

**JUDICIAL COUNCIL OF CALIFORNIA
ADMINISTRATIVE OFFICE OF THE COURTS**

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Report

TO: Members of the Judicial Council

FROM: Policy Coordination and Liaison Committee
Hon. Marvin R. Baxter, Chair
Collaborative Court-County Working Group on Enhanced Collections
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DATE: October 26, 2005

SUBJECT: Enhanced Collection of Court-Ordered Fines and Penalties (Pen. Code,
§ 1463.010) (Action Required)

Issue Statement

In 2003, Chief Justice Ronald M. George appointed representatives of courts, counties, and state agencies to the Collaborative Court-County Working Group on Enhanced Collections (“working group”). For two years, the working group has reviewed nearly all aspects of collection programs and made several recommendations for improving enforcement of court-ordered fines and penalties and respect for the rule of law. This report makes recommendations for legislative proposals that would further improve collection efforts across the state and would instigate a complete review of the criminal fine structure.

Recommendation

The Policy Coordination and Liaison Committee and the Collaborative Court-County Working Group on Enhanced Collections recommend that the Judicial Council sponsor legislation to:

1. Establish a task force on criminal court-ordered debt to (a) develop recommendations for simplifying California’s criminal court-ordered debt assessment, collection, and distribution system and (b) address issues such as priority of payments, cost recovery practices pursuant to Penal Code section 1463.007, and the expansion of comprehensive collection programs;
2. Reduce the minimum fine required by the Franchise Tax Board (FTB) Court-Ordered Debt Collection Program from \$250 to \$100;

3. Expand the FTB Court-Ordered Debt Collection Program to include collections for registration, pedestrian, and bicycle violations;
4. Allow a bail forfeiture process for courts to accept timely payments through a clerical process, in place of the current requirement that a defendant go to court and plead guilty in order to set up installment payments; and
5. Expand the use of enhanced collection programs, as defined in Penal Code section 1463.007, to allow the programs to collect public defender fees, booking fees, and other criminal justice–related fees.

The text of the proposed legislation is attached at pages 4–6.

Rationale for Recommendation

1. Creation of task force on criminal court-ordered fines and penalties

The criminal fine structure has been made so complicated by add-ons, surcharges, and penalty assessments that an offense with a \$100 base fine can result in an actual fine owed of nearly \$400. This often leaves the public confused and places judges and courtroom staff in the difficult position of calculating elaborate fines and explaining this often convoluted system to the public. A legislatively created task force on criminal court-ordered fines and penalties could recommend ways to simplify California’s criminal assessment, collection, and distribution system and could address issues such as priority of payments, cost recovery practices under Penal Code section 1463.007, and the expansion of comprehensive collection programs.

2. Reduction of minimum fine required by the FTB Court-Ordered Debt Collection Program from \$250 to \$100

A base fine of \$100 can result in a total fine of nearly \$400. Reduction of the minimum fine to be submitted has the potential to substantially increase the amount of debt collected. It is likely that the \$250 minimum was set prior to the dramatic increases in add-ons, penalty assessments, and surcharges of recent years.

This proposal could result in a significant workload increase for FTB’s staff. Before going forward with legislation, staff should consult with FTB. A potential remedy for this workload problem would be to make the submission of delinquent accounts at the lower amount permissive, only to the extent that FTB authorizes the court or county to submit the additional accounts.

3. Expansion of FTB Court-Ordered Debt Collection Program to include collections for registration, pedestrian, and bicycle violations

The FTB Court-Ordered Debt Collection Program has proven to be one of the most effective ways for courts and counties to recover debt. Currently, submission to FTB of fines for certain municipal code offenses is prohibited even if the fines are delinquent. If

court and county collection programs were allowed to submit their delinquent court-ordered debt to FTB regardless of type of violation, administrative efficiency and increased revenue would result.

This proposal could result in a significant workload increase for FTB's staff. Before going forward with legislation, staff should consult with FTB. This legislation could be drafted to allow the expanded use of the program contingent on FTB's ability to process the caseload.

4. Bail forfeiture process for timely payments

Under current law, once a court-ordered fine becomes delinquent, the bail amount is considered forfeited and the defendant can set up installment payments with the clerk. If a defendant wants to pay a fine in installments but the fine is not delinquent, the defendant must go to court and plead guilty before setting up the installment account with the clerk. This process is not efficient for defendants who pay on time. A bail forfeiture process for timely payments would allow defendants to set up installment payment accounts without first going before the court.

5. Penal Code section 1463.007 broadened to apply to public defender fees, booking fees, and other criminal justice-related fees

Penal Code section 1463.007 defines the elements of an enhanced collection program and sets the parameters for deducting the costs of collections prior to the distribution of the collected amounts. The section applies to all fees, fines, forfeitures, penalties, and assessments. The working group recommends legislation that broadens section 1463.007 to also apply to public defender fees and jail booking fees. This will allow for the efficient collection of all criminal justice related delinquent accounts.

Alternative Actions Considered

Not applicable.

Comments From Interested Parties

Not applicable.

Implementation Requirements and Costs

The cost of establishing a task force to undertake a complete review of the criminal fine structure might be significant. If the Judicial Council approves this proposal, AOC staff should work with affected entities to share this cost. Proposals 2 through 5 should not result in additional costs because the costs of collections can be offset against the collected fees and fines to the extent that courts and counties operate comprehensive collection programs.

