ 1000.15; 1001.16)
- 14) Provides that all persons receiving diversion shall pay a diversion restitution fee and allows the county board of supervisors to cover the actual administrative costs of collection of the restitution fee not to exceed 10% of the

amount to be paid and the state shall pay the county agency collecting the fee 10% of the funds collected. (Penal Code § 1001.90)

- 15) Provides that a person convicted of a crime shall pay restitution to the victim. The law allows a county to impose a fee to cover the actual administrative costs of collecting the restitution, not to exceed 10% of the amount owed. (Penal Code § 1202.4)
- 16) Allows for restitution to be collected from a person's income and allows an employer to collect up to \$5 against offenders to cover the cost of the first income deduction for restitution and \$1 for each one after. (Penal Code § 1202.42)
- 17) Provides that a probationer cannot be released to another state until the probationer has paid the reasonable costs of processing their request to move states. (Penal Code § 1203)
- 18) Provides that a participant in home detention shall pay an administrative fee based on an ability to pay. Home detention can be terminated if an individual willfully fails to pay the fee. (Penal Code § 1203.016)
- 19) Allows a county to set up a pretrial electronic monitoring program and authorizes administrative fees to be paid and a person to be returned to custody if they fail to pay the fee. (Penal Code § 1203.018)
- 20) Provides that if the court orders restitution to the victim, the entity collecting the restitution may add a fee to cover the actual administrative costs of collection not to exceed 15% of the total amount paid. (Penal Code § 1203.1)
- 21) Provides that a person convicted of a drug offense can be required to undergo drug testing while on probation and can be required to reasonable fees to pay for the testing. (Penal Code § 1203.1ab)
- 22) Provides that person on probation can be charged the reasonable cost of any probation supervision including fees related to any pre-plea or re-sentence report, the cost of processing a judicial transfer and the cost of collection for installment payments. (Penal Code § 1203.1b)
- 23) Requires a person who is required to install an ignition interlock device because of a DUI conviction shall be required to pay for the device based on an ability to pay determination. (Penal Code § 1203.1bb; Vehicle Code §§ 23573; 23575.3)

- 24) Allows a county to seek reimbursement for the reasonable costs of county parole supervision. (Penal Code § 1203.1e)
- 25) Allows counties or cities to seek reimbursement for the cost of incarceration in a county or city jail, based on an ability to pay determination. (Penal Code § 1203.1c)
- 26) Provides that the court may order a defendant who is sentenced to state prison to pay the reasonable costs of imprisonment. (Penal Code § 1203.1m)
- 27) Provides that if a person is over 26 years of age and is seeking the sealing of a juvenile record a court can charge up to \$150. (Penal Code § 1203.45; Welfare and Institutions Code §903.3)
- 28) Provides that a fee may be charged for transferring a probation case to another county. (Penal Code § 1203.9)
- 29) Provides that the court may charge a \$30 fee for setting up a payment plan for a fine. (Penal Code § 1205)
- 30) Allows a defendant granted work furlough or home detention to be charged an administrative fee and application fee, although an offender cannot be denied based on an inability to pay. (Penal Code § 1208.2)
- 31) Provides that a person convicted of a non-violent drug offense can be ordered to contribute to the cost of placement in a drug treatment program. (Penal Code § 1210.1)
- 32) Provides that, based on an ability to pay, a chief probation officer may charge for the cost of supervising an offender on electronic monitoring. (Penal Code § 1210.15)
- 33) Provides that if defendant is ordered to pay more than \$50 in restitution they may also be ordered to pay 10% interest on outstanding principle. (Penal Code § 1214.5)
- 34) Provides for a \$300 civil penalty assessment by the court for a failure to appear. (Penal Code § 1214.1)
- 35) Allows the California Department of Corrections and Rehabilitation (CDCR) to charge a 10% fee to cover the actual costs of collecting restitution. (Penal Code §2085.5)

