

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

BerkeleyLaw
UNIVERSITY OF CALIFORNIA

Policy Advocacy Clinic

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The following UC Berkeley students conducted research for this report under the supervision of Clinic Director Jeffrey Selbin and Clinic Supervising Attorney Stephanie Campos-Bui, who authored the report: School of Law students Nadim Houssain, Emily Miller, and Rachel Thampapillai; Goldman School of Public Policy students Anna Duning, Wesley Saver, Stephanie Thornton, and Carson Whitelemons; joint law and public policy students Sara Abarbanel and Sarah Brandon; and undergraduate students Dosbal Aibyeq and Dana Alpert.

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We dedicate this report to the scores of community-based organizations across California that have worked for years to bring debt-free justice to young people and their families in the juvenile and criminal legal systems.

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EXECUTIVE SUMMARY

IN OCTOBER 2017, Governor Jerry Brown signed landmark bipartisan legislation making California the first state to abolish entire categories of monetary sanctions in the juvenile legal system and a subset of fees for young people in the criminal (adult) legal system. Starting January 1, 2018, Senate Bill 190 (SB 190) prohibits counties from charging fees to parents and guardians for their child’s detention, representation by counsel, electronic monitoring, probation supervision, and drug testing in the juvenile legal system.¹ SB 190 also repealed county authority to charge fees for home detention, electronic monitoring, and drug testing fees to young people ages 18–21 in the adult system.²

The promise of SB 190 was to bring debt-free justice to young people and their families. Senators Holly J. Mitchell and Ricardo Lara authored SB 190 to “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.”³ Although we do not have outcome data for all of these goals, understanding the impact of SB 190 is critical for advocates and policymakers considering similar reforms in California and elsewhere.

This report presents key findings from county responses to Public Records Act requests and from interviews and follow up with state and local stakeholders regarding the implementation of SB 190 and the status of juvenile and young adult fee reform in California. It also includes recommendations to ensure full compliance with SB 190 and to realize the full benefit of fee abolition.

KEY FINDINGS

Based on extensive research, we found that California counties have complied with most of the central provisions of SB 190, and many have undertaken further reforms in the spirit of SB 190. We also found important instances in which counties are not complying with SB 190.

SB 190 FEE ASSESSMENT (PROHIBITED BY SB 190)

1. In compliance with SB 190, all counties stopped assessing new juvenile fees against families before January 1, 2018.
2. In violation of SB 190, some counties continue to assess prohibited fees against families through child support orders for out-of-home placements made as a condition of release or probation.
3. In violation of SB 190, some counties continue to assess prohibited fees against young people ages 18–21 in criminal court for home detention, electronic monitoring, and drug testing.

SB 190 FEE COLLECTION (NOT ADDRESSED BY SB 190)

1. Most counties have voluntarily stopped collecting juvenile fees assessed prior to January 1, 2018, relieving families of the burden of paying more than \$237 million in fees.
2. Some counties continue to collect juvenile fees assessed prior to January 1, 2018 totaling more than \$136 million.
3. San Diego, Orange, Riverside, Tulare, and Stanislaus account for more than 95% of the total still being collected from families.

SB 190 FEE INFORMATION (NOT REQUIRED BY SB 190)

1. Many counties have not notified young people and families of SB 190 fee relief.
2. Many counties have not updated internal- and external-facing SB 190 fee policies and procedures.

OTHER FEE REFORMS (NOT REQUIRED BY SB 190)

1. One county refunded families for payments collected on unlawful juvenile fees.
2. Several counties stopped charging juvenile fees beyond those repealed by SB 190.
3. Several counties undertook additional fee reforms in the criminal (adult) legal system.

KEY RECOMMENDATIONS

Based on our findings regarding implementation and to relieve young people and families from the ongoing harm caused by currently and previously assessed fees, we make the following recommendations to county and state officials:

RECOMMENDATIONS TO THE COUNTIES

1. Counties must stop assessing all SB 190-prohibited fees through child support orders and to young people ages 18–21 in criminal court.
2. Counties should voluntarily stop collecting and discharge all previously assessed SB 190 fees.
3. Counties should notify young people and families of all SB 190 fee relief and update all SB 190 related internal- and external-facing fee materials.

RECOMMENDATIONS TO THE STATE

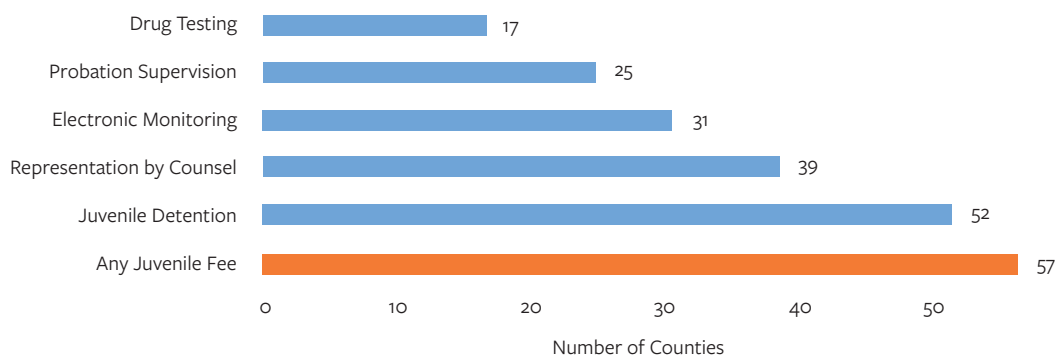
1. The California Department of Social Services should require local child support agencies to comply with SB 190.
2. The California Legislature and Governor should enact a new law to make all previously assessed SB 190 fees unenforceable and uncollectable and to vacate all court judgments, stipulated agreements, and other instruments imposing SB 190 fees.

I. JUVENILE FEES IN CALIFORNIA PRIOR TO SB 190

THE CALIFORNIA LEGISLATURE first authorized counties to charge parents and guardians fees for their children’s detention, supervision, and representation by counsel in the 1960s.⁴ By the mid-1990s, the state had begun allowing counties to charge families for their children’s drug testing, home supervision, and electronic monitoring.⁵ In 2001, the Legislature increased the maximum amount counties could charge families for detaining their children to \$30 per day.⁶

Although state law authorized counties to assess and collect juvenile administrative fees, it did not require county officials to do so. Counties typically established juvenile fee schedules by local ordinance, resolution, or practice. In January 2016, when State Senator Holly Mitchell first introduced a bill to repeal juvenile administrative fees,⁷ 57 of 58 California counties reported charging one or more juvenile administrative fees, including fees for juvenile detention, representation by counsel, electronic monitoring, probation supervision, and drug testing (see Chart 1).⁸

CHART 1: CALIFORNIA COUNTIES CHARGING JUVENILE FEES BEFORE SENATE BILL 190, 2016



State law limited some fees, such as the detention fee, to the actual costs that counties incurred up to a statutory maximum.⁹ To protect families against excessive fees, state law also required county financial evaluation officers to determine families’ ability to pay the fees,¹⁰ though in practice, financial evaluation officers in many counties petitioned the juvenile court for orders imposing fees in the full amount regardless of ability to pay.¹¹ Once ordered by a judge, the fees became a civil judgment and/or lien enforceable against parents and guardians, subjecting families to tax intercepts and wage garnishments.¹²

II. FEE REFORM IN CALIFORNIA

OUR RESEARCH IN CALIFORNIA and studies elsewhere have found that administrative fees undermine the rehabilitative and public safety goals of the juvenile legal system, fall hardest on low-income families of color, and yield little net revenue.¹³ We also found some California county fee practices violated state law, federal law, and constitutional guarantees of due process and equal protection.¹⁴

As a result of these findings and local fee repeal campaigns, some counties began to reform their fee practices ahead of the enactment of statewide legislation. Los Angeles County stopped assessing juvenile detention fees in 2009.¹⁵ In 2016, Alameda, Contra Costa, and Santa Clara counties ended juvenile fee assessment and collection; and in 2017, Sacramento, Solano, and Sonoma counties followed suit.¹⁶

Senators Holly Mitchell and Ricardo Lara introduced Senate Bill 190 (SB 190) in January 2017 to abolish fees imposed on young people and their families statewide.¹⁷ The California Senate and Assembly passed SB 190 with bipartisan support, and Governor Jerry Brown signed the bill into law on October 11, 2017.¹⁸

Effective January 1, 2018, SB 190 repealed county authority to charge administrative fees to parents and guardians with youth in the juvenile legal system, including fees for detention, representation by counsel, electronic monitoring, probation supervision, and drug testing.¹⁹ SB 190 also repealed county authority to charge fees for home detention, electronic monitoring, and drug testing to young people ages 18–21 in the criminal (adult) legal system.²⁰

While SB 190 repealed county authority to assess fees to young people and families going forward, it did not prohibit counties from collecting such fees assessed prior to January 1, 2018, nor did it require counties to discharge preexisting fee agreements, civil judgments, or liens entered against parents and guardians.²¹

In November and December 2017, the bill co-sponsors sent an SB 190 implementation packet to state and county officials across California.²² The implementation packet included a letter reminding counties to comply with the new law's provisions and urging counties to take additional voluntary steps not required by SB 190, but consistent with the purpose of the new law. This included ending all SB 190 fee collection activity, discharging all previously assessed fees, and refunding families who paid unlawfully assessed fees.

