



To: County Boards of Supervisors
From: SB 190 Implementation Working Group
Re: Implementation of Senate Bill 190 (Ending Juvenile Fees)
Date: November 2, 2017

We write regarding the implementation of Senate Bill 190, authored by Senators Holly J. Mitchell and Ricardo Lara and signed into law by Governor Jerry Brown on October 11, 2017. Effective January 1, 2018, SB 190 repeals county authority to charge specified fees to parents, guardians, and youth for a youth's involvement in the juvenile delinquency system. We encourage you and your colleagues to implement SB 190 quickly and robustly.

SB 190 was enacted to end regressive and racially discriminatory juvenile fee practices, which undermine youth rehabilitation and public safety. For these reasons—and to reduce the liability facing counties that continue such practices—we are urging counties to:

- (1) Stop all juvenile fees assessments immediately,
- (2) End all juvenile fee collection activity,
- (3) Discharge all previously assessed juvenile fees, and
- (4) Refund families who paid unlawfully assessed juvenile fees.

To assist counties in taking the above actions, we have enclosed an SB 190 Implementation Checklist, which sets forth concrete steps to implement the letter and spirit of the new law. The Checklist is informed by the actions in counties that have recently ended assessment and collection of the fees. We have also enclosed an SB 190 Flyer that can be posted in relevant county facilities.

(1) Stop All Juvenile Fee Assessments Immediately

SB 190 repeals county authority to assess all juvenile fees in the delinquency system, including fees related to:

- (a) detention (Cal. Welf. & Inst. Code § 903),
- (b) legal representation (Cal. Welf. & Inst. Code §§ 903.1, 903.15),
- (c) electronic monitoring (Cal. Welf. & Inst. Code § 903.2),
- (d) probation or home supervision (Cal. Welf. & Inst. Code § 903.2), and
- (e) drug testing (Cal. Welf. & Inst. Code § 729.9).

Although the prohibition does not go into effect until January 1, 2018, the legal basis and public policy rationale for ending the assessment of these fees are as strong today as they will be in January.

Alameda, Contra Costa, Los Angeles, Sacramento, Santa Clara, and Sonoma Counties stopped assessing juvenile fees before the enactment of SB 190. Solano County stopped assessing fees after SB 190 was signed. San Francisco County has never charged such fees. As

noted in more detail below, juvenile fees frequently are being imposed unlawfully, which exposes counties to legal liability.

To implement SB 190's public policy purpose and to comply with state and federal law, all counties should stop all juvenile fee assessments immediately.

(2) End All Juvenile Fee Collection Activity

SB 190 requires counties to end the assessment of all juvenile fees, but it does not prohibit the collection of previously assessed juvenile fees, some of which date back to the 1970s.

UC Berkeley researchers found that juvenile fee assessment and collection practices harm some of California's most vulnerable families, perpetuating cycles of poverty, exacerbating racial injustice, and undermining youth rehabilitation and family reunification.¹ The researchers also found that counties often charge and collect fees in violation of state and federal law. The fees are costly to collect, with little or no net revenue, since most families cannot afford to pay them. Finally, the fees correlate with higher recidivism, which undermines public safety.

All California counties that have stopped assessing juvenile fees since 2016 have also ended fee collection, without reporting any negative consequences (Alameda, Contra Costa, Sacramento, Santa Clara, Solano, and Sonoma). Most recently, on October 24, 2017, the Solano County Board of Supervisors adopted a resolution that authorized the discharge of all juvenile fee accounts receivable balances in the amount of approximately \$3.9 million.²

To reduce their harmful, unlawful, and costly impacts, counties should end the collection of all juvenile fees immediately.

(3) Discharge All Previously Assessed Juvenile Fees

Previously assessed juvenile fees are memorialized in fee agreements and stipulations and are entered against parents and guardians in the form of civil judgments. Such judgments can impair a family's ability to secure housing, jobs, and credit. Ending fee assessment and collection alone, therefore, will not relieve families of the collateral consequences of juvenile fees.

