



# Senators Holly J. Mitchell and Lara

## SB 190 Ending Juvenile Administrative Fees

### ISSUE

National attention is focused on economic and racial discrimination in the criminal justice system. Low-income people of color are overrepresented at every stage in the system, even when controlling for alleged criminal behavior. These inequities are compounded by state and local laws that impose additional financial burdens on these individuals.

According to data from the California Attorney General, youth of color are grossly overrepresented in our juvenile justice system. They are punished more frequently and harshly at a variety of discretion points. They are more likely to be arrested, detained, and put on probation, and they serve longer detention and probation terms.

California law currently allows counties to charge administrative fees to families with youth in the juvenile justice system. These juvenile administrative fees—which can quickly add up to thousands of dollars for a family—are not supposed to be punitive or restorative. They are supposed to help counties recoup costs without being excessive or unfair.

A forthcoming study by the Policy Advocacy Clinic at U.C. Berkeley School of Law has found that imposing these fees on families with youth in the juvenile system is often harmful, unlawful, and costly. In fact, such criminal justice debt undermines the rehabilitative goals of the juvenile justice system without benefit to county residents.

This bill would end the assessment and collection of administrative fees against families with youth in the juvenile justice system. By doing so, it will eliminate a source of financial harm to some of the state's most vulnerable families, support the reentry of youth back into their homes and communities, and reduce the likelihood that youth will recidivate.

### THIS BILL

SB 190 will end the harmful, unlawful, and costly assessment and collection of administrative fees against families with youth in the juvenile justice system. If SB 190 is enacted, youth will still be accountable to victims through the payment of restitution and to society by court-ordered sanctions.

This bill will foster youth rehabilitation and the reentry of youth into their families and communities.

### BACKGROUND

Each year, California counties place tens of thousands of youth in the juvenile justice system. The purpose of California's juvenile system is to promote public safety by rehabilitating young people. Counties provide legal representation, care, and supervision to youth to help them "be a law-abiding and productive member of his or her family and the community."

Juvenile courts can order that a young person be detained, and they can require youth to comply with a range of probation conditions, including supervision, electronic monitoring and drug testing. State law authorizes counties to charge parents and guardians for costs related to the youth's legal representation, detention, and probation.

By law, juvenile administrative fees are intended only to help counties recoup costs. Counties determine the type and amount of the fees. To protect families against excessive fees, state law requires counties to evaluate families' ability to pay. Once imposed, the fees become a civil judgment, subjecting families to tax intercepts and wage garnishments.

Although state law authorizes counties to assess and collect juvenile administrative fees, they are not required to do so. According to research by the Policy Advocacy Clinic, at least 47 of 58 California counties currently charge one or more juvenile administrative fees. The fee types, amounts, and burdens on families vary widely by county.

After three years of research on juvenile administrative fees in California, including state law, county policies and practices, state and local data, and the experiences of youth and families in the juvenile justice system, the Policy Advocacy Clinic has found that these fees are harmful, unlawful, and costly.

**Harmful.** The fees are harmful to youth and families, undermining the rehabilitative purpose of the juvenile justice system. Contrary to the legislative intent of the system, the fees create financial hardship for families, weaken families ties and undermine family reunification. The fees disproportionately harm families of color.

**Unlawful.** The Policy Advocacy Clinic found that fee practices are sometimes unlawful. Many counties assess fees that are not authorized by state statute, including charging fees to families of innocent youth or charging amounts that exceed statutory maximums. Counties also charge other fees that may violate federal law or constitutional requirements.

**Costly.** Charging juvenile fees does not help counties recover costs associated with the care and supervision of youth in the juvenile justice system. Most youth in the juvenile system come from poor families who cannot afford to pay fees. Because of the high cost and low return associated with trying to collect fees, most counties net little fiscal gain.

In fact, new research suggests that criminal justice debt imposed on youth increases recidivism. A benefit-cost analysis by other researchers at U.C. Berkeley found that eliminating the fees would benefit society. Among other things, ending fees would allow families to spend more money on positive goods for family members, such as education and healthcare.

## SUPPORT FOR JUVENILE FEES HAS ERODED

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Just a week before President Barack Obama left office, the U.S. Department of Justice issued a formal advisory to local juvenile justice jurisdictions regarding such fees:

*Before courts impose fines and fees on juveniles—even on those rare juveniles who might be able to pay—they should consider whether such financial burdens serve rehabilitation. In many cases, fines and fees will be more punitive than rehabilitative, and they may in fact present an impediment to other rehabilitative steps, such as employment and education.*

Courts have also raised concerns about juvenile administrative fees. For example, the U.S. Court of Appeals for the 9th Circuit recently admonished Orange County for aggressively pursuing payment on a more than \$16,000 juvenile fee bill after the financial burden forced a family to sell its home and declare bankruptcy. (In Re Rivera, 2016).

Due to concerns about fairness, legality, and costs, some counties do not charge juvenile administrative fees. Alameda, Contra Costa, and Santa Clara Counties repealed or suspended their assessment and collection of the fees in 2016. Los Angeles County imposed a moratorium on juvenile fee assessments in 2009, and San Francisco County has never charged such fees.

Juvenile administrative fees undermine the rehabilitative purpose of the system. They are at times administered unlawfully, and they do not protect the fiscal integrity of counties because they are costly to assess and collect, and most families cannot afford to pay them. Research suggests that the fees may also increase recidivism.

## SUPPORT

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East Bay Community Law Center (co-sponsor)  
Lawyers Committee on Civil Rights of SF Bay Area  
(co-sponsor)  
PolicyLink (co-sponsor)

Western Center on Law and Poverty (co-sponsor)  
Youth Justice Coalition – Los Angeles (co-sponsor)  
Insight Center for Community Economic  
Development (co-sponsor)  
Alameda County Supervisor Richard Valle  
Alliance for Boys and Men of Color  
Californai Asset Building Coaliton  
California Alliance for Youth and Community Jstice  
California Attorneys for Criminal Justice  
Children Now  
Children’s Defense Fund  
Coleman Advocates for Children and Youth  
Communities United for Resorative Justice  
Contra Costa Public Defender  
Courgage Campaign  
Dolores Huerta Foundation  
Drug Policy Alliance  
Equality California  
Fair Chance Project  
Fathers and Families of San Joaquin  
Free Indeed Reentry Project  
Further the Work  
Haywood Burns Institute  
John Burton Advocates for Youth  
Justice Now  
Juvenile Court Judges of California  
Juvenile Law Center  
Motivating Individual Leadership for Public  
Advancement  
National Center for Youth Law  
National Employment Law Project  
Pacific Juvenile Defender Center  
Prison Law Office  
Public Counsel  
Public Law Center  
Root and Rebound  
Ryse Center  
San Francisco Financial Project  
Silicon Valley De-Bug  
Southern Poverty Law Center  
Youth Alive!  
Youth Law Center



## FOR MORE INFORMATION

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