In response to evidence that counties were not complying with all aspects of SB 190, bill co-sponsors sent a follow-up letter to counties in August 2018 clarifying the new law's prohibition against charging fees to young people ages 18–21 in criminal court for home detention, electronic monitoring, and drug testing.²³

III. FINDINGS

IN JANUARY 2018, we sent Public Records Act requests to California counties asking for documents verifying formal compliance with SB 190 (ending prohibited fee assessments) and all records regarding voluntary measures taken to end fee collection, discharge previously assessed fees, and refund families who paid unlawfully assessed fees.²⁴ In October 2018, we sent follow up Public Records Act requests to all counties asking for documentation regarding fees pursued through child support orders and fees charged to young people ages 18–21 in criminal court.²⁵

We received responsive records from every county, which came in the form of fee schedules, Board of Supervisor resolutions, financial documents, memoranda, emails, and other county correspondence. We followed up directly with relevant county staff as needed to clarify responses. We present key findings about SB 190 implementation from this county-level data on fee assessments, collection, and discharge; internal and external notifications; and other fee reforms.

A. FEE ASSESSMENT (PROHIBITED BY SB 190)

Effective January 1, 2018, SB 190 repealed county authority to charge administrative fees to parents and guardians with youth in California’s juvenile legal system and to young people ages 18–21 in the criminal legal system.²⁶ While several counties ended juvenile fee assessment prior to the passage of SB 190, almost every county was charging one or more such fees before the bill went into effect in 2018.

After SB 190 went into effect, we found that all counties stopped assessing juvenile fees. However, we found that some counties are violating SB 190 by assessing otherwise prohibited juvenile fees through child support orders and by assessing prohibited fees to young people ages 18–21 in criminal court.

1. ALL COUNTIES STOPPED ASSESSING NEW JUVENILE FEES AGAINST FAMILIES BEFORE JANUARY 1, 2018.

All 58 counties verified in writing that they were no longer charging fees to parents and guardians with youth in the juvenile legal system.²⁷ In some cases, counties repealed fee assessments through formal resolutions, while in other counties, administrators issued internal orders by memo or email to end fee assessments.²⁸ In some jurisdictions, county counsel confirmed the end of fee assessments even though no other written action was taken by county officials. County compliance with this aspect of SB 190 has ended the threat of tens of millions of dollars in fees being charged annually to tens of thousands of families with youth in the juvenile legal system.²⁹

2. SOME COUNTIES CONTINUE TO ASSESS PROHIBITED FEES AGAINST FAMILIES THROUGH CHILD SUPPORT ORDERS FOR OUT-OF-HOME PLACEMENTS AS A CONDITION OF RELEASE OR PROBATION.

Some counties are continuing to assess fees unlawfully through child support orders against parents and guardians of children in the juvenile legal system who are sent to out-of-home placements. For example, the Nevada County Department of Child Support Services (NCDCCS) stated that “The total dollar amount of Child Support orders assessed to families for any placement as a condition of his/her child’s juvenile delinquency case totaled \$27,986.75 to date for 2018 for 10 parents in 5 cases.”³⁰

In response to our Public Records Act request, several counties stated that they are reviewing case files to identify unlawful assessment practices. For example, Napa County stated that it was manually reviewing all “foster care referrals to NCDCCS” and “action started on SB 190 cases has been suspended.”³¹

3. SOME COUNTIES CONTINUE TO ASSESS PROHIBITED FEES AGAINST YOUNG PEOPLE AGES 18–21 IN CRIMINAL COURT FOR HOME DETENTION, ELECTRONIC MONITORING, AND DRUG TESTING.

County responses to our records requests regarding fee practices in criminal court were often partial and vague, even after we requested clarification. We believe that roughly half of all counties are no longer charging fees to young people ages 18–21 in criminal court, but many counties did not provide documentation or otherwise confirm whether they are assessing SB 190 prohibited fees in criminal court.

At least two counties brought their criminal court practices into compliance with state law after being alerted to the relevant provisions of SB 190. For example, Fresno County identified 75 cases in which drug testing fees had been improperly charged to young people ages 18–21 in criminal court and refunded those individuals \$3,420.³² In fall 2018, Inyo County sent out an email to all deputy probation officers and modified “the terms and conditions of probation to eliminate fees from any 18–21 year old on adult formal probation.”³³

Internal communications make clear that some counties understood before January 1, 2018 that SB 190 prohibited them from charging specified fees to 18–21 year olds in criminal court.³⁴ However, probation officials in Kern, Kings, Merced, Mono, and Stanislaus counties exchanged emails about the applicability of SB 190 to young adults, including correspondence from one official stating that “most [probation] chiefs don’t believe it is applicable to adults at all” followed by responses from other officials that their counties are only ending the assessment of SB 190 prohibited fees in juvenile court, not in criminal court.³⁵

B. FEE COLLECTION AND DISCHARGE (NOT ADDRESSED BY SB 190)

Although SB 190 repealed county authority to assess new fees, it did not require counties to stop collecting previously assessed fees or to vacate existing fee judgments.³⁶ To further the bill’s goals, SB 190 co-sponsors nevertheless encouraged counties to stop collecting and to discharge all previously assessed fees.³⁷

Before SB 190 went into effect, county records showed that California families with youth in the juvenile legal system had more than \$374 million in outstanding fee assessments.³⁸

See Appendix A for a list of previously assessed juvenile fee amounts and accounts by county.³⁹

To date, almost two-thirds of all California counties (36 of 58) have voluntarily ended collection of more than \$237 million in juvenile fees assessed prior to January 1, 2018, and more than half of those counties (23 of 36) formally discharged outstanding fee accounts, agreements, and civil judgments. However, one-third of counties (22 of 58) continue to collect more than \$136 million in juvenile fees previously assessed against families, with five counties (San Diego, Orange, Riverside, Tulare, and Stanislaus) continuing to collect more than 95% of all outstanding fees.

1. MOST COUNTIES VOLUNTARILY STOPPED COLLECTING JUVENILE FEES ASSESSED PRIOR TO JANUARY 1, 2018.

Thirty-six counties have ended collection of \$237,582,333 in juvenile fees assessed prior to January 1, 2018, accounting for almost two-thirds of all such fees in California.

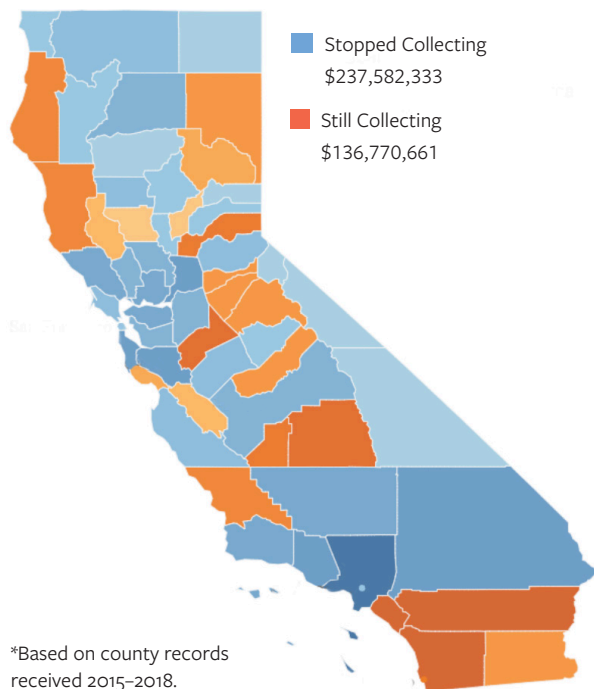
Some counties ended fee collection by informally changing practices. For example, in Nevada County, the Chief Probation Officer instructed relevant staff to cease collection.⁴⁰ In Santa Barbara County, the Chief Probation Officer stopped sending out invoices on outstanding juvenile fee accounts and stopped remitting juvenile cases to the Franchise Tax Board.⁴¹ Prior to discharging all fees in October 2018, Los Angeles County had “ceased its active pursuit of juvenile detention fees” but continued to accept payments from families.⁴²

Other counties have passed formal resolutions authorizing relevant departments to stop fee collection. For example, the Monterey County Board of Supervisors issued an order authorizing the Chief Probation Officer and Public Defender to stop assessing and collecting specified administrative fees.⁴³

