



**Board of Supervisors  
COUNTY OF TULARE  
AGENDA ITEM**

**BOARD OF SUPERVISORS**

KUYLER CROCKER  
District One  
PETE VANDER POEL  
District Two  
AMY SHUKLIAN  
District Three  
EDDIE VALERO  
District Four  
DENNIS TOWNSEND  
District Five

**AGENDA DATE:** May 21, 2019

Public Hearing Required	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Scheduled Public Hearing w/Clerk	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Published Notice Required	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Advertised Published Notice	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Meet & Confer Required	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Electronic file(s) has been sent	Yes	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
Budget Transfer (Aud 308) attached	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Personnel Resolution attached	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Agreements are attached and signature line for Chairman is marked with tab(s)/flag(s)	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
CONTACT PERSON: Julieta Martinez    PHONE: 559.636.5000				

**SUBJECT:** Approve letter of opposition to SB 144

**REQUEST(S):**  
That the Board of Supervisors:  
Approve a letter of opposition to SB 144, Mitchell – Criminal fees.

**SUMMARY:**  
SB 144 by Senator Holly Mitchell would eliminate a number of administrative fess imposed on a person related to involvement in the criminal justice system. A bill analysis done by the Senate Appropriations Committee states that a number of state funds and state entities would experience a revenue loss resulting from the enactment of this measure. In some cases, the fee elimination would lead to unfunded positions and programs that would still be required to operate. The analysis is attached for further review.

For Tulare County, SB 144 could lead to a loss in revenue for both the Probation Department and the Public Defender’s Office. The Tulare County Public Defender’s Office is expected to collect \$38,578 in Registration and Legal Fees for FY 2018/19. The Probation Department recognized a total of \$323,116 of revenue in FY 2017/18 from the fees and fines listed to be eliminated if SB 144 is passed. The revenue is equivalent to the cost of 3.8 full time employed deputy probation officers. Staff is recommending that the Board of Supervisors take an oppose position to SB 144. A draft letter is attached for review.

**FISCAL IMPACT/FINANCING:**  
There is no Net County Cost to the General Fund.

**SUBJECT:** Approve letter of opposition to SB 144  
**DATE:** May 21, 2019

**LINKAGE TO THE COUNTY OF TULARE STRATEGIC BUSINESS PLAN:**

Approve a letter of opposition to SB 144 is linked to the Organizational Performance  
– Continuously improve organizational effectiveness and fiscal stability.

**ADMINISTRATIVE SIGN-OFF:**



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Julieta Martinez  
Chief of Staff

cc: County Administrative Office

Attachment(s) Letter of Opposition to SB 144  
Senate Appropriations Committee – Bill Analysis

**BEFORE THE BOARD OF SUPERVISORS  
COUNTY OF TULARE, STATE OF CALIFORNIA**

IN THE MATTER OF APPROVE  
A LETTER OF OPPOSITION TO  
SB 144

)  
) Resolution No. \_\_\_\_\_  
) Agreement No. \_\_\_\_\_  
)

UPON MOTION OF SUPERVISOR \_\_\_\_\_, SECONDED BY  
SUPERVISOR \_\_\_\_\_, THE FOLLOWING WAS ADOPTED BY THE  
BOARD OF SUPERVISORS, AT AN OFFICIAL MEETING HELD \_\_\_\_\_  
\_\_\_\_\_, BY THE FOLLOWING VOTE:

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

ATTEST: JASON T. BRITT  
COUNTY ADMINISTRATIVE OFFICER/  
CLERK, BOARD OF SUPERVISORS

BY: \_\_\_\_\_  
Deputy Clerk

\* \* \* \* \*

Approved a letter of opposition to SB 144, Mitchell – Criminal fees.

May 21, 2019

The Honorable Holly Mitchell  
Member, California State Senate  
State Capitol, Room 5050  
Sacramento, CA 95814

**RE: Oppose SB 144**

Dear Senator Mitchell:

On behalf of the County of Tulare, we write to respectfully inform you of our opposition to Senate Bill 144, regarding criminal fees.

SB 144 will lead to major revenue losses to local government agencies. In Tulare County alone the Probation Department would average a loss of \$320,000 per fiscal year should the bill be enacted. This cost is equivalent to funding 3 full time Deputy Probation Officers. The Tulare County Public Defender would see an average loss of \$30,000 per fiscal year.

Advocacy groups have argued the costs to collect fees are greater than the fees collected, but this statement is inaccurate for Tulare County. The Tulare County Superior Court collects all amounts paid for Public Defender Fees and Registration Fees in adult cases. The Public Defender does not collect but has an agreement in place with the Court for minimal costs. The Tulare County Probation Department has a Collections Unit but it still does not cost the department more to collect fees.

SB 144 would have a direct negative impact on our County services.

For these reasons, the County of Tulare is in opposition of SB 144. Please contact our office should you have any further questions at (559) 636-5000.

