



# Senator Holly J. Mitchell

## SB 144 Families Over Fees Act

### THIS BILL

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, taking 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.

### 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 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.

California law currently allows counties to charge administrative fees to people in the criminal justice system. These administrative fees—which can quickly add up to thousands of dollars for a single person—are not supposed to be punitive or restorative. They are supposed to help counties recoup costs without being excessive or unfair. Yet people experience them as

another form of punishment after already having served time, paid fines, or faced other consequences.

Research conducted by the [San Francisco Treasurer's Financial Justice Project](#)<sup>1</sup> and the [East Bay Community Law Center](#)<sup>2</sup> shows that imposing these fees on people in the system are high pain for vulnerable Californians and low gain for government, leading to additional barriers to reentry and impacting public safety for all communities.

### BACKGROUND

Each year, California counties place hundreds of thousands of people in the criminal justice system. Courts can order that a person be incarcerated, and they can require them to comply with a range of probation conditions, including supervision, electronic monitoring, and drug testing. State law authorizes counties to charge individuals for costs related to their legal representation, incarceration, and probation through fees.

Although state law authorizes counties to assess and collect these additional fees, they are not required to do so. But 56 of 58 California counties currently charge one or more administrative fees. The fee types, amounts, and burdens on individuals vary widely by county.

After 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, the Debt Free Justice California Coalition has found that these fees are unjust, high pain and low gain.

**High Pain.** Fees are incredibly burdensome and create financial hardship and limit employment prospects for individuals seeking to reenter their communities.

<sup>1</sup> Office of the Treasurer and Tax Collector City and County of San Francisco. *Criminal Justice Administrative Fees: High Pain for People, Low Gain for Government - A Call to Action for California Counties*. The Financial Justice Project San Francisco.

<sup>2</sup> Zhen, Theresa, & Greene, Brandon. *Pay or Prey: How the Alameda County criminal justice system extracts wealth from marginalized communities*. East Bay Community Law Center

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.

Low Gain. Counties are authorized to charge administrative fees to pay for costs associated with the justice system. Yet counties net little revenue from these fees. For example, in Alameda County, the rate of collection on probation supervision fees was just four percent. Similarly, in San Francisco, the Office of the Treasurer and Tax Collector found that more than 80 percent of the fees went unpaid. Because of the high costs and low returns associated with trying to collect fees from low-income people, most of the fee revenue pays for collection activities. Further, a benefit-cost analysis by researchers at U.C. Berkeley found that fee debt can cause families to spend less on positive social goods, such as education and preventative healthcare, which imposes long term costs on families, communities, and society by prolonging and exacerbating poverty.

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#### SUPPORT FOR ELIMINATION OF FEES HAS RISEN

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In 2018, the U.S. Commission on Civil Rights issued a [report](#) regarding such fees, finding:

*[S]ome municipalities across the nation target low-income communities to raise revenue. Even when not intentionally targeted, low-income individuals are disproportionately affected by the growing use and increased cost of fines and fees because an inability to pay fines and fees can have severe consequences, including driver's license suspensions, bad credit reports, and jail time.*

*The targeted imposition of fines and fees on low-income communities and communities of color not only impacts the individuals within those communities, but also impacts the efficacy of and public confidence in the judicial system as a whole.*

Courts have also raised concerns about administrative fees. For example, the California Second District Court of Appeals recently admonished Los Angeles County for charging fines and fees to Velia Dueñas, a disabled homeless mother of two, without consideration of her ability to pay. Holding that the trial court improperly imposed costs on Ms. Dueñas, the court also recognized that “imposing

unpayable fines [and fees] on indigent defendants is not only unfair, it serves no rational purpose, fails to further the legislative intent, and may be counterproductive.” (People v. Dueñas, 2018).

Due to concerns about fairness, legality, and costs, some counties no longer charge administrative fees. San Francisco County eliminated all criminal administrative fees and discharged \$32 million in fees in June 2018. Alameda County ended the assessment and collection of administrative fees and discharged \$26 million in fees in November 2018. Los Angeles County eliminated its public defender registration fee in 2017.

Eliminating administrative fees will allow formerly incarcerated people to devote their already limited resources to critical needs like food, education, housing and health insurance.

Repealing criminal fees will result in improved employment prospects for formerly incarcerated people and put more money in the pockets of economically insecure families, aiding successful reentry and reducing California’s recidivism rate.

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#### SUPPORT

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- A New Way of Life (co-sponsor)
- Anti-Recidivism Coalition (co-sponsor)
- ACLU of California (co-sponsor)
- East Bay Community Law Center (co-sponsor)
- Ella Baker Center (co-sponsor)
- Homeboy Industries (co-sponsor)
- Insight Center for Community Economic Development (co-sponsor)
- PolicyLink (co-sponsor)
- San Francisco Financial Justice Project (co-sponsor)
- San Francisco Public Defender’s Office (co-sponsor)
- San Francisco Mayor London Breed (co-sponsor)
- Western Center on Law and Poverty (co-sponsor)
- Youth Justice Coalition – Los Angeles (co-sponsor)
- Legal Services for Prisoners with Children/  
All of Us or None (co-sponsor)
- Californians United for a Responsible Budget (CURB)
- Community Legal Services in East Palo Alto
- Housing and Economic Rights Advocates (HERA)Legal
- Services for Prisoners with Children (LSPC)
- RISE Together
- Sister Warriors Freedom Coalition

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#### FOR MORE INFORMATION

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