Of the 36 counties that are no longer collecting juvenile fees, 23 counties have formally discharged outstanding balances totaling \$209,055,039. Six counties discharged more than \$10 million each: Los Angeles (\$89,261,321), Sacramento (\$23,158,268), Santa Clara (\$21,616,140), San Bernardino (\$16,600,000), Ventura (\$15,368,436), and San Mateo (\$12,635,624). In some cases, counties acknowledged they had fees on the books that had been assessed as far back as the 1970s.⁴⁴

Counties have taken a variety of steps to discharge previously assessed fees depending on how the outstanding balances were recorded, for example, as accounts receivable, civil judgments, liens, and other enforceable obligations.⁴⁵ Counties have discharged and written-off accounts receivable via board resolution,⁴⁶ vacated and declared civil judgments as satisfied via court order,⁴⁷ released liens and record-

CHART 2: COUNTIES STILL COLLECTING PREVIOUSLY ASSESSED JUVENILE FEES



ed relevant paperwork,⁴⁸ and satisfied and released all enforceable obligations such as agreements and signed stipulations via court order or resolution.⁴⁹

Wiping the slate clean through formal discharge means that counties cannot restart collections of the outstanding balances at a later date. However, 13 of the 36 counties that are no longer collecting previously assessed fees have not yet discharged outstanding balances, including six counties with more than a million dollars still on their books: Santa Barbara (\$9,394,715), Kern (\$7,874,766), Shasta (\$3,257,457), Fresno (\$3,110,126), Alameda (\$2,000,000), and Santa Cruz (\$1,427,437).

See Appendix B for a list of counties that have ended collection and formally discharged previously assessed juvenile fees.

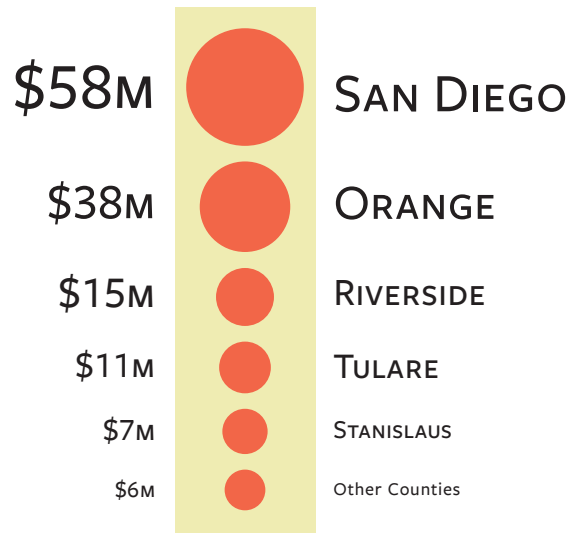
2. SOME COUNTIES CONTINUE TO COLLECT JUVENILE FEES ASSESSED PRIOR TO JANUARY 1, 2018; SAN DIEGO, ORANGE, RIVERSIDE, TULARE, AND STANISLAUS ACCOUNT FOR MORE THAN 95% OF THE TOTAL STILL BEING COLLECTED FROM FAMILIES.

Although 36 counties have ended juvenile fee collection activity, 22 counties are actively collecting \$136,770,661 in previously assessed fees. As of January 1, 2018, five of the 22 counties are continuing to collect \$130,543,113, or more than 95% of the outstanding fees: San Diego (\$58,822,391), Orange (\$38,271,245), Riverside (\$15,000,026), Tulare (\$11,449,451), and Stanislaus (\$7,000,000). Two additional counties are still collecting more than \$1 million each in previously assessed fees: Placer (\$1,230,640), and Kings (\$1,037,636).

C. JUVENILE FEE INFORMATION (NOT REQUIRED BY SB 190)

Although not required by SB 190, counties should provide families with youth in the juvenile system and young people in the criminal system with accurate, up-to-date information about their policies and procedures, including about SB 190 fee relief. Counties should also provide such information to their employees and members of the public in all written internal and external policies and procedures.

CHART 3: POST-SB 190 COUNTIES COLLECTING JUVENILE FEES BY DOLLAR AMOUNT, 2018



We found that some counties have not notified young people and families of SB 190 fee relief, and some counties have not updated internal- and external-facing fee materials.

1. MANY COUNTIES HAVE NOT NOTIFIED YOUNG PEOPLE AND FAMILIES ABOUT SB 190 FEE RELIEF.

A few counties notified affected families when they ended juvenile fee assessments. For example, Kern and Monterey counties issued letters in English and Spanish alerting parents and guardians of the new law.⁵⁰ The Monterey notice stated:

Dear Parent(s)/Legal Guardian(s):

The California State Legislature repealed Statewide counties ability to impose Juvenile Fees that were previously authorized.

The State repeal becomes effective January 1, 2018. In addition to the State repeal of these fees, the Monterey County Board of Supervisors repealed the assessment and collection of these fees to be effective December 5, 2017. Therefore, no assessments of these fees will be made and no payments of Juvenile Fees will be collected by Monterey County effective December 5, 2017 forward.

The Juvenile Fees repealed and no longer collected include: Juvenile Hall Costs of Support, Youth Center Costs of Support, Juvenile Electronic Monitoring, Juvenile Home Supervision, Juvenile Supervision, and Juvenile Drug Testing

Note that Restitution to crime victims and Restitution Fines will still be charged and collected. These items are not affected by the repeal.

If you have questions on this notice please contact *** at Monterey County Probation - Finance unit, (831) 755-****.⁵¹

Most counties did not provide any records showing that they notified affected families about the provisions of the new law, suggesting that adequate notice is far from uniform across the state.

2. MANY COUNTIES HAVE NOT UPDATED INTERNAL- AND EXTERNAL-FACING SB 190 FEE POLICIES AND PROCEDURES.

Only a few counties produced records showing that they had updated their internal policies and procedures to reflect changes under SB 190. For example, San Luis Obispo County updated its fee schedule to remove prohibited fees.⁵² Humboldt County updated its internal IT system to remove language regarding fees.⁵³ Orange County amended its third party electronic monitoring contract to account for the fee repeal in its calculation of revenue for the vendor.⁵⁴

Similarly, a few counties updated relevant external websites and documents. For example, San Diego County posted a notice of changes to juvenile fees practices in English and Spanish on the county website and Stanislaus County posted a “Notice of Changes to Certain Juvenile Fees and Charges – Implementation of Senate Bill 190, Effective January 1, 2018” regarding assessments against families of youth in the juvenile system and young people in the criminal system.⁵⁵

But we also found evidence that some counties have not updated external juvenile fee policies and procedures. For example, Orange County has not updated its Probation Department website, which

still states that “Parents/guardians of minors involved in the Juvenile Justice System may be financially responsible for a variety of obligations” and links to a brochure describing parental and guardian financial responsibilities that includes SB 190 prohibited fees.⁵⁶

D. OTHER FEE REFORMS (NOT REQUIRED BY SB 190)

In addition to ending the collection of and discharging juvenile fees assessed before January 1, 2018, some counties have undertaken further fee reforms.

For example, some counties have stopped charging fees not repealed by SB 190, and one county refunded families who made payments on unlawfully charged fees. Several counties have reformed their fee practices for everyone in the criminal legal system, not just young people, including ending fee assessment and collection and discharging outstanding fee balances.

1. ONE COUNTY REFUNDED FAMILIES FOR PAYMENTS COLLECTED ON UNLAWFUL JUVENILE FEES.

We found that prior to SB 190, some counties charged fees that violated state law, including charging parents and guardians of youth found not guilty and charging fees and fee amounts that exceeded their authority under state law.⁵⁷ By charging families for breakfast and lunch while obtaining reimbursement at the “free meal” rate from federal school nutrition programs, some counties also appeared to be violating federal law.⁵⁸ Finally, some counties engaged in fee practices that were likely unconstitutional, including by failing to assess families’ ability to pay and by charging families for electronic monitoring and probation supervision.⁵⁹

A few counties have audited their fee practices to evaluate whether they improperly assessed and collected fees. Contra Costa County identified 3,226 accounts over a six-year period during which parents and guardians were charged and made fee payments for youth who were found not delinquent, and the county refunded \$133,361 to families who paid the unlawful fees.⁶⁰

2. SEVERAL COUNTIES STOPPED CHARGING JUVENILE FEES BEYOND THOSE REPEALED BY SB 190.

In the course of ending juvenile fees, some counties eliminated other types of fees imposed on young people and their families. Ventura County eliminated 31 fees, four of which were not repealed by SB 190, including a \$34 Youth Services Juvenile Educational/Counseling Program and Rescheduling Fee, a \$106 Juvenile Record Sealing Fee, a \$332 Juvenile Marriage Consent Interview Fee, and a \$50 Juvenile Community Service Fee.⁶¹ Several counties also ended a subset of similar fees charged to young people in the criminal system. For example, San Joaquin County ended probation supervision fees, administrative fees, and DUI supervision and administrative fees charged to young people ages 18–21 who were placed on formal probation.⁶²

3. SEVERAL COUNTIES UNDERTOOK ADDITIONAL FEE REFORMS IN THE CRIMINAL (ADULT) LEGAL SYSTEM.

Beyond the juvenile legal system, SB 190 also limited county authority to charge certain fees to young people ages 18–21 in the criminal legal system.⁶³ Some counties have taken steps to end discretionary fees for people of *all* ages in the criminal legal system since the passage of SB 190.