Attachment

Penal Code section 1463.010 would be amended as follows:

1 **§ 1463.010**

2 The uniform imposition and enforcement of court-ordered debts is recognized as an
3 important element of California’s judicial system. ~~The enforcement of court orders is~~
4 recognized as an important element of collections efforts. The Prompt, efficient, and
5 effective imposition and collection of court-ordered fees, fines, forfeitures, penalties,
6 restitution, and assessments ensure the appropriate respect for court orders. To provide
7 for this prompt, efficient, and effective collection:

8 (a) The Judicial Council shall establish a task force to evaluate criminal court-ordered
9 debts imposed against adult and juvenile offenders. The task force shall comprise
10 the following members:

- 11 1. Four members appointed by the California State Association of Counties
- 12 2. Four members appointed by the League of California Cities
- 13 3. Two court executives, two judges, and two Administrative Office of the Courts
14 employees appointed by the Judicial Council
- 15 4. One member appointed by the State Controller
- 16 5. One member appointed by the Franchise Tax Board
- 17 6. One member appointed by the Victim Compensation and Government Claims
18 Board
- 19 7. One member appointed by the Department of Corrections and Rehabilitation
- 20 8. One member appointed by the State Treasurer
- 21 9. One member appointed by the Department of Finance

22 The Judicial Council shall designate a chairperson for the task force. The task force
23 shall, among other activities: identify all court-ordered fees, fines, forfeitures,
24 penalties, and assessments imposed under law; identify the distribution of revenue
25 derived from those debts; consult with state and local entities that would be affected
26 by a simplification and consolidation of criminal court-ordered debts; and evaluate
27 and make recommendations to the Judicial Council for consolidating and
28 simplifying the imposition of criminal court-ordered debts and the distribution of the
29 revenue derived from them. The task force also shall evaluate and make
30 recommendations to the Judicial Council regarding the priority in which court-
31 ordered debts should be satisfied and the use of comprehensive collection programs
32 authorized pursuant to section 1463.0007, including associated cost recovery
33 practices.

34 (a)(b) The Judicial Council shall adopt guidelines for a comprehensive program
35 concerning the collection of moneys owed for fees, fines, forfeitures, penalties, and
36 assessments imposed by court order after considering the recommendations of the
37 collaborative court-county working group established pursuant to subdivision (b).
38 As part of its guidelines, the Judicial Council may establish standard agreements for
39 entities to provide collection services. As part of its guidelines, the Judicial Council
40 shall include provisions that promote competition by and between entities in
41 providing collection services to courts and counties. The Judicial Council may

1 delegate to the Administrative Director of the Courts the implementation of the
2 aspects of this program to be carried out at the state level.

3 ~~(b)~~(c) The Judicial Council shall establish a collaborative court-county working group on
4 collections. The California State Association of Counties shall appoint eight
5 members of the working group. The Judicial Council shall appoint four court
6 executives, two judges, and two employees of the Administrative Office of the
7 Courts as members of the working group and shall designate a chair of the working
8 group. The working group shall, among other activities, survey courts and counties
9 regarding current collection efforts and evaluate a variety of methods to enhance
10 future collections—including, but not limited to, referring accounts to private
11 agencies for collection, develop a strategy for court and county cooperation in
12 collection plan discussions, consult with groups other than courts and counties that
13 are affected by collection programs, and evaluate and make recommendations to the
14 Judicial Council concerning current and future collection methods.

15 ~~(e)~~(d) The courts and counties shall maintain the collection program ~~which~~ that was in
16 place on January 1, 1996, unless otherwise agreed to by the court and county. The
17 program may be wholly or partially ~~be~~ staffed and operated within the court itself,
18 may be wholly or partially staffed and operated by the county, or may be wholly or
19 partially contracted with a third party. In carrying out this collection program, each
20 superior court and county shall develop a cooperative plan to implement the Judicial
21 Council guidelines. In the event that a court and a county are unwilling or unable to
22 enter into a cooperative plan pursuant to this section, the court or the county may
23 request the continuation of negotiations with mediation assistance as mutually
24 agreed upon and provided by the Administrative Director of the Courts and the
25 California State Association of Counties.

26 ~~(d)~~(e) Each superior court and county shall jointly report to the Judicial Council, as
27 provided by the Judicial Council and not more than once a year, on the effectiveness
28 of the cooperative superior court and county collection program. The Judicial
29 Council shall report to the Legislature, as appropriate, on the effectiveness of the
30 program.

31 ~~(e)~~(f) The Judicial Council may, when the efficiency and effectiveness of the collection
32 process may be improved, facilitate a joint collection program between superior
33 courts, between counties, or between superior courts and counties.

34 ~~(f)~~(g) The Judicial Council may establish, by court rule, a program providing for the
35 suspension and nonrenewal of a business and professional license if the holder of
36 the license has unpaid fees, fines, forfeitures, penalties, and assessments imposed
37 upon them under a court order. The Judicial Council may provide that some or all of
38 the superior courts or counties participate in the program. Any program established
39 by the Judicial Council shall ensure that the licensee receives adequate and
40 appropriate notice of the proposed suspension or nonrenewal of his or her license
41 and has an opportunity to contest the suspension or nonrenewal. The opportunity to
42 contest may not require a court hearing.

1 ~~(g)~~(h) Notwithstanding any other provision of law, the Judicial Council, after
2 consultation with the Franchise Tax Board with respect to collections under Section
3 19280 of the Revenue and Taxation Code, may provide for an amnesty program
4 involving the collection of outstanding fees, fines, forfeitures, penalties, and
5 assessments, applicable either statewide or within one or more counties. The
6 amnesty program shall provide that some or all of the interest or collections costs
7 imposed on outstanding fees, fines, forfeitures, penalties, and assessments may be
8 waived if the remaining amounts due are paid within the amnesty period.