



Senators Holly J. Mitchell and Lara

SB 355 Ending Court Fees for the Innocent

THIS BILL

SB 355 will remove an unjustified burden on the innocent, and also removes an improper inducement (the threat of such fees) from pre-trial plea negotiations. This bill will amend the California Penal Code provisions (§§987.8 and 987.81) that provide for criminal defendants to reimburse the courts for appointed counsel to cases only where the defendant is actually convicted of the charged crime.

ISSUE

Under existing criminal law, a person who is accused of a crime he or she did not commit, refuses to accept a plea bargain, goes to trial, and is found not guilty, may still be ordered to pay the court for the costs of the court-appointed attorney who represented them during the erroneous prosecution.

In these cases, a likely-impooverished person who was falsely arrested, wrongly imprisoned, wrongly prosecuted, and ultimately exonerated, is still subject to a penalty of thousands of dollars for daring to assert their constitutional right to a trial and attorney in the first place. Such a penalty, placed on the backs of the already-poor, makes financial problems even worse.

Existing law requires a court to assign counsel to a defendant who desires the assistance of counsel and cannot afford to pay for it. Upon conclusion of the proceedings against the defendant, or withdrawal of counsel, existing law authorizes the court to determine the defendant's ability to pay all or a portion of his or her defense costs, and to require the defendant to reimburse the county for that portion he or she has been determined able to pay. These provisions apply whether the defendant has been found guilty of the crime charged or completely innocent.

The effect of these statutes is to make individuals who are wrongly prosecuted and ultimately exonerated still subject to a penalty of thousands of dollars for defending their innocence in court. Such a penalty imposes yet another insuperable burden on the already poor, increasing the chances they will be unable to meet family and other societal obligations and may run afoul of the system as a result. The system is fundamentally unfair – particularly as there is no “reverse fees” provision whereby the prosecution or court is required to pay the costs of the wrongly accused.

In addition, in some instances courts have been known to use the threat of the defendant having to pay “attorney’s fees” whether he or she wins or loses, to induce defendants to enter into plea bargains. Consequently, innocent people, who should not be convicted, are induced to plead guilty to time-served offers in exchange for an agreement to waive such fees.

SUPPORT

Conference of California Bar Associations (sponsor)
Alliance for Boys and Men of Color
California Attorneys for Criminal Justice
Courage Campaign
Fair Chance Project
Friends Committee on Legislation of California
National Employment Law Center
Reentry Solutions Group
Root and Rebound

FOR MORE INFORMATION

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