- In June 2018, the San Francisco County Board of Supervisors repealed discretionary fees in the criminal legal system for probation supervision, investigation reports, booking, the Sheriff’s Work Alternative Program, home detention, electronic monitoring, and collection on restitution, and it discharged \$32.7 million in previously assessed fees.⁶⁴
- In November 2018, the Alameda County Board of Supervisors repealed fees in the criminal legal system for representation by public defenders, investigation reports, probation supervision, and the Sheriff’s Work Alternative Program, and it discharged more than \$44 million in previously assessed fees.⁶⁵
- In January 2019, the Los Angeles County Board of Supervisors released an initial feasibility study on criminal legal system fees.⁶⁶ Citing the desire for more detailed information, in April 2019, the Board instructed the Probation Department to conduct a more comprehensive study.⁶⁷
- In September 2019, the Contra Costa County Board of Supervisors placed a moratorium on the assessment and collection of fees in the criminal legal system for probation reports, supervision, drug testing, and drug diversion; restitution surcharges; fingerprint identification; booking; alcohol testing; alcohol and drug assessment; public defenders; and Sheriff’s programs (work alternative, home detention, alcohol monitoring).⁶⁸

At the state level, Senator Mitchell introduced Senate Bill 144 in January 2019 “to eliminate the range of administrative fees that agencies and courts are authorized to impose to fund elements of the criminal legal system, and to eliminate all outstanding debt incurred as a result of the imposition of administrative fees.”⁶⁹ SB 144 would end the assessment and collection of criminal administrative fees and discharge all previously assessed fees.⁷⁰

IV. RECOMMENDATIONS

BASED ON OUR FINDINGS regarding SB 190 implementation and to relieve young people and families from the ongoing harm caused by currently and previously assessed fees, we make several recommendations to county and state officials.

A. RECOMMENDATIONS TO THE COUNTIES

Counties must end the assessment of SB 190 prohibited fees through child support orders and to young people in criminal court; they should voluntarily stop collecting and discharge all previously assessed fees; and they should notify young people and families of all SB 190 fee relief and update all SB 190-related internal and external fee materials.

1. COUNTIES MUST STOP ASSESSING ALL SB 190-PROHIBITED FEES THROUGH CHILD SUPPORT ORDERS AND TO YOUNG PEOPLE AGES 18–21 IN CRIMINAL COURT.

County policies, practices, and procedures must comply with SB 190, and counties should issue guidance and provide staff training as needed to ensure that employees fully implement all provisions of the law. More specifically:

- Counties must immediately stop ordering child support against parents and guardians for out-of-home placement made as a condition of release or probation.
- Counties must immediately end the assessment of fees to young people ages 18–21 in criminal court for home detention, electronic monitoring, and drug testing.

Counties should conduct a manual review of all child support order referrals and criminal cases of young people ages 18–21 to determine if they have unlawfully assessed and collected SB 190 prohibited fees from young people or families on or after January 1, 2018. Where counties collected unlawfully assessed fees, they may be legally obligated to repay young people and their families.

2. COUNTIES SHOULD VOLUNTARILY STOP COLLECTING AND DISCHARGE ALL PREVIOUSLY ASSESSED SB 190 FEES.

For the same reasons that state lawmakers enacted SB 190—to foster youth rehabilitation, enhance public safety, and end regressive and racially discriminatory practices—counties should end the collection of previously charged fees whose assessment is now prohibited by the bill. Counties should

authorize relevant departments to cease all solicitation of payment for SB 190 fees. Counties should immediately recall past referrals and stop making new referrals of SB 190 fees to the Franchise Tax Board’s Court-Ordered Debt Collections and Interagency Intercept Collection programs.

Beyond ending collection activity, counties should discharge previously assessed SB 190 fees by writing off SB 190 fee accounts receivable, release all SB 190 fee stipulations and agreements, and declare all SB 190 civil judgments entered against individuals and families as satisfied. Declaring judgments as satisfied may require filing an acknowledgment of satisfaction with the court and paperwork associated with the release of any liens.

3. COUNTIES SHOULD NOTIFY YOUNG PEOPLE AND FAMILIES OF ALL SB 190 FEE RELIEF AND UPDATE ALL SB 190-RELATED INTERNAL- AND EXTERNAL-FACING FEE MATERIALS.

Counties should send notices to young people and families about all relief from previously assessed fees and post notices informing the public of the provisions of SB 190. Notices should be made available in languages spoken by families with youth in the juvenile legal system and posted in offices and areas where families of youth in the system seek information about their children’s cases.

Counties should update internal policies and procedures (e.g., fee schedules, collections manuals, information systems, frequently asked questions) to comply with SB 190. Counties should inform all relevant county employees that fees repealed by SB 190 may no longer be assessed against parents and guardians with youth in the juvenile legal system or young people ages 18–21 in the criminal legal system.⁷¹

Further, counties should update all public facing information, including online payment platforms and county webpages, to comply with SB 190 and to communicate actions the county has taken to implement the new law.

B. RECOMMENDATIONS TO THE STATE

The California Department of Social Services should require local child support agencies to comply with SB 190, and the Legislature and Governor should enact new laws to make all previously assessed SB 190 fees unenforceable and uncollectable.

1. THE CALIFORNIA DEPARTMENT OF SOCIAL SERVICES SHOULD REQUIRE LOCAL CHILD SUPPORT AGENCIES TO COMPLY WITH SB 190.

The California Department of Social Services (CDSS) should ensure that counties end the assessment of SB 190 fees through child support orders. CDSS should issue an All-County Letter making clear that parents and guardians cannot be ordered to pay child support for a youth who is placed out-of-home as a condition of release or probation. Counties should subsequently ensure that all prior and future child welfare cases opened by probation are properly designated as such and inform the local child support services office that collection on these cases should cease. After issuance of such guidance, CDSS should conduct a statewide audit to verify local compliance with SB 190.

2. THE CALIFORNIA LEGISLATURE AND GOVERNOR SHOULD ENACT A NEW LAW TO MAKE ALL PREVIOUSLY ASSESSED SB 190 FEES UNENFORCEABLE AND UNCOLLECTABLE AND TO VACATE ALL COURT JUDGMENTS, STIPULATED AGREEMENTS, AND OTHER INSTRUMENTS IMPOSING SB 190 FEES.

As introduced, SB 190 included language that would have ended the collection of previously assessed fees on young people and families and would have discharged all outstanding fee judgments. Though the final bill did not include this language, 36 counties have voluntarily ended the collection of previously assessed juvenile fees. Twenty counties have discharged previously assessed fees by vacating any orders and stipulated agreements and declaring civil judgments as satisfied.

In 2020, the California Legislature should pass and the Governor should sign legislation that makes all unpaid balances of any court-ordered juvenile fees unenforceable and uncollectible and that vacates any associated judgments imposing such fees.

CONCLUSION

BASED ON AN EXTENSIVE REVIEW of public records after the enactment of SB 190, we found that counties have generally complied with key provisions of the law by ending fee assessments in the juvenile legal system. In fact, most counties have gone further than required by ending juvenile fee collection and in many cases discharging fees altogether. In addition to preventing the prospective harm of tens of millions of dollars of fees imposed on California families annually, SB 190 has provided families with more than \$237 million of relief from previously assessed fees.

However, we also found that some counties have not complied fully with the new law, in particular by continuing to charge juvenile fees to parents and guardians through child support orders and by charging prohibited fees to young people ages 18–21 in criminal court. Further, many counties have failed to notify young people and families of the new law and have not updated internal operating policies and procedures or public facing materials such as websites. Counties must immediately comply with all provisions of SB 190 and should notify affected young people and families, relevant employees, and the general public.

Although not prohibited by the new law, some counties continue to pursue collection of more than \$136 million in previously assessed fees. Some counties are still collecting fees that were charged in violation of state and federal law. All counties engaged in ongoing collection activity are doing so in spite of evidence that such practices undermine the rehabilitative and public safety goals of the juvenile legal system, fall hardest on low-income families of color, and yield little net revenue. We recommend that counties voluntarily end collection of all fees abolished by SB 190.