Sincerely,

**Kuyler Crocker, Chairman**  
Tulare County Board of Supervisors

**Pete Vander Poel, Vice-Chairman**  
Tulare County Board of Supervisors

**Amy Shuklian, District Three**  
Tulare County Board of Supervisors

**Eddie Valero, District Four**  
Tulare County Board of Supervisors

**Dennis Townsend, District Five**  
Tulare County Board of Supervisors

CC: Tulare County Delegation  
Paul Yoder, Shaw/Yoder/Antwih, inc.

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## SENATE COMMITTEE ON APPROPRIATIONS

Senator Anthony Portantino, Chair  
2019 - 2020 Regular Session

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### SB 144 (Mitchell) - Criminal fees

**Version:** March 27, 2019

**Urgency:** No

**Hearing Date:** May 6, 2019

**Policy Vote:** PUB. S. 5 - 2

**Mandate:** Yes

**Consultant:** Shaun Naidu

**Bill Summary:** SB 144 would eliminate a number of administrative fees imposed on a person related to involvement in the criminal justice system.

#### **Fiscal Impact:**

- State impact (direct): Major direct ongoing revenue loss to the state minimally in the hundreds of millions of dollars annually. A number of state funds and state entities would experience a revenue loss resulting from the enactment of this measure. Additionally, in some instances, the fee elimination would lead to unfunded positions and programs that still would be required to operate (e.g., the interlock ignition device (IID) program by the Department of Motor Vehicle (DMV)). This in turn would create cost pressures on the General Fund to backfill those losses. (General Fund, various funds)

Following are a few examples of the impact:

The elimination of certain court administrative fees would have a minimum impact of approximately \$150 million annually on the courts. Moreover, based on 2017-18 revenue data, ending the civil penalty assessment would translate to a loss of roughly \$105 million. The courts do not track the collection of all the fees impacted by this measure, so these figures do not represent the total loss that the judicial branch would experience.

Looking at just one aspect of how this bill would impact the Department of Corrections and Rehabilitation, it would experience an impact of around \$2.2 million with the loss of the administrative fee from inmates' and parolees' restitution fines. These monies, in part, go to fund 7.0 staff positions in the Office of Victim and Survivor Rights and Services to assist victims and payers with restitution matters. Similarly, this measure would render insolvent the Domestic Violence Training and Education Fund that is operated by the Department of Public Health to fund local grants and 2.0 staff positions on public health approaches to domestic violence prevention.

- County impact: Major ongoing revenue loss to local governments in the hundreds of millions of dollars annually in the aggregate. Some local costs resulting from this measure would be subject to reimbursement by the state to the extent that the Commission on State Mandates determines that the fees that would be eliminated by SB 144 allowed for sufficient cost recovery to pay for mandated programs or increased levels of service by the local agencies. Additionally, local costs



associated with this measure may be subject, in part, to Proposition 30 funding-service conditions. (Local funds, General Fund\*)

Proposition 30 (2012) exempts the state from mandate reimbursement for realigned responsibilities for “Public Safety Services” including the managing of local jails and the provision of services for, and supervision of, minor and adult offenders. The constitutional amendment, however, provides that legislation enacted after September 30, 2012 that has an overall effect of increasing the costs already borne by a local agency for public safety services transferred by the 2011 Realignment Legislation apply to local agencies only to the extent that the state provides annual funding for the cost increase. The provisions of Proposition 30 have not been adjudicated by the courts to date, but to the extent that this measure results in overall cost increases to the locals for programs and services determined to be included within the scope of Proposition 30, local agencies would not be obligated to provide those programs or levels of service above the level for which funding is provided by the state.

The actual impact to each county would vary, depending on a number of factors, including which fees are charged currently (as some counties waive certain fees), the collection practices of the county, the cost of fee collection—while some counties spend more to collect than they recoup, other counties/county agencies recoup more than the cost to collect (e.g., Fresno County spends approximately \$235,000 to collect approximately \$900,000 in probation-related fees)—and the number of people in a county who would be subject to the services and programs for which the administrative fees would pay.

An informal survey of a handful of counties showed the collection of the following amounts (which would be eliminated under this measure):

- Probation-related fees: \$24.7 million (partial numbers from 16 counties)
- Public Defender fees: \$1.5 million (partial numbers from 13 counties)
- Sheriff-related fees: \$2.4 million (partial numbers from 8 counties)
  - Looking at just some of the work furlough fees, Sacramento County collects \$3.7 million and Santa Clara County collects \$1.5 million.

Looking at one specific example of the local impact of SB 144, Los Angeles County would lose about \$2.5 million with the elimination of the \$15 fee a county is authorized to impose on a person who violates a written promise to appear in court or who otherwise fails to comply with a valid court order. These monies go specifically to pay for the county-wide warrant system.

