SB 586 would end the assessment and collection of all remaining administrative fees imposed against people in the criminal legal system. By doing so, it would dramatically reduce the suffering caused by court-ordered debt and enhance the economic security of system-involved populations. This bill is a critical next step at the intersection of racial justice and budget equity in California because it ends the practice of using administrative fees to balance the state and county budgets on the backs of those in the Black and Brown communities who are negatively impacted.

ISSUE

The nation has been gripped by organizing efforts to dismantle systemic racism and stop police violence. Violence felt by Black and Brown communities is not limited to the murders and physical assaults by law enforcement caught on camera. The inequities and indignities that these communities face result in their overrepresentation in the criminal system, perpetuate ongoing racialized wealth extraction, contribute to a visceral distrust of government, and limit the ability of people of color to provide for their families’ safety and financial needs.

According to data from the California Department of Justice, Black and Brown people are grossly overrepresented in our criminal legal system. Due to over-surveillance and targeted policing in communities of color, Black and Brown people are unjustly arrested, incarcerated, and put on probation at higher rates than other racial groups, and they serve longer jail and probation terms.

California law currently allows counties and courts to charge administrative fees to people in the criminal legal system. These administrative fees—which can quickly add up to thousands of dollars for a single person—operate as a regressive tax on low-income people, especially people in Black and Brown communities. People and their families experience these fees as another form of punishment after already having served time, paid fines, or faced other consequences.

High Pain. Fees are incredibly burdensome and create financial hardship and limit employment prospects for individuals seeking to reenter their communities. Due to over-surveillance and targeted policing of communities of color, fees disproportionately harm low-income people and Black and Brown people. COVID-19 has further exposed the racialized economic and health structures of our country. The same Black and Brown communities that face

BACKGROUND

Each year, California counties place hundreds of thousands of people in the criminal legal system. At every point in the criminal legal process, state law authorizes localities to charge individuals administrative fees, including fees for diversion programs, drug and alcohol testing, missed court appearances, record sealing, and even a fee for a payment plan. While some fees are mandatory under state law, others can be imposed at the discretion of counties. As a result, fee types, amounts, and burdens on individuals vary widely by county.

Last year, Governor Newsom signed AB 1869 into law, which eliminates 23 fees in the criminal legal system effective July 1, 2021. SB 586 builds upon this important work by eliminating the 67 fees that remain.

Debt Free Justice California has conducted years of research on fines and fees in the state, including a review of state law, county policies and practices, state and local data, and the experiences of individuals in the criminal legal system, and the results show that in addition to being unjust, these fees are high pain and low gain.

Research conducted by the San Francisco Treasurer’s Financial Justice Project, the East Bay Community Law Center, and the Let’s Get Free LA coalition shows that imposing these fees on people in the system are harmful to individuals, families, and communities. These fees lead to additional barriers to reentry and perpetuate historic forms of wealth extraction from Black and Brown communities. For local government, these fees are an unreliable and inefficient revenue source.
targeted policing and higher rates of fees have been disproportionately impacted by the virus and subsequent unemployment and economic impacts.

Low Gain. Counties are authorized to charge administrative fees to pay for costs associated with the system. Yet, counties net little revenue from these fees. For example, in Glenn County, the rate of collection for incarceration fees was consistently below 25 percent. And, in Los Angeles County, the collection rate for “administrative” fees was as low as 1.7 percent. 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.

Support for Elimination of Fees Has Grown

In 2018, the U.S. Commission on Civil Rights issued a report regarding such fees, with the following 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...

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.

More recently, former California Attorney General Xavier Becerra issued a reply brief on behalf of the people of California in People v. Kopp "arguing that the imposition of unaffordable court user fees — which primarily serve to raise money for court processes and are not tied to culpability — on indigent criminal defendants statewide is unconstitutional."

The passage of AB 1869 has increased the already growing momentum towards action on fee elimination at the county level. Although AB 1869 does not go into effect until July of this year, Yolo County decided to end the collection of AB 1869 fees in November 2020, citing low collection rates and the burden of these fees on their residents. Other counties, like Los Angeles County, have taken further action to end this form of racialized wealth-stripping by eliminating all fees within its discretion, including fees included in SB 586.

Eliminating Fees Will Help Provide Much Needed Resources to Black and Brown Communities

Black and Brown people have been hit hardest by layoffs and furloughs related to the economic shutdown caused by COVID-19. We must continue to dismantle current policies and practices that dehumanize, marginalize, disinvest, and create deeper poverty traps for Black and Brown people and their communities if we are to give people a chance to succeed.

The criminal legal system has turned to fines and fees as a form of revenue generation to pay for its courts and carceral system for far too long. By eliminating criminal administrative fees, we can put money back in the pockets of Black and Brown people and invest in the public health and safety of communities.

Support

Senator Nancy Skinner (co-author)
Senator Robert M. Hertzberg (co-author)
Anti-Recidivism Coalition (co-sponsor)
ACLU of California (co-sponsor)
East Bay Community Law Center (co-sponsor)
Homeboy Industries (co-sponsor)
Insight Center for Community Economic Development (co-sponsor)
Lawyer’s Committee for Civil Rights of the San Francisco Bay Area (co-sponsor)
Legal Services for Prisoners with Children/All of Us or None (co-sponsor)
Legal Services of Northern California (co-sponsor)
PolicyLink (co-sponsor)
San Francisco Financial Justice Project (co-sponsor)
San Francisco Public Defender’s Office (co-sponsor)
Western Center on Law and Poverty (co-sponsor)
Youth Justice Coalition – Los Angeles (co-sponsor)

For More Information

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