Unfortunately, not all counties may comply voluntarily with SB 190 or take further action to end the harm of juvenile and young adult fees. If counties continue to charge fees unlawfully to parents and guardians through child support orders and to young people in criminal court, the California Department of Social Services should step in to ensure compliance with SB 190. The California Legislature and the Governor should enact a new law to render outstanding SB 190 fee balances uncollectible and vacate all existing fee judgments.

California became a national model for progressive youth justice when it abolished fees, offering the promise of debt-free justice for young people and their families. The rest of the country is watching as the state and counties implement this landmark policy, so California must get it right. We hope this status report provides helpful evidence and recommendations to implement both the letter and spirit of SB 190 as a beacon of reform.

APPENDICES

APPENDIX A: OUTSTANDING JUVENILE FEES BY COUNTY, PRE-SB 190

County	Population	Fee Amounts	Fee Accounts *
TOTAL	39,144,818	\$374,352,994	626,342
Alameda	1,638,215	\$2,000,000	12,000
Alpine	1,110	\$0	0
Amador	37,001	\$190,256	328
Butte	225,411	\$233,930	287
Calaveras	44,828	\$166,289	312
Colusa	21,482	\$4,306	1
Contra Costa	1,126,745	\$8,793,588	5,497
Del Norte	27,254	\$267,350	493
El Dorado	184,452	\$642,429	1,890
Fresno	974,861	\$3,110,126	6,379
Glenn	28,017	\$569,686	206
Humboldt	135,727	\$972,204	918
Imperial	180,191	\$305,745	23,247
Inyo	18,260	\$90	1
Kern	882,176	\$7,874,766	5,800
Kings	150,965	\$1,037,636	300
Lake	64,591	\$14,415	19
Lassen	31,345	\$105,264	59
Los Angeles	10,170,292	\$89,261,321	52,832
Madera	154,998	\$326,141	559
Marin	261,221	\$863,319	3,872
Mariposa	17,531	\$101,661	46
Mendocino	87,649	\$636,248	2,948
Merced	268,455	\$699,410	2,248

Modoc	8,965	\$0	0
Mono	13,909	\$210	2
Monterey	433,898	\$536,218	905
Napa	142,456	\$1,390,000	928
Nevada	98,877	\$237,387	173
Orange	3,169,776	\$38,271,245	107,293
Placer	375,391	\$1,230,640	3,258
Plumas	18,409	\$48,513	45
Riverside	2,361,026	\$15,000,026	14,808
Sacramento	1,501,335	\$23,158,268	15,600
San Benito	58,792	\$10,814	26
San Bernardino	2,128,133	\$16,600,000	30,563
San Diego	3,299,521	\$58,822,391	210,056
San Francisco	864,816	N/A	N/A
San Joaquin	726,106	\$3,962,050	2,848
San Luis Obispo	281,401	\$867,946	1,356
San Mateo	765,135	\$12,635,624	30,782
Santa Barbara	444,769	\$9,394,715	3,168
Santa Clara	1,918,044	\$21,616,140	10,098
Santa Cruz	274,146	\$1,494,860	1,145
Shasta	179,533	\$3,257,457	2,021
Sierra	2,967	\$0	0
Siskiyou	43,554	\$481,226	1,453
Solano	436,092	\$5,800,000	3,662
Sonoma	502,146	\$5,244,121	1,584
Stanislaus	538,388	\$7,000,000	4,927
Sutter	96,463	\$104,381	242
Tehama	63,308	\$2,928	31
Trinity	13,069	\$257,547	237
Tulare	459,863	\$11,449,451	42,918
Tuolumne	53,709	\$243,708	306
Ventura	850,536	\$15,368,436	11,165
Yolo	213,016	\$1,690,512	4,500
Yuba	74,492	—	—

* Most counties record data by account, not by youth or family. A youth or family may have multiple fee accounts.

N/A San Francisco never charged juvenile fees

— information not available

APPENDIX B: COUNTIES THAT ENDED COLLECTION OF OR DISCHARGED JUVENILE FEES

County	Ended Fee Collection	Discharged Fees
TOTAL	36	23
Alameda	•	
Alpine	•	•
Amador		
Butte	•	•
Calaveras		
Colusa		
Contra Costa	•	•
Del Norte	•	•
El Dorado	•	
Fresno	•	
Glenn	•	•
Humboldt		
Imperial		
Inyo	•	
Kern	•	
Kings		
Lake		
Lassen		
Los Angeles	•	•
Madera		
Marin	•	•
Mariposa	•	
Mendocino		
Merced	•	•
Modoc	•	
Mono	•	•
Monterey	•	•
Napa	•	•
Nevada	•	
Orange		
Placer		
Plumas		
Riverside		
Sacramento	•	•
San Benito		
San Bernardino	•	•

San Diego		
San Francisco	N/A	N/A
San Joaquin	•	•
San Luis Obispo		
San Mateo	•	•
Santa Barbara	•	
Santa Clara	•	•
Santa Cruz		
Shasta	•	
Sierra	•	
Siskiyou	•	
Solano	•	•
Sonoma	•	•
Stanislaus		
Sutter	•	•
Tehama	•	•
Trinity	•	•
Tulare		
Tuolumne		
Ventura	•	•
Yolo	•	•
Yuba		

N/A San Francisco never charged juvenile fees

NOTES

- 1 S. 190, 2017-2018 Reg. Sess. (Cal. 2017) (enacted).
- 2 *Id.* Effective January 1, 2018, counties can only charge home detention, electronic monitoring, and drug testing fees to people under the jurisdiction of the criminal court who are over 21 years of age. CAL. PENAL CODE § 1203.016(g) (authorizing home detention fees for adults over 21 years of age and under the jurisdiction of the criminal court); CAL. PENAL CODE § 1203.1ab (authorized drug testing fees for adults over 21 years of age and under the jurisdiction of the criminal court); CAL. PENAL CODE § 1208.2 (authorizing electronic monitoring fees for adults over 21 years of age and under the jurisdiction of the criminal court).
- 3 OFFICES OF SENATORS MITCHELL (D - LOS ANGELES) AND LARA (D - BELL GARDENS), SB 190: ENDING JUVENILE ADMINISTRATIVE FEES (2017), https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=12&ved=0ahUKEwj9_6Ch_ZTcAhXF1-AKHS8xBzoQFghSMAs&url=http%3A%2F%2Fsd30.senate.ca.gov%2Fsites%2Fsd30.senate.ca.gov%2Ffiles%2Fsb_190_juvenile_fees_fact_sheet_8.24.17.pdf&usg=AOvVaw1IRToEdtEYFoKwo5LUQKQc (fact sheet).
- 4 1961 CAL. STAT. 3499 (authorizing fees for detention); 1965 CAL. STAT. 4535 (authorizing fees for court-appointed public defenders and court-appointed private attorneys); 1968 CAL. STAT. 2334 (authorizing fees for probation supervision); Martin N. Lettunich, *Does Parental Liability for Legal Fees Infringe Upon a Juvenile's Constitutional Rights*, 10 SANTA CLARA LAW. 347 (1970), <https://digitalcommons.law.scu.edu/lawreview/vol110/iss2/9>.
- 5 1987 CAL. STAT. 2778 (authorizing fees for drug testing); 1996 CAL. STAT. 2453 (authorizing fees for electronic monitoring).
- 6 2001 CAL. STAT. 4038. The amount is adjusted every three years to reflect the percentage change in the calendar year annual average of the California Consumer Price Index. CAL. WELF. & INST. CODE § 903(c)(1) (West 2016).
- 7 Senator Mitchell introduced Senate Bill 941 in 2016. While SB 941 did not face formal opposition, it was held in the Senate Appropriations Committee due to fiscal concerns. S. 941, 2016-2017 Reg. Sess. (Cal. 2016).
- 8 San Francisco County never charged juvenile fees. Although fee types and amounts vary by jurisdiction, 57 of California's 58 counties charged families one or more juvenile administrative fees: 52 counties charged families for juvenile detention, 39 charged families for legal counsel, 31 charged families for electronic monitoring, 25 charged families for probation supervision, 17 charged families for drug testing, and 8 charged families for investigation reports. Policy Advocacy Clinic, Berkeley Law, Univ. of Cal., California Juvenile Fees Survey of Chief Probation Officers (2015) (unpublished survey) (on file with authors) (surveying county chief probation officers with the assistance of the Chief Probation Officers of California regarding juvenile administrative fee assessment and collection practices).