**Background:** There are various fees imposed on individuals upon a criminal arrest, prosecution, or conviction. Generally, these fees are related to the cost of administering the criminal justice system, including administering probation and diversion programs, collecting restitution orders, processing arrests and citations, administering drug testing, incarcerating individuals, facilitating medical visits, sealing or expunging criminal records, punishing the lack of a person's appearance in court, monitoring a person while on parole, and using an IID as a condition to drive and to reinstate driving privileges.

Additionally, county public defenders' offices are required to defend any person who is charged with the commission of a crime but is not financially able to hire an attorney. At the conclusion of a trial, the court may make a determination of a defendant's present ability to pay all or a portion of the cost of the public defender; this may include an examination and determination by the court of whether the defendant owns real estate or other assets upon which a lien may be imposed. If the court finds that the defendant has the financial ability to pay, the court must order the defendant to pay all or a part of the costs the court believes reasonable and compatible with the defendant's financial ability.

**Proposed Law:** This bill would:

- Eliminate a number of fees and an assessment imposed on a person related to involvement in the criminal justice system and the ability to collect these fees.
- Make any unpaid balance of a court-imposed cost unenforceable and uncollectable and would require the court to vacate a judgment imposing those costs.
- Eliminate the ability of the court to impose a lien on a defendant's property and make a post-trial determination of the defendant's ability to pay and to order the defendant to pay the costs of the public defender.
- Eliminate the ability of the court to require a person convicted of a nonviolent drug possession offense to contribute to the cost of that person's placement in a drug treatment program, as allowed by Proposition 36 (2000).
- Eliminate the ability of the court to impose a civil assessment of up to \$300 against a defendant who fails to appear in court, after notice and without good cause, or who fails to pay any part of a court-ordered fine.
- Eliminate the requirement that a person on parole after the conviction of a registerable sex offense pay the costs associated with being monitored by a global positions system, as required by Proposition 83 (2006).
- Eliminate the requirement that a person who is required to use an IID because of the conviction of a specified offense to pay the costs of the IID.
- Eliminate the requirement that a person who is required to use an IID to pay DMV the fee to cover the costs of operating the IID program.

**Related Legislation:** SB 545 (Hill, 2019) would require the use of an IID for all persons convicted of a first driving under the influence of alcohol DUI offense and would require an extension of the IID use requirement if a person had a failed start, as defined, within 60 days prior to the end of the requirement. SB 545 is pending on the Suspense File of this Committee.

AB 2533 (Stone, Ch. 764, Stats. 2018) provided that a state prison inmate who has maintained an inmate trust account with \$25 or less for 30 consecutive days be deemed indigent and receive basic supplies necessary for maintaining personal hygiene.

SB 185 (Hertzberg, 2017) would have reformed court procedures and fine determinations related to infraction offenses. SB 185 was held on the Suspense File of the Assembly Committee on Appropriations.

SB 190 (Mitchell, Ch. 678, Stats. 2017) repealed the authority of local agencies to assess and collect fees against families of person subject to the juvenile delinquency system.

**Staff Comments:** As laid out in the analysis of this bill by the Senate Committee on Public Safety, SB 144 would eliminate—and, starting January 1, 2020, prevent the collection of—the following fees:

County fees:

- The public defender fee, including registration fee—a determination is made about whether a person can pay part of the public defender costs.
- Cost relating to the arrest of a person
- Administrative screening and citation fee
- Amnesty fee

Probation and specialty program fees:

- Reimbursement for probation monitoring of offenders in certain programs
- Costs of laboratory analysis related to diversion
- Home detention administrative fees
- Pretrial electronic monitoring fees
- Probation costs of removing offender from custody
- Drug testing while on probation
- Reasonable cost of probation
- Fees associated with a change of county
- Work furlough administration and application fee
- Electronic monitoring administration and application fee
- Work release administrative fee

Court fees:

- Administrative court fees for various petitions and motions, including change of plea, motion to dismiss a misdemeanor, petition to set aside a plea, motion to seal a juvenile record (by a person over 26)
- Civil penalty assessment for failure to appear
- Traffic fine installment plan collection fee
- Fee to help oversee traffic violator schools

IID program fee

Fees relating to incarceration:

- Reimbursement for incarceration in jail or prison
- Co-pay for medical visits in jail or prison
- Collection for healthcare costs of a juvenile to be paid by responsible party

Restitution-related costs:

- Fees to cover administrative costs to collect restitution by various entities.
- Administrative costs to cover income deduction by an employer



Fees relating to programs required by the nature of the conviction:

- Fee for animal ordinance class
- Fee for Static Risk Assessment for sex offenders
- Sex offender program fees
- \$500 domestic violence fee
- Domestic violence program fees
- Drug treatment programs
- Drug diversion programs
- Treatment of a child in a child neglect case
- Hazardous clean-up costs related to drug offenses

**-- END --**