- 36) Allows counties to collect a 10% fee to cover the actual costs of collecting restitution from a person on PRCS/Mandatory Custody or post-release from custody. (Penal Code §§2085.6; 2085.7)
- 37) Provides that county, city or CDCR may recover costs for medical, dental, and hospital care for an incarcerated youth from the person who is responsible for the youth. (Penal Code § 3000.07)
- 38) Allows for the temporary release of an inmate for a family emergency or for a purpose to prepare them for release and allows the county to charge the offender for expenses relating to that release. (Penal Code § 4024.2)
- 39) Allows a person to be charged an administrative fee for participation in a work release program. (Penal Code § 4024.2)
- 40) Allows CDCR to charge an administrative fee for a work furlough program. (Penal Code §6266)
- 41) Authorizes a county to charge \$15 for a written promise to appear. (Vehicle Code § 40508.5)
- 42) Provides that if a defendant fails to make an installment payment for a Vehicle Code violation, the court may charge a fee for failure to appear. The defendant shall also pay a fee up to \$35 for the administrative costs of a payment plan. (Vehicle Code § 40510.5)
- 43) Provides that the court shall charge a \$25 fee for a "fix it ticket." (Vehicle Code § 40511)

This bill:

- 1) Deletes the provision requiring an ability to pay determination for the use of a public defender and the provision requiring notice that such a determination will be made.
- 2) Deletes the provision allowing for the recovery of costs associated with arrest.
- 3) Deletes the \$25 administrative processing fee and \$10 citation processing fee.
- 4) Provides that Emergency Medical Air Transportation fees shall cease to be recovered after January 1, 2020, and changes the sunset date to January 1, 2021.
- 5) Deletes the \$50 registration fee for representation by a public defender.

- 6) Deletes the requirement that a defendant reimburse probation for the cost of reports associated with pretrial diversion.
- 7) Deletes the fees for laboratory analysis, enrollment and supervision relating to diversion.
- 8) Deletes the fee to cover the administrative cost of collecting the diversion restitution fee and the county share for collecting restitution.
- 9) Deletes the ability of a county to collect a fee to cover the administrative costs of collecting restitution.
- 10) Deletes the ability of an employer to collect up to \$5 or \$1 for an income deduction for restitution.
- 11) Deletes the requirement that a probationer reimburse the costs for transfer to another state before being allowed to leave.
- 12) Deletes the fees relating to home detention.
- 13) Deletes the provisions allowing fees for pretrial electronic monitoring.
- 14) Deletes the ability of the entity collecting restitution to add a fee to cover actual administrative costs.
- 15) Deletes the requirement that a person convicted of a drug offense pay for drug testing.
- 16) Deletes the fees related to the cost of probation supervision.
- 17) Deletes the requirement that an offender pay for an ignition interlock and specifically states they are not responsible for the costs.
- 18) Deletes the ability to recover for incarceration costs.
- 19) Deletes the ability of a county to seek reimbursement for the reasonable costs of county parole supervision.
- 20) Deletes the ability to collect state prison costs.
- 21) Deletes the ability to collect a \$150 fee to cover a petition to change a plea or set aside a verdict.
- 22) Deletes the \$60 fee for a petition of the dismissal or an infraction or misdemeanor.

- 23) Deletes the \$150 fee for a petition to change a plea or set aside a verdict for an 1170h offense.
- 24) Deletes the ability to charge a person over 26 years of age the cost of sealing a juvenile record.
- 25) Deletes the ability to charge a defendant for transferring a case to another county.
- 26) Deletes the ability to charge a defendant \$30 to set up a payment plan.
- 27) Deletes the ability to charge a fee for work furlough or home detention.
- 28) Deletes the ability to require a non-violent drug offender to contribute to the cost of treatment.
- 29) Deletes the ability of probation to charge a person for electronic monitoring.
- 30) Deletes the \$300 civil penalty assessment for a failure to appear.
- 31) Deletes the ability of the court to order payment of interest on restitution.
- 32) Deletes the ability of CDCR to collect an administration fee to cover the actual cost of collecting restitution.
- 33) Deletes the ability of the counties to collect a 10% fee to cover the actual costs of collecting restitution from a person on PRCS/Mandatory Custody.
- 34) Deletes the ability to charge a responsible party for health care for incarcerated youth.
- 35) Deletes the ability to charge for expenses relating to a temporary release of an inmate.
- 36) Deletes the ability to charge for a work-release program.
- 37) Deletes the ability of CDCR to charge an administrative fee for a work furlough program.
- 38) Deletes the authorization to charge \$15 for a written promise to appear.
- 39) Deletes the ability to charge a fee for failure to make an installment payment or a fee to setup up the installment plan.
- 40) Deletes the fee for a "fix it ticket."