- 9 CAL. WELF. & INST. CODE § 903(c) (West 2016) (limiting the detention fee to “actual costs incurred by the county for food and food preparation, clothing, personal supplies, and medical expenses, not to exceed a combined maximum cost of thirty dollars (\$30) per day). For other fees, monthly or daily charges are “not to exceed cost for care, support, and maintenance of minor persons placed or detained in or committed to any institution by order of a juvenile court, the cost of delinquency-related legal services referred to by Section 903.1, the cost of probation supervision referred to by Section 903.2, and the cost of sealing records in county or local agency custody referred to by Section 903.3 . . . [as] determined by the board of supervisors.” CAL. WELF. & INST. CODE § 904 (West 2016).
- 10 CAL. WELF. & INST. CODE 903.45(b) (West 2016).
- 11 POLICY ADVOCACY CLINIC, BERKELEY LAW, UNIV. OF CAL., MAKING FAMILIES PAY: THE HARMFUL, UNLAWFUL, AND COSTLY PRACTICE OF CHARGING JUVENILE ADMINISTRATIVE FEES IN CALIFORNIA 17 (2017) [hereinafter MAKING FAMILIES PAY].
- 12 CAL. WELF. & INST. CODE § 903.45(d) (West 2016) (“Execution may be issued on the order in the same manner as on a judgment in a civil action, including any balance remaining unpaid at the termination of the court’s jurisdiction over the minor.”). Unlike other civil judgments, criminal justice debt can be reported by credit agencies indefinitely.
- 13 MAKING FAMILIES PAY, *supra* note 11; JESSICA FEIERMAN ET AL., JUVENILE LAW CTR., DEBTOR’S PRISON FOR KIDS? THE HIGH COST OF FINES AND FEES IN THE JUVENILE JUSTICE SYSTEM (2016) (documenting the widespread practice in states across the country of charging fines and fees in the juvenile justice system); Alex Piquero & Wesley Jennings, *Research Note: Justice System–Imposed Financial Penalties Increase the Likelihood of Recidivism in a Sample of Adolescent Offenders*, YOUTH VIOLENCE & JUV. JUST. (2017) (finding that the imposition of fees and costs on youth and their families led to a higher rate of recidivism).
- 14 MAKING FAMILIES PAY, *supra* note 11, at 14–17.
- 15 Memorandum from Robert B. Taylor, L.A. Cty. Chief Prob. Officer, to Don Knabe, Gloria Molina, Mark Ridley-Thomas, Zev Yaroslavsky & Michael D. Antonovich, L.A. Cty. Supervisors (Mar. 31, 2009), <http://file.lacounty.gov/SDSInter/bos/supdocs/48284.pdf> (on Probation Department Moratorium on Collection of Support Costs for Incarcerated Minors).
- 16 Alameda County, Cal., Ordinance No. 35 (2016), http://www.acgov.org/board/bos_calendar/documents/DocsAgendaReg_07_12_16/GENERAL%20ADMINISTRATION/Regular%20Calendar/CAO_Auditor_Probation_PUBDEF_236774.pdf (codified at Alameda County Admin. Ordinance Code § 2.42.190 (2016)) [hereinafter Alameda County Repeal]; Santa Clara County, Cal., Res. No. 110 (2016) [hereinafter Santa Clara County Moratorium] (enacted), http://sccgov.iqm2.com/Citizens/Detail_LegiFile.aspx?ID=82241 (follow “Resolution – Juvenile Fee Moratorium” to download undated resolution printout); Contra Costa County, Cal., Res. No. 606 (2016) [hereinafter Contra Costa County Moratorium] (enacted), http://64.166.146.245/docs/2016/BOS/20161025_813/27510_BO_JUVENILE%20FEES%20CHARGED%20BY%20THE%20PROBATION%20DEPARTMENT.pdf); Sacramento County, Cal., Res. No. 0171 (2017) [hereinafter Sacramento County Repeal] (enacted), http://www.agendanet.saccounty.net/sirepub/cache/2/25_fuzegpittft4rwtstply4r/801602809132019024413732.PDF; Solano County, Cal., Res. No. 775 (2017) [hereinafter Solano County Repeal] (enacted), <https://solano.legistar.com/LegislationDetail.aspx?ID=3192733&GUID=DB9A4387-8FA1-4ED3-B1D8-0E3D42FFAED8> (follow A – Resolution to download undated resolution printout); Sonoma County, Cal., Res. No. 0238 (2017) [hereinafter Sonoma County Repeal] (enacted), https://sonoma-county.granicus.com/MetaViewer.php?view_id=&clip_id=710&meta_id=221278.

- 17 S. 190, 2017-2018 Reg. Sess. (Cal. 2017) (enacted). Other SB 190 co-authors included Senators Toni Atkins, Jim Beall, Steven Bradford, Robert M. Hertzberg, Mike McGuire, Bill Monning, Josh Newman, Nancy Skinner, Bob Wieckowski, and Scott Wiener, and Assemblymember David Chiu.
- 18 The bill passed the Senate by a vote of 57-9 on May 30, 2017 and the Assembly by a vote of 36-4 on September 5, 2017.
- 19 S. 190. Counties are still authorized to charge restitution and restitution fines to youth and their families.
- 20 Counties are still authorized to charge this subset of fees to people “over 21 years of age and under the jurisdiction of the criminal court.” As a matter of statutory construction in California, “over 21 years of age” means people age 21 plus one day. Throughout the report, therefore, we refer to the provisions in SB 190 as repealing county authority to charge the specified fees to young people ages 18–21.
- 21 The introduced (original) version of SB 190 required counties to stop collecting previously assessed fees and to vacate all outstanding civil judgments, but the Senate Appropriations Committee removed those provisions of the bill as a condition of passing it. *Compare* S. 190 (as introduced to the Cal. Senate on Jan. 26, 2017), *with* S. 190 (as passed by Cal. Senate on May 26, 2017) [hereinafter SB 190 May 2017 Amendments], https://leginfo.legislature.ca.gov/faces/billVersionsCompareClient.xhtml?bill_id=201720180SB190&cversion=20170SB19099INT.
- 22 Letter from SB 190 Implementation Working Grp, to Cty. Bds. of Supervisors (Nov. 2, 2017) (Re: Implementation of Senate Bill 190 (Ending Juvenile Fees)), <https://www.law.berkeley.edu/wp-content/uploads/2015/12/SB-190-County-Implementation-Packet-2017.11.08-2.pdf>.
- 23 Letter from SB 190 Implementation Working Grp, to Cty. Bds. of Supervisors (Aug. 13, 2018) (Re: Implementation of Senate Bill 190 in Criminal Court), <https://www.law.berkeley.edu/wp-content/uploads/2019/08/SB-190-Letter-Re-Fees-Charged-to-18-21-Year-Olds.pdf>.
- 24 We did not send Public Records Act requests to Los Angeles and San Francisco because San Francisco never charged juvenile administrative fees and we were already in conversation with Los Angeles about a prior PRA request.
- 25 We did not send Public Records Act requests in October 2018 to Placer, San Diego, San Francisco, and Stanislaus because San Francisco never charged juvenile administrative fees and we were in conversation with Placer, San Diego, and Stanislaus about separate requests for information.
- 26 S. 190, 2017-2018 Reg. Sess. (Cal. 2017) (enacted).
- 27 At least one county erred in revising its fee policy. In late 2017, El Dorado County adopted a new fee schedule intended to comply with Senate Bill 190, yet the fee schedule still includes a \$150 per year fee for drug testing, citing to Welfare Institutions Code section 729.9 which no longer allows counties to charge for drug testing. El Dorado Cty., Cal., Res. No. 186 (2017), <https://eldorado.legistar.com/LegislationDetail.aspx?ID=3287396&GUID=652BD08D-D7BC-4758-8AF5-34ADA3BFA5B9&Options=ID|Text|&Search=186-2017> (follow “2B - 1.1.18 Fee Schedule Reso 12/12/17” to download undated resolution printout).
- 28 Email from Jose Luis Blanco, Deputy Prob. Officer IV, Juvenile Servs. Div., Kings Cty. Prob. Dep’t, to Gabriel Gomez et al., Kings Cty. Prob. Dep’t (Nov. 3, 2017, 10:49AM) (re: Fees – Juveniles) (on file with authors).
- 29 More than four million California families have youth ages 0–17. The number of households in California is 12,888,128; 34% of which include one or more children ages 0–17. *QuickFacts California*, U.S. CENSUS BUREAU, <https://www.census.gov/quickfacts/fact/table/CA/HSD410217#HSD410217> (Households, 2013-17) (last vis-

ited Aug. 27, 2019); *Households with and Without Children (Regions of 65,000 Residents or More)*, KIDSDATA.ORG, <https://www.kidsdata.org/topic/40/households-with-children250/table#fmt=462&loc=2,127,331,171,345,357,324,369,362,360,337,364,356,217,328,354,320,339,334,365,343,367,344,366,368,265,349,361,4,273,59,370,326,341,338,350,342,359,363,340,335&tf=95&ch=89,90> (last visited Aug. 27, 2019). The dollar estimate is based on the number of juvenile cases where a petition was filed (35,760), using detention fees as a proxy for all fees given the prevalence of juvenile detention fees (as compared to other juvenile fee types) across the state, *see* CAL. DEP'T OF JUSTICE, *JUVENILE JUSTICE IN CALIFORNIA IV* (2018), <https://data-openjustice.doj.ca.gov/sites/default/files/2019-07/Juvenile%20Justice%20In%20CA%202018%2020190701.pdf>, and multiplying the number of youth who had a petition filed by the average length of stay in detention (25.7 days) and the average daily cost of detention (\$23.24). Averages are based on data from the 52 counties that charged juvenile fees as of March 2017. *See* MAKING FAMILIES PAY, *supra* note 11, app. c (Detention Fees in California Counties by Average Stays in Juvenile Hall). The estimate is likely low because it does not include other juvenile fees, and it represents a fraction of outstanding fee balances pre-SB 190. But the estimate also does not account for the possibility that some counties might waive fees in select cases (a practice we found rare in our research prior to SB 190).