In many cases, counties that ended fee assessments and collections have discharged all outstanding juvenile fees. For example, the October 2017 Solano County Board of Supervisors resolution noted above authorized the satisfaction and release of liens and stipulated judgments for juvenile fees in the amount of approximately \$1.7 million.

To foster rehabilitation, enhance public safety, and ensure compliance with state and federal law, counties should discharge all juvenile fee judgments against families, including agreements and stipulations.

(4) Refund Families Who Paid Unlawfully Assessed Juvenile Fees

SB 190 does not address the harm to families who made payments on juvenile fees that were unlawfully assessed or collected. As described in the UC Berkeley study, such unlawful practices may have included collecting payment from families:

¹ UC Berkeley Public Law Research Paper, *Making Families Pay: The Harmful, Unlawful, and Costly Practice of Charging Juvenile Administrative Fees in California* (Mar. 2017), <https://ssrn.com/abstract=2937534>.

² Solano County, Cal. Res. No. 2017-____ (Oct. 24, 2017), <http://solano.legistar.com/gateway.aspx?M=F&ID=0970161b-b17e-48aa-9c84-91f522039134.docx>.

- a. for fees related to petitions that are not sustained (i.e., where youth have not been found to violate any law) (violates due process and state law),
- b. that include meals provided to youth for which the county receives reimbursement from national nutrition programs (violates federal law),
- c. without conducting a proper ability-to-pay evaluation (violates due process and state law),
- d. for services that benefit society as a whole, such as probation supervision, home supervision, or electronic monitoring (violates equal protection),
- e. for a juvenile investigation report (violates state law), and
- f. for detention fees that exceed \$31.69 per day (violates state law).

Contra Costa County has already taken the lead in refunding families for fees that were unlawfully assessed and collected. The county has identified hundreds of cases during a six-year period prior to its fee repeal in which families made payments for youth whose petitions were not sustained, and is contacting families to make refunds.

To remedy unlawful practices, counties should refund families who made payments on juvenile fees that should not have been charged.

Thank you for everything you are doing to help young people succeed. Please do not hesitate to contact us if we can assist you in implementing SB 190, which will foster youth rehabilitation and public safety.

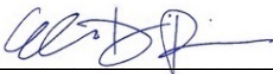
Sincerely,



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encl. SB 190 Implementation Checklist
SB 190 Flyer

cc: County Administrator
County Counsel
Chief Probation Officer
Collections/Revenue Officer
Public Defender
District Attorney
Presiding Juvenile Court Judge
Court Executive Officer

The Honorable Holly J. Mitchell, California State Senate (SB 190 Author)
The Honorable Ricardo Lara, California State Senate (SB 190 Author)
The Honorable Governor Jerry Brown
The Honorable Senate President and Lieutenant Governor Gavin Newsom
The Honorable Senate President pro Tempore Kevin de León
The Honorable Assembly Speaker Anthony Rendon
The Honorable Assembly Speaker pro Tempore Kevin Mullin
The Honorable Senate Majority Floor Leader William W. Monning
The Honorable Senate Minority Floor Leader Jean Fuller
The Honorable Assembly Majority Floor Leader Ian Calderon
The Honorable Assembly Minority Floor Leader Brian Dahle



SB 190 (Ending Juvenile Fees) County Implementation Checklist

This Checklist sets forth best practices for counties to implement Senate Bill 190, which repeals all juvenile fees in the delinquency system effective January 1, 2018. For purposes of SB 190, “juvenile fees” refers to fees charged to parents, guardians, and youth for detention, legal representation, electronic monitoring, probation or home supervision, and drug testing while the youth is under the jurisdiction of a juvenile court.

