
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair
2019 - 2020 Regular

Bill No: SB 1290 **Hearing Date:** May 20, 2020
Author: Durazo
Version: February 21, 2020
Urgency: No **Fiscal:** Yes
Consultant: SJ

Subject: *Juveniles: Costs*

HISTORY

Source: Western Center on Law and Poverty
Youth Justice Coalition

Prior Legislation: SB 190 (Mitchell), Ch. 678, Stats. 2017
SB 941 (Mitchell), held in Senate Appropriations 2016

Support: A New Way of Life Reentry Project; Asian Americans Advancing Justice, California; California Attorneys for Criminal Justice; California Coalition for Youth; California Public Defenders Association; Center for Responsible Lending; Community Legal Services in East Palo Alto; Drug Policy Alliance; East Bay Community Law Center; Ella Baker Center for Human Rights; Fines and Fees Justice Center; GLIDE; Homeboy Industries; Initiate Justice; Insight Center for Community Economic Development; Legal Services for Prisoners with Children; Los Angeles County Public Defenders Local 148; National Association of Social Workers, California Chapter; National Center for Youth Law; National Compadres Network; Resilience Orange County; Root & Rebound; Rubicon Programs; San Francisco Financial Justice Project; Young Women's Freedom Center

Opposition: None known

PURPOSE

The purpose of this bill is to vacate certain county-assessed or court-ordered costs imposed before January 1, 2018, for the parents or guardians of wards in specified circumstances, minors who were ordered to participate in drug and substance abuse testing, and adults who were 21 years of age and under at the time of their home detention.

Existing law, since January 1, 2018, no longer authorizes the imposition of financial liability on the parents or guardians of a minor who has been adjudged a ward of the juvenile court for certain county-assessed or court-ordered costs, such as transportation to a juvenile facility, legal assistance, and home supervision. (Welf. & Inst. Code, §§ 207.2, 903, 903.1, 903.2, 903.25, 903.4, 903.5.)

Existing law, since January 1, 2018, no longer requires minors who are required to submit to drug and substance abuse testing to pay for the costs associated with testing. (Pen. Code, § 1203.1ab.)

Existing law, since January 1, 2018, only requires adults over 21 years of age to pay an administrative fee associated with a home detention program. (Pen. Code, § 1203.016.)

This bill provides that the unpaid outstanding balance of any county-assessed or court-ordered costs imposed before January 1, 2018, pursuant to Section 207.2, 903, or 903.1, former Section 903.15, or Section 903.2, 903.25, 903.4, or 903.5 against the parent, guardian, or other person liable for the support of a minor is vacated and shall be unenforceable and uncollectable if the minor was adjudged to be a ward of the juvenile court, was on probation pursuant to Section 725, was the subject of a petition filed to adjudge the minor a ward, or was the subject of a program of supervision undertaken pursuant to Section 654. Applies to dual status children for purposes of delinquency jurisdiction.

This bill provides that the unpaid outstanding balance of any county-assessed or court-ordered costs imposed before January 1, 2018, pursuant to Section 729.9 against a minor is vacated and shall be unenforceable and uncollectable. Applies to dual status children for purposes of delinquency jurisdiction.

This bill provides that the unpaid outstanding balance of any county-assessed or court-ordered costs imposed before January 1, 2018, pursuant to Sections 1203.016, 1203.1ab, and 1208.2 of the Penal Code against adults who at the time were not adults who were over 21 years of age and were under the jurisdiction of the criminal court is vacated and shall be unenforceable and uncollectable.

COMMENTS

1. Need for This Bill

According to the author:

Prior to statewide reform enacted via Senate Bill 190, nearly all California counties charged juvenile fees. Fifty-two of 58 California counties reported charging juvenile fees for detention, 39 charged for public defenders, 31 charged for electronic monitoring, 25 charge for probation supervision, and 17 charged for drug testing.

The California Legislature originally authorized fees “to protect the fiscal integrity of the county, to protect persons against whom the county seeks to impose liability from excessive charges, to ensure reasonable uniformity throughout the state in the level of liability being imposed, and to ensure that liability is imposed only on persons with the ability to pay.” Yet a 2017 report by the Policy Advocacy Clinic at U.C. Berkeley School of Law found that juvenile fee practices statewide undermined the juvenile system’s stated goals of rehabilitation and public safety, fell hardest on low-income families of color, yielded little net revenue, and were often charged unlawfully.

With the passage of SB 190, effective January 1, 2018, state law prohibits counties from charging fees to parents and guardians for their child's detention, public defender, electronic monitoring, probation supervision, and drug testing while in the juvenile system. State law also prohibits counties from charging fees for home detention, electronic monitoring, and drug testing to young people 21 and under in the criminal (adult) system.

While SB 190 repealed county authority to charge fees, it did not prohibit counties from collecting fees assessed prior to January 1, 2018, nor did it require counties to vacate court judgments, stipulated agreements, or other instruments imposing such fees against youth and families. Nevertheless, according to a 2019 study by the Policy Advocacy Clinic, 36 of 58 counties voluntarily ended collection of all previously assessed fees totaling more than \$237 million. Twenty-two counties continue to collect outstanding fees of more than \$136 million.