- 41) Provides that as of January 1, 2020, a number of fees that are deleted by this bill are no longer enforceable or collectible and any amounts remaining unpaid shall be vacated.
- 42) Makes a number of cross-reference and conforming changes.

Comments

According to the author, "SB 144 would end the assessment and collection of administrative fees imposed against people in the criminal justice system. By doing so, it would dramatically reduce the suffering caused by court-ordered debt and enhance the economic security of system-involved populations, marking the first step towards ushering in an era of more just criminal justice policy that does not rely on stripping wealth from communities of color and low-income communities."

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Senate Appropriations Committee:

- State impact (direct): Major direct ongoing revenue loss to the state minimally in the hundreds of millions of dollars annually. A number of state funds and state entities would experience a revenue loss resulting from the enactment of this measure. Additionally, in some instances, the fee elimination would lead to unfunded positions and programs that still would be required to operate. This in turn would create cost pressures on the General Fund to backfill those losses. (General Fund, various funds)
- County impact: Major ongoing revenue loss to local governments in the hundreds of millions of dollars annually in the aggregate. Some local costs resulting from this measure would be subject to reimbursement by the state to the extent that the Commission on State Mandates determines that the fees that would be eliminated by SB 144 allowed for sufficient cost recovery to pay for mandated programs or increased levels of service by the local agencies. Additionally, local costs associated with this measure may be subject, in part, to Proposition 30 funding-service conditions. (Local funds, General Fund)

Proposition 30 (2012) exempts the state from mandate reimbursement for realigned responsibilities for "Public Safety Services" including the managing of local jails and the provision of services for, and supervision of, minor and adult offenders. The constitutional amendment, however, provides that legislation enacted after September 30, 2012 that has an

overall effect of increasing the costs already borne by a local agency for public safety services transferred by the 2011 Realignment Legislation apply to local agencies only to the extent that the state provides annual funding for the cost increase. The provisions of Proposition 30 have not been adjudicated by the courts to date, but to the extent that this measure results in overall cost increases to the locals for programs and services determined to be included within the scope of Proposition 30, local agencies would not be obligated to provide those programs or levels of service above the level for which funding is provided by the state.

SUPPORT: (Verified 5/20/19)

A New Way of Life (co-source)
All of Us or None (co-source)
American Civil Liberties Union (co-source)
Anti-Recidivism Coalition (co-source)
East Bay Community Law Center (co-source)
Ella Baker Center for Human Rights (co-source)
Homeboy Industries (co-source)
Insight Center for Community Economic Development (co-source)
Legal Services for Prisoners with Children (co-source)
Policy Link (co-source)
San Francisco Financial Justice Project (co-source)
San Francisco Public Defender (co-source)
Western Center on Law and Poverty (co-source)
Youth Justice Coalition (co-source)
Alameda County Community Food Bank
Asian Americans Advancing Justice
California Catholic Conference
California Coalition for Women Prisoners
California Partnership
Californians United for a Responsible Budget
Center for Employment Opportunities
Center for Responsible Lending
Center on Juvenile and Criminal Justice
Children's Defense Fund-California
City and County of San Francisco
Community Coalition
Community Health Councils
Community Legal Services in East Palo Alto
Courage Campaign

Disability Rights California
Drug Policy Alliance
Fines & Fees Justice Center
Friends Committee on Legislation of California
GACE Institute
Harriet Buhai Center for Family Law
Housing and Economic Rights Advocates
Immigrant Legal Resource Center
Indivisible East Bay
Initiate Justice
John Burton Advocates for Youth
Lawyers' Committee for Civil Rights of the San Francisco Bay Area
League of Women Voters California
Legal Services for Prisoners with Children
Pacific Juvenile Defender Center
People for Mobility Justice
Prisoner Hunger Strike Solidarity Coalition
Public Counsel
Rise Together
Root and Rebound
Rubicon Programs
Safe Return Project
Showing Up for Racial Justice
Sister Warriors Freedom Coalition
Starting Over, Inc.
The Debt Collective
UDW/AFSCME Local 3930
Underground Scholars Initiative
United Food and Commercial Workers Western States Council
Youth Justice Coalition
Number of individuals