- 30 Letter from Josie Garcia, Program Manager, Sierra Nevada Reg'l Dep't of Child Support Servs. (Nov. 8, 2018) (on file with authors).
- 31 Email from John Myers, Deputy Cty. Counsel, Office of the Napa Cty. Counsel, to SB 190 Implementation Working Grp. (Nov. 1, 2018, 4:56PM) (on file with authors).
- 32 Email from Lindsay Beavers, Deputy Cty. Counsel, Office of the Fresno Cty. Counsel, to SB 190 Implementation Working Grp. (Jan. 4, 2019, 10:39AM) (on file with authors).
- 33 Email from Jacob Morgan, Deputy Chief Prob. Officer, Cty. of Inyo, to Emily Miller, Law Student, Policy Advocacy Clinic, Berkeley Law, Univ. of Cal. (Oct. 15, 2018, 11:34AM) (on file with authors) (Re: SB 190).
- 34 *See, e.g.*, Email from Dana Schultz, Orange Cty., to Chris Artim, Placer Cty. (Dec. 11, 2017) (Re: SB190 Issues) (on file with authors).
- 35 Email from Rick Dupree, Chief Prob. Officer, Madera Cty., to Mike Hamasaki et al. (Dec. 21, 2017, 11:09AM) (on file with authors) (Re: SB 190).
- 36 As originally introduced, SB 190 would have ended all juvenile fee collection and vacated outstanding fee judgments. The relevant provisions were amended out of SB 190 on May 26, 2017: "SEC. 25. (a) On and after January 1, 2018, the balance of any court-ordered costs imposed pursuant to Section 903, 903.15, 903.2, 903.25, 903.4, 903.5, 903.6, or 903.7 of the Welfare and Institutions Code, shall be unenforceable and uncollectable...; (b) On...January 1, 2019, the portion of the judgment imposing those...[court-ordered costs imposed pursuant to Section 903, 903.15, 903.2, 903.25, 903.4, 903.5, 903.6, or 903.7 of the Welfare and Institutions Code] shall be vacated." SB 190 May 2017 Amendments, *supra* note 21.
- 37 As noted above, research shows that juvenile fee assessment and collection practices harm some of California's most vulnerable families. Further, all California counties that stopped assessing juvenile fees prior to SB 190 also voluntarily ended fee collection without reporting any negative consequences. *See, e.g.*, Alameda County Repeal, *supra* note 16; Santa Clara County Moratorium, *supra* note 16; Contra Costa County Moratorium, *supra* note 16; Sacramento County Repeal, *supra* note 16; Solano County Repeal, *supra* note 16; Sonoma County Repeal, *supra* note 16.
- 38 This figure includes previously assessed fees in counties that ended collection in 2016 and 2017.

- 39 We do not have reliable data on home detention, electronic monitoring, and drug testing fees previously assessed to young people ages 18–21 in the criminal legal system, but the figures are likely to be substantial and warrant further research.
- 40 Email from Jamie Hogenson, Deputy Cty. Counsel, Nevada Cty., to SB 190 Implementation Working Grp. (Oct. 5, 2018, 14:43) (on file with authors).
- 41 Email from Tanja Heitman, Chief Prob. Officer, Santa Barbara Cty., to Jess Bartholow, W. Ctr. on Law & Poverty (Sept. 17, 2018, 16:05) (on file with authors).
- 42 Letter from Judy W. Whitehurst, Assistant Cty. Counsel, Gov’t Servs. Div., Cty. of L.A., to Jeffrey Selbin, Clinical Professor of Law, UC Berkeley Sch. of Law (Feb. 1, 2018) (on file with authors) (Response to Public Records Act Request to Los Angeles County). Several counties have “discharged” the county’s responsibility to collect fees. A discharge of responsibility means that the particular department in charge of collecting fees is no longer required to actively collect on accounts. In other words, all juvenile fee accounts remain open and any payments made on these accounts are accepted. Los Angeles County did not formally discharge or close out juvenile fee accounts until 2018. Prior to that, the Board of Supervisors placed a moratorium on the assessment of juvenile fees in 2009. The County did not actively collect on fees assessed prior to 2009; however juvenile fee accounts remained open and the County accepted payments made by families.
- 43 Monterey County, Cal., Board Order File #: 17-1205 (2017), <https://monterey.legistar.com/LegislationDetail.aspx?ID=3268609&GUID=00154AE1-F074-4598-B348-A87F150AD466&Options=&Search>.
- 44 In Sacramento County, “the balances on the accounts range from \$.01 to \$46,421.60 with an approximate average balance of \$1,450, and the charge on accounts date back to 1974.” Memorandum from Sacramento Cty. Prob. Dep’t, Pub. Def. & Dep’t of Revenue Recovery, to Sacramento Cty. Bd. of Supervisors 4 (Apr. 11, 2017), <http://www.agendanet.saccounty.net/sirepub/mtgviewer.aspx?meetid=11999&doctype=AGENDA> (follow “Authorize The Elimination And Write-Off of Fees Associated With The Care of Detained Youth, Juvenile Services And Delinquency Proceedings (Probation)--BDL - Elimination of Juvenile Fees.docx” to download memo).
- 45 Counties use terms like waive, write-off, release, vacate, discharge, and satisfy interchangeably although they may signify very distinct actions. Therefore, it is possible that a county claims to have vacated or discharged all civil judgments but they have only discharged their responsibility to collect, leaving thousands of active accounts receivable on the books.
- 46 For example, the San Joaquin County Board of Supervisors passed an order directing its Chief Probation Officer, Public Defender, and Treasurer-Tax Collector “to take the necessary steps to effect the discharge of associated existing county receivables regarding fees.” San Joaquin County, Prob., Resolution: Approval to Discharge All Outstanding Accounts for Cost of Detention and Public Defender Reimbursement in the Juvenile Delinquency System and Cost of Probation Supervision and Related Administrative Fees for 18-21 Year Olds in the Adult Criminal Justice System Pursuant to SB190 (San Joaquin County Fee Repeal), *in Bd. of Supervisors, San Joaquin County, Agenda 4*, 372 (Feb. 6, 2018), <http://sanjoaquincountyca.iqm2.com/Citizens/FileOpen.aspx?Type=1&ID=2232&Inline=True> (passed on consent).
- 47 For example, the presiding judge of the Ventura County Superior Court ordered that all outstanding juvenile fees be waived. Administrative Order, No. 18-05, Waiver of Juvenile Delinquency Fees, *In re: Waiver of Juvenile Delinquency Fees* (Super. Ct. Ventura Cnty. Cal. 2018) (on file with authors).
- 48 For example, San Mateo County sent letters via certified mail to families inviting parents and guardians to release property liens and satisfy civil judgments, however, the County only released or satisfied such obliga-

tions upon affirmative request from families. Cty. of San Mateo Revenue Servs., Juvenile Fees Presentation to San Mateo Juvenile Justice Delinquency and Prevention Committee (June 25, 2019) (on file with authors). Putting the onus on the family may not yield broad relief. During the pilot phase of the project, only one of 100 families requested the release.