Although SB 190 does not address previously assessed juvenile fees, the Legislature and the Governor made clear their intention to end harmful, unlawful, and costly juvenile fee practices. To further the purpose of SB 190 and to comply with other state and federal laws, counties should take the following steps:

(1) Stop All Juvenile Fee Assessments Immediately (must end by December 31, 2017)

To stop juvenile fee assessments against families, counties should:

- Designate an SB 190 implementation point person
- Inform all relevant county employees that no juvenile fees may be assessed, including, but not limited to:
 - Board of Supervisors
 - County Administrator
 - County Counsel
 - Chief Probation Officer
 - Collections/Revenue Officer
 - Public Defender
 - District Attorney
 - Presiding Juvenile Court Judge
 - Court Executive Officer
- Update applicable online payment platforms and relevant county webpages to inform visitors that juvenile fees cannot be assessed on or after January 1, 2018 (or earlier date if applicable in your county)

(2) End All Juvenile Fee Collection Activity

To end juvenile fee collection activity against families, counties should:

- Write off all accounts receivable balances for juvenile fees as satisfied
- Cease all solicitation of payment for previously assessed juvenile fees, including from third party debt collectors.

- Inform all families by mail that unpaid previously assessed juvenile fees are no longer owed and that no payment will be collected or accepted
- Update applicable online payment platforms and relevant county webpages to inform visitors that no payments on juvenile fees will be collected or accepted
- Recall all previously assessed juvenile fees referred to the Franchise Tax Board's Court-Ordered Debt Collections and/or the Interagency Intercept Collection Program

(3) Discharge All Previously Assessed Juvenile Fees

To discharge previously assessed juvenile fees, counties should:

- Satisfy and release all juvenile fee agreements and stipulations entered into between the county financial evaluation officer and families, and notify the families in writing
- File an acknowledgement of satisfaction with the court of all juvenile fee judgments and serve notice to families

(4) Refund Families Who Paid Unlawfully Assessed Juvenile Fees

To refund families who paid unlawful juvenile fees, counties should:

- Undertake a comprehensive review of juvenile fees that have been assessed and collected to determine if any were assessed in violation of a state or federal statute, or the California or U.S. Constitution. Such unlawful practices may include, but are not limited to, collecting or accepting payment from families:
 - with a youth whose petition is not sustained (violates due process and state law)
 - for detention fees that include meals provided to youth for which the county receives national nutrition program funding (violates federal law)
 - without conducting a proper ability-to-pay evaluation (violates due process and state law)
 - for items that benefit society as a whole such as probation supervision, home supervision, or electronic monitoring (violates equal protection)
 - for a juvenile investigation report (violates state law)
 - for detention fees that exceed \$31.69 per day (violates state law)
- Refund families for any payments they have made on juvenile fees that were unlawfully assessed, including any additional costs associated with collection, with interest.

As local practices may vary, counties should take whatever actions are necessary to:

- (1) Stop all juvenile fees assessments immediately,
- (2) End all juvenile fee collection activity,
- (3) Discharge all previously assessed juvenile fees, and
- (4) Refund families who paid unlawfully assessed juvenile fees.

NO MORE JUVENILE FEES

Under a new California law (SB 190), counties cannot charge fees to parents and guardians with youth in the juvenile delinquency system beginning January 1, 2018.

What cannot be charged?

Under the new law, families with youth in juvenile court **cannot** be charged:

- **Detention fees**
Food, clothing, personal supplies, or medical care in juvenile hall or any other detention facility
- **Lawyer fees**
Public defender or court-appointed lawyer
- **Electronic monitoring fees**
Ankle monitors or any other GPS tracking device
- **Probation and home supervision fees**
For the period of probation monitoring
- **Drug testing fees**
Court-ordered drug testing and results

If you are charged any of these fees starting January 1, 2018, or have questions about a bill you got from the county after your child was arrested, contact the county department that sent the bill and your child's court-appointed lawyer immediately.

What can still be charged?

- **Restitution**
Payment to crime victims
- **Restitution fines**
Fixed amount to a state restitution fund