



The Financial Impact of Court-Ordered Batterers' Intervention Programs in Los Angeles County

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Executive Summary

Courts in California impose many onerous terms and conditions of probation when an individual is convicted of a domestic violence charge, including the imposition of a 52-week batterers' intervention program that commonly charge weekly class fees. While the state and Los Angeles County have made several strides to eliminate certain fines and fees related to criminal, civil, and traffic proceedings, domestic violence fines and fees (as well as others like those associated with child abuse convictions) have not yet been addressed. The fees charged by batterers intervention programs can be substantial and can prove to be a barrier to an individual completing court-mandated conditions of probation. This study presents data from 83 of 142 batterers' intervention programs in Los Angeles County that indicate the variety and range of fees charged by these programs.

Key Findings

- The median cost per class (without taking into consideration sliding scale amounts) was **\$25 per week or \$1,300 for the year**
- **23%** of the programs do not offer a sliding scale option
- **86%** of programs charge a registration fee, with a median registration fee of \$40
- **Over half** of the programs do not accept fee waivers from the court
- **78%** of the programs will not provide an individual with proof of completion to submit to the court if they have an outstanding monetary balance, even if they have completed all 52 classes

Recommendations

- Eliminate all fees and fines associated with domestic violence convictions, including all of the fees associated with the batterers' intervention programs
- In the interim, other proposed measures include increased transparency from programs about their fines and fees, and the enforcement of fee waivers, sliding scale options, and payment plans to alleviate the burden of fines and fees on families in Los Angeles County

Introduction

Over the last 5 years, the state of California has implemented programs and policies to reduce and eliminate fines and fees imposed on Californians by the criminal, civil and juvenile legