



To: County Board of Supervisors
From: SB 1290 Implementation Working Group
Re: Implementation of Senate Bill 1290 (Ending Juvenile Fee Collection)
Date: September 30, 2020

We write regarding the implementation of [Senate Bill 1290](#) (SB 1290), authored by Senators María Elena Durazo and Holly J. Mitchell, and signed into law by Governor Gavin Newsom on September 30, 2020, and to encourage the County's action prior to the implementation date of this legislation.

SB 1290 "vacates certain county-assessed or court-ordered costs imposed before January 1, 2018, for the parents or guardians of wards in specified circumstances, minors who were ordered to participate in drug and substance abuse testing, and adults who were 21 years of age and under at the time of their home detention."ⁱ Effective January 1, 2021, SB 1290 repeals counties' authority to collect fees assessed prior to their abolition by [Senate Bill 190](#) (SB 190) in 2018, including:

(1) fees charged to parents, guardians, and youth for detention, legal representation, electronic monitoring, probation, home supervision, and drug testing while the youth is under the jurisdiction of a juvenile court ("juvenile fees"); and

(2) fees charged to youth 21 and under for home detention, drug testing, and electronic monitoring while the youth is under the jurisdiction of a criminal court ("young adult fees").

SB 1290 was enacted to relieve youth, families, and communities from the harmful consequences of ongoing collection of juvenile and young adult fees by vacating all court judgments, stipulated agreements, and other instruments imposing such fees.

Researchers at UC Berkeley Law found that juvenile fee practices statewide undermined youth, family, and community well-being; fell hardest on low-income families of color, especially Black and Latinx families; yielded little net revenue; and were often charged unlawfully.ⁱⁱ

We encourage you and your colleagues to implement the letter and spirit of SB 1290 quickly and thoroughly to protect youth, families, and communities from the financial and emotional burden of fees.

Although SB 1290 does not go into effect until January 1, 2021, there is nothing in the law that would prevent you from fully implementing these policies prior to the implementation date. We urge your county to prevent harm to residents in your community and the local economy by immediately:

- (1) ending all juvenile and young adult fee collection activity,
- (2) discharging all outstanding juvenile and young adult fees,
- (3) refunding youth and families who paid unlawfully assessed fees,
- (4) notifying all impacted youth and families of these actions, and
- (5) updating all internal and online references to juvenile and young adult fees.

To assist counties in taking the above actions, we have enclosed an SB 1290 Implementation Checklist, which sets forth concrete steps and resources to implement this legislation. The checklist is informed by the actions of counties that have already ended collections and discharged outstanding juvenile and young adult fees. We have also enclosed two SB 1290 flyers - one regarding juvenile fees and one addressing young adult fees - to post in relevant county facilities and online.

(1) End all juvenile and young adult fee collection activities.

The majority of counties (43 of 58) have already suspended or ended collection on all outstanding juvenile and/or young adult fees, totaling nearly \$350 million statewide.ⁱⁱⁱ Since Governor Newsom declared a State of Emergency on March 4, 2020, seven counties have paused or ended collection of outstanding fees, citing the harm to county residents under COVID-19 and research about the regressive and racially discriminatory nature of fees.^{iv}

Continuing to pursue collection until SB 1290 goes into effect will not yield substantial revenue. The seven counties that voted to suspend or end collection of outstanding fees in 2020 reported annual average collection rates from 1-5% since January 2018.^v

We strongly urge you to end all juvenile and young adult fee collection as soon as possible in advance of the bill's effective date.

(2) Discharge all outstanding juvenile and young adult fees.

Most counties that ended or suspended collection have also formally discharged outstanding fee accounts, agreements, and civil judgments.^{vi} Five counties that ended collection during the COVID-19 pandemic also formally discharged more than \$75 million in outstanding fees.^{vii}

We strongly urge you to take action as soon as possible in advance of the bill's effective date to vacate all court judgments, stipulated agreements, and other instruments imposing such fees.

(3) Refund youth and families who paid unlawfully assessed fees.

Researchers at UC Berkeley Law found that a number of counties assessed juvenile and young adult fees in violation of state and federal law.^{viii} Some counties assessed juvenile fees for services they were not authorized to charge, continued to assess young adult fees after the passage of SB 190, or assessed fees without conducting a proper ability-to-pay evaluation. Past and ongoing collection of such fees is unlawful.

SB 1290 does not address the harm to youth and families who made payments on juvenile fees and young adult fees that were unlawfully assessed or collected. However, counties that assessed juvenile and young adult fees in violation of state and federal law should refund youth and families who made payments on fees that should not have been charged.

We strongly urge you to identify and refund youth and families who made payments on unlawfully assessed juvenile and young adult fees.

(4) Notify all impacted youth and families.

Because SB 190 and SB 1290 do not prohibit the assessment and collection of victim restitution payments, youth and families may still have outstanding balances after the discharge of all juvenile and young adult fees. In order to avoid confusion, counties should notify families of the exact amount of fees

they are discharging, as well as the outstanding balance from restitution fines or restitution that the county intends to continue collecting.

We strongly urge you to proactively notify all youth and families which fees are being discharged and which, if any, payments remain outstanding.

(5) Update all internal and online references to juvenile and young adult fees.

Counties should update all internal and external fee policies and procedures to comply with SB 1290. In particular, counties should inform all staff and partners of these changes to avoid misinformation and update their websites' references to juvenile and young adult fees to reflect the new law and avoid confusion for county residents.

We strongly urge you to update all inward and outward facing materials to reflect the abolition of juvenile fee assessment and collection.

Finally, we ask that you provide us with a written update summarizing the actions your county is planning to take to end fee collection, discharge fees, refund fees, notify impacted youth and families, and update county documents and webpages.

Thank you for everything you are doing to help young people succeed. Please do not hesitate to contact us at SB1290@clinical.law.berkeley.edu if we can assist you in implementing SB 1290, which will provide much-needed financial and emotional relief to youth, families, and the community.

Sincerely,



Jessica Bartholow
Policy Advocate
Western Center on Law & Poverty



Kim McGill
Organizer
Youth Justice Coalition



Stephanie Campos-Bui
Deputy Director
Policy Advocacy Clinic

encl. SB 1290 Implementation Checklist
SB 1290 Juvenile Flyer
SB 1290 Young Adult Flyer

cc: County Administrator
County Counsel
Chief Probation Officer
Collections Officer
Public Defender
District Attorney
Court Executive Officer

The Honorable Gavin Newsom, California State Governor
The Honorable Maria Elena Durazo, California State Senate (SB 1290 Author)
The Honorable Holly Mitchell, California State Senate (SB 1290 Author)

The Honorable Toni G. Atkins, California Senate President pro Tempore
The Honorable Anthony Rendon, California Assembly Speaker

ⁱ S.190, 2017-18 Reg. Sess. (Cal. 2017) (enacted).

ⁱⁱ Policy Advocacy Clinic, Berkeley Law, Univ. of Cal., *Making Families Pay: The Harmful, Unlawful, and Costly Practice of Charging Juvenile Administrative Fees in California* (2017) [hereinafter *Making Families Pay*].

ⁱⁱⁱ *Juvenile Fee Abolition in California*, Berkeley Law: Policy Advocacy Clinic, <https://www.law.berkeley.edu/experiential/clinics/policy-advocacy-clinic/juvenile-fee-collection-in-california/> (last visited June 28, 2020).

^{iv} Riverside Cty., Cal., Item 3.17 Probation: Authorize the Elimination and Write-Off of Receivables Associated with the Care of Detained Youth, Juvenile Services and Delinquency Proceedings, All Districts (Apr. 21, 2020) [hereinafter Riverside Cty. Item 3.17], <https://www.law.berkeley.edu/wp-content/uploads/2020/04/Riverside-Juvenile-Fee-Resolution-2020.04.21.pdf>; Stanislaus Cty., Cal., Consideration and Approval of the Third Quarter Financial Report for Fiscal Year 2019-2020 and Related Actions (May 5, 2020) [hereinafter Stanislaus Cty. Consideration & Approval of Financial Report and Related Actions], <https://www.law.berkeley.edu/wp-content/uploads/2020/05/Stanislaus-County-Fee-Discharge-2020.05.05.pdf>; San Diego Cty., Cal., Item 15 Public Safety: Eliminating Juvenile Justice Fees to Support Rehabilitative Goals for Youth and Families [Funding Source: General Purpose Revenue] (May 19, 2020) [hereinafter San Diego Cty. Item 15], https://content.govdelivery.com/attachments/CASAND/2020/05/15/file_attachments/1452592/05192020%20Regular_Agenda%20FINAL.pdf; Madera Cty., Cal., Item 5.Z Probation Authorize the elimination and write-off outstanding fees associated with the care of detained juv, Public Safety Proceedings, All Districts (Jul. 7, 2020) [hereinafter Madera Cty. Item 5.Z], <https://www.law.berkeley.edu/wp-content/uploads/2020/07/Madera-County-Ends-Juvenile-Fee-Collection-2020.07.07.pdf>; Email from Elisha Hardison, Humboldt Cty. Probation (Jun 15, 2020) (on file with authors); Email from Michaela Noland, Admin. Servs. Manager, Lake Cty. Superior Court (Apr. 28, 2020) (on file with authors).

^v *Id.*

^{vi} Policy Advocacy Clinic, Berkeley Law, Univ. of Cal., *Fee Abolition and the Promise of Debt-Free Justice for Young People and Their Families in California* at 8 (2019) [hereinafter *Fee Abolition and the Promise of Debt-Free Justice*].

^{vii} San Diego Cty. Item 15; Riverside Cty. Item 3.17; Stanislaus Cty. Consideration & Approval of Financial Report and Related Actions.

^{viii} *Making Families Pay* at 14; *Fee Abolition and the Promise of Debt-Free Justice* at 6.