- 49 For example, the Solano County Board of Supervisors adopted a resolution that ordered the write-off of all accounts receivable and the satisfaction and release of all liens, fee agreements, and stipulated judgments. Solano County, Cal., Resolution No. 2017-775, Feasibility Study-Discontinuing Collection of Juvenile Fees (2018) (on file with authors), <https://solano.legistar.com/LegislationDetail.aspx?ID=3192733&GUID=DB9A4387-8FA1-4ED3-B1D8-0E3D42FFAED8>. Counties may incur costs associated with recording and copying the release of lien paperwork. *Id.* Los Angeles County estimated “roughly \$17–\$20 for recording and copying the release of lien paperwork. That is, there is an \$8 fee for recording the release, and a copying fee of \$6 for the first page of the release, and \$3 for each additional page.” Memorandum from Terri L. McDonald, Chief Prob. Officer, L.A. Cty. Prob. Dep’t, to L.A. Cty. Supervisors Sheila Kuehl, Hilda L. Solis, Mark Ridley-Thomas, Janice Hahn & Kathryn Barger (Aug. 29, 2018) (Feasibility Study on Discontinuing Collection of Outstanding Juvenile Detention Fees (Item No. 11, Agenda of May 29, 2018)). San Mateo County also cited concerns with the costs of proactively releasing liens and has opted for a notification of opportunity to release liens that requires action on the part of the judgment debtor or family. The County estimates over 23,000 liens, abstracts of judgment, and court judgments in existence; 11,000 of which have been released, satisfied, or expired. Cty. of San Mateo Revenue Servs., Presentation on Juvenile Fees to the Juvenile Justice Delinquency Prevention Committee (June 25, 2019) (on file with authors). In Solano County, rather than issue individual orders vacating and setting aside judgments in each case, the presiding juvenile judge opted to issue a mass order vacating all orders and entries of judgment. Juvenile Misc. Order 2018-001, Order Vacating Orders and Entries of Judgment, In Re: All Orders and Entries of Judgment Sought by County of Solano for the Payment of Juvenile Probation Fees, Juvenile Public Defender Fees, and Costs of Maintenance and Support of Juveniles (Super. Ct. Solano Cty. Cal. 2018) (on file with authors).
- 50 Monterey County, Prob. Dep’t—Fiscal Unit, Juvenile Fees Repeal Notice (2017) [hereinafter Monterey County Juvenile Fees Repeal Notice] (on file with authors). Relatedly, it is unclear if counties that referred previously assessed fees to be collected by the Franchise Tax Board or to private agencies have recalled these referrals. Letter from JJ Zahry, Prob. Div. Dir., Admin. Servs. Div., Kern Cty. Prob. Dep’t, to Wesley Saver, UC Berkeley, Sch. of Law ex. a (Feb. 28, 2018) (Letter from Fiscal Support Supervisor, Kern Cty. Prob. Dep’t, to Parent and/or Legal Guardian (Jan. 9, 2018)) (on file with authors).
- 51 Monterey County Juvenile Fees Repeal Notice, *supra* note 50.
- 52 San Luis Obispo Cty., Probation Department, <https://www.slocounty.ca.gov/getattachment/192a0f60-072c-4483-a811-2567a6a124b9/Probation-Fees.aspx> (fee schedule).
- 53 Email from Jody Green, Juvenile Div. Dir., Cty. of Humboldt, to Megan Gotcher et al. (Dec. 12, 2017, 3:13PM) (on file with authors).
- 54 Board Memo, Summary of Legislative Changes and Their Impact to Orange County Due to Senate Bill 190 Relating to Juvenile Fees 1 (on file with authors) (“The Board approved an amendment to our contract with Corrective Solutions on 12/12/2017 to restrict the contractor to charge fees for participants ages 21 and over only. The amendment allowed the contractor to deduct the amount of revenue that they would have previously received for those participants from the portion of revenue (30%) they pay the County monthly. As re-

ported to the Board, the revenue collected for these participants was \$299 out of \$81,424, or 0.37% of the total revenue collected, a minimal financial impact to the County.”).

- 55 *Notice of Changes to Certain Juvenile Fees and Charges-Implementation of Senate Bill 190 Effective January 1, 2018*, SAN DIEGO COUNTY PUB. SAFETY GROUP, https://www.sandiegocounty.gov/content/sdc/public_safety/sb-190-changes.html (last visited Aug. 28, 2019); Stanislaus Cty. Prob. Dep’t, Notice of Changes to Certain Juvenile Fees and Charges-Implementation of Senate Bill 190 Effective January 1, 2018, <http://www.stancounty.com/probation/pdf/SB-190-Changes.pdf> (last visited Aug. 28, 2019).
- 56 *Parental Financial Responsibilities*, ORANGE COUNTY PROB. <http://www.ocgov.com/gov/probation/payments/parental> (last visited Aug. 28, 2019).
- 57 MAKING FAMILIES PAY, *supra* note 11, at 14-15.
- 58 *Id.* at 15.
- 59 *Id.* at 16-17.
- 60 Letter from Danielle C. Fokkema, Chief of Admin. Servs., Prob. Dep’t, Contra Costa Cty., to Jane Doe (Jan. 26, 2018), <http://www.contracosta.ca.gov/DocumentCenter/View/48797/Final-PCU-Outreach-Client-Letter---English-PDF?bidId>; Contra Costa Cty., Public Protection Committee Referral on Juvenile Fees Charged by the Probation Department (2017), http://64.166.146.245/agenda_publish.cfm?id=&mt=ALL&get_month=10&get_year=2017&dsp=agm&seq=31281&rev=0&ag=1035&ln=61471&nseq=&nrev=&pseq=31247&prev=0#ReturnTo61471.
- 61 Ventura County, Cal., Res. No. 12 (2018), <http://bosagenda.countyofventura.org/sirepub/agdocs.aspx?doctype=agenda&itemid=91138> (follow “Adoption of a Resolution Amending the County Servi - Exhibit 1 - Resolution” for resolution).
- 62 San Joaquin County, Cal., Res. No. 13, at 366 (2018), <http://sanjoaquincountyca.iqm2.com/Citizens/FileOpen.aspx?Type=1&ID=2232&Inline=True>.
- 63 S. 190, 2017-2018 Reg. Sess. (Cal. 2017) (enacted).
- 64 S.F. County, Cal., Ordinance No. 131 (June 14, 2018), <https://sfgov.legistar.com/View.ashx?M=F&ID=6314268&GUID=D897D3D5-5D6E-416D-BD2E-A22485717625>. The ordinance eliminated probation supervision fees, presentence report/investigation fees, probation booking fees, probation restitution collection fees, probation restitution fine administrative fees, determination of average per day costs of incarceration, penalty assessments for testing for alcohol content, restitution collection fees, penalty assessments for emergency medical services, automated county warrant system costs, Sheriff’s Work Alternative Program fees, and electronic monitoring fees. The county acted in response to the findings and recommendations of its Fines and Fees Task Force. S.F. FINES & FEES TASK FORCE, CRIMINAL JUSTICE ADMINISTRATIVE FEES: HIGH PAIN FOR PEOPLE, LOW GAIN FOR GOVERNMENT (2018), https://sftreasurer.org/sites/default/files/Criminal%20Justice%20Fees_High%20Pain_Low%20Gain%20FINAL.pdf.
- 65 Alameda County, Cal., Ordinance No. 2018-67 (2018) (amending California Administrative Code section 2.42.190), <http://www.acgov.org/probation/documents/SignedOrdinance.pdf>. The ordinance eliminated probation supervision fees, representation by public defender/conflict counsel fees, and sheriff’s work alternative program fees. The county acted in response to the findings and recommendations of the East Bay Community Law Center. THERESA ZHEN & BRANDON GREENE, EAST BAY CMTY. LAW CTR., PAY OR PREY: HOW

THE ALAMEDA COUNTY CRIMINAL JUSTICE SYSTEM EXTRACTS WEALTH FROM MARGINALIZED COMMUNITIES (2018), https://ebclc.org/wp-content/uploads/2018/10/EBCLC_CrimeJustice_WP_Fnl.pdf.

- 66 Memorandum from Terri L. McDonald, L.A. Cty. Chief Prob. Officer, to L.A. Cty. Bd. of Supervisors (Jan. 4, 2019) (on file with authors) (Re: Existing Fees Collected by County Departments for Probation Supervision or Services for Adult or Youth Populations).
- 67 Motion by Supervisors Hilda L. Solis and Sheila Kuehl Addressing Fines and Fees Associated with Criminal Justice System Involvement (Apr. 16, 2019), <http://file.lacounty.gov/SDSInter/bos/supdocs/134660.pdf>.
- 68 Contra Costa County, Cal., Res. No. 2019/522 (2019), http://64.166.146.245/docs/2019/BOS/20190917_1334/38924%5FBO%5FCriminal%20Justice%20Adult%20Fees%2Epdf.
- 69 S. 144, 2019-2020 Reg. Sess. (Cal. 2019).
- 70 Senator Holly Mitchell decided to hold Senate Bill 144 in the Assembly Public Safety Committee for the remainder of the 2018-19 Legislative Session. Press Release, Debt Free Justice Cal., Families over Fees/SB 144 (Mitchell) Update (2019), <http://ebclc.org/wp-content/uploads/2019/07/DFJC-SB-144-Update-July-2019.pdf>.
- 71 Relevant county departments include Probation, Collections/Revenue, courts, the Public Defender, the District Attorney, and the Department of Child Support Services.

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