OPPOSITION: (Verified 5/28/19)

California State Association of Counties
California State Sheriffs' Association
Chief Probation Officers of California
Coalition of Ignition Interlock Manufacturers
County of Santa Barbara
Mothers Against Drunk Driving
Rural County Representatives of California

Urban Counties of California

ARGUMENTS IN SUPPORT: According to the sponsors:

At every point in the criminal legal process, California state law authorizes counties to charge administrative fees. From booking and arrest to representation by a public defender and probation supervision, an individual can face a host of fees, including for the collection of such fees. Although state law authorizes such fees, local jurisdictions decide which fees to impose and in what amounts. Currently, 56 of 58 California counties charge one or more administrative fees. The fee types, amounts, and burdens on individuals vary widely by county and even courtroom. Once imposed, the "court shall order or the probation officer shall set payments" to be made on a monthly basis. "Execution may be issued on the order issued pursuant to this section in the same manner as a judgment in a civil action." An order shall not be enforced by contempt, but if an individual fails to repay their debt in full or make payments on time, a county can refer the debt to the state Franchise Tax Board which can intercept tax refunds and garnish wages until the debt is paid in full.

Years of research on fines and fees in California, including a review of state law, county policies and practices, state and local data, and the experiences of individuals in the criminal justice system, have found that these fees are unjust, high pain, and low gain.

Low-income people of color are overrepresented at every stage in the criminal legal system, even when controlling for alleged criminal behavior. According to data from the California Department of Justice, people of color are grossly overrepresented in our criminal justice system. Due to over policing and targeted policing in communities of color, they are punished more frequently and harshly at a variety of discretion points. They are more likely to be arrested, incarcerated, and put on probation, and they serve longer jail and probation terms. As a result, they are more likely to face higher fee burdens and the collateral consequences that stem from being unable to pay off related debt. Further, a recent study found that the lack of black representation in local government is connected to the use of fines and court fees as a source of local revenue.

Fees are incredibly burdensome and create financial hardship and limit

employment prospects for individuals seeking to reenter their communities. The fees disproportionately harm low-income people and people of color. Studies have found that criminal justice debt correlates with a greater likelihood of recidivism, even after controlling for case characteristics and demographics. These negative outcomes only make reentry harder....

ARGUMENTS IN OPPOSITION: According to the California State Association of Counties, Chief Probation Officers of California, Urban Counties of California, and the Rural County Representatives of California:

Our organizations share a commitment to help offenders successfully transition back into their communities and overcome obstacles to making positive changes. We recognize that today's system of assessing criminal fees is overly complex, and its financial and legal implications are often crippling for those who can least afford them. The associated debt often works as a considerable impediment to successful integration and full participating in family, community, and work responsibilities. An in-depth policy conversation about these implications is certainly warranted.

Our organizations' position to SB 144 is not grounded in response to the proposed restructuring or eliminating fines and fees. It is, however, tied to the significant and permanent redirection of funding sources that support a diverse set of local programs and services. We cannot support changes to the system that would directly result in program elimination or service disruptions at the county level. A conversation about abolishing fee authority must be accompanied by a comprehensive assessment of the resulting fiscal impacts on agencies and organizations that today receive associated revenue. For decades, the Legislature has funded a wide array of criminal justice programs using fine and fee revenue. Many such examples date back to the 1990s when the state was facing a multi-billion-dollar deficit. As numerous and diverse programs and reforms have been enacted by the State, many of which are tied on an associated fee or fine as a funding source, counties rely on the current funding structure now in place. Funding is critical to ensuring counties can continue to carry out a number of these programs.

Senate Bill 144 eliminates all criminal justice fees. Removal of specified fees for probation services alone, for example, would likely result in the loss of tens of millions of dollars in probation funding, funding that currently supports vital programs and practices as well as probation positions. The loss

of positions would mean impacts on court related services we provide, an increase in caseload sizes and impacts on evidenced-based program delivery.

Prepared by: Mary Kennedy / PUB. S. /
5/28/19 10:21:23

**** **END** ****