Counties are continuing to collect juvenile fees that harm youth and their families, were in some cases assessed unlawfully, and yield little net revenue because of low collection rates.

...

Ceasing collection on juvenile administrative fees alone is an insufficient solution for providing families relief. Ending collection efforts without discharging the debt would still lead to families suffering from the collateral consequences of the debt's imposition, such as negatively impacted credit, wage garnishment, and intercepted tax refunds. Discharging the debt would eliminate the future possibility of counties restarting collection or selling off debt to raise revenue. Only by discharging all associated debt and by vacating previous court judgments can the state truly provide families the relief they need.

SB 1290 will end the harmful and costly collection of juvenile administrative fees charged to youth 21 and under in the juvenile and criminal legal systems. This bill will make all previously assessed fees unenforceable and uncollectable, and it will vacate all court judgments, stipulated agreements, and other instruments imposing such fees. While the majority of California counties have already voluntarily taken actions to end collections and formally discharge outstanding fees, SB 1290 will ensure that access to debt-free justice not be determined by geography.

2. Juvenile Fees

SB 190 was enacted by the Legislature in 2017 and eliminated a number of fees counties were previously authorized to charge for a youth's involvement in the juvenile justice system. Specifically, SB 190 prohibited counties from assessing new fees for a youth's detention, representation by counsel, electronic monitoring, probation supervision, and drug testing. In addition, SB 190 prohibited counties from assessing new fees for home detention, electronic monitoring, and drug testing for individuals under 21 years of age and prosecuted in the adult criminal system.

Although SB 190 prohibited counties from assessing new fees after January 1, 2018, it did not require counties to stop collecting previously assessed fees or to vacate existing fee judgments. A recent report published by the UC Berkeley Law School’s Policy Advocacy Clinic found that 36 of the state’s 58 counties had voluntarily stopped collecting juvenile fees assessed prior to January 1, 2018. (UC Berkeley Law School Policy Advocacy Clinic, *Fee Abolition and the Promise of Debt-Free Justice for Young People and Their Families in California: A Status Report on the Implementation of Senate Bill 190* (2019) p. 7 <https://www.law.berkeley.edu/wp-content/uploads/2019/10/SB-190-Implementation-Report11_10_31_19.pdf> [as of May 12, 2020].) The report also found that slightly more than half of those 36 counties had formally discharged outstanding fee accounts, agreements, and civil judgments. (*Id.*) The report noted that the state’s remaining 22 counties were continuing to collect those outstanding juvenile fees, with five counties—San Diego, Orange, Riverside, Stanislaus, and Tulare—continuing to collect more than 95% of all outstanding fees. (*Id.*) This Committee was recently informed that four counties have taken action to end the collection of or to discharge the outstanding fees following Governor Newsom’s state of emergency declaration in March 2020. (*See* <http://riversidecountyca.iqm2.com/Citizens/Detail_LegiFile.aspx?Frame=&MeetingID=2277&MediaPosition=5078.301&ID=12316&CssClass=>>; <<http://www.stancounty.com/bos/agenda/2020/20200505/DIS01.pdf>>.)

The sponsors of this bill argue that ending collection of and formally discharging fees assessed prior to January 1, 2018 will relieve families and youth from the hardships imposed by the outstanding fees, including negative impacts on credit scores and wage garnishment. This bill would vacate those county-assessed or court-ordered costs imposed prior to January 1, 2018 and make them unenforceable and uncollectable.

3. Argument in Support

The National Center for Youth Law writes:

SB 1290 will further the aim of SB 190 (2017), a bipartisan bill that prohibited counties from charging youth and families new administrative fees starting January 1, 2018. SB 190 did not, however, stop counties from collecting fees assessed prior to 2018.

There is a growing recognition that juvenile and criminal legal system fees are regressive and racially discriminatory. As a 2017 study by the Policy Advocacy Clinic at U.C. Berkeley found, charging juvenile administrative fees undermines rehabilitation and public safety, disproportionately impacts low-income families of color, and produces little to no net revenue. A 2019 study by the Policy Advocacy Clinic found that counties continued to pursue over \$374 million in juvenile fees from families which can subject families to tax intercepts and steep wage garnishments. As of today, 36 counties have voluntarily ended the collection of \$237 million in previously assessed juvenile fees, but 22 counties are pursuing more than \$136 million in outstanding juvenile fees from the families of system-involved youth and an unknown amount of fees assessed to youth 21 and under in the adult system.

Without the statewide protection afforded by SB 1290, ongoing juvenile fee collections will continue to represent injustice by geography that disproportionately impacts low-income families of color. California must

continue its role as a leader in the movement for youth justice across the county. With the passage of SB 1290, California will set the national standard for fee abolition that advances both rehabilitation and public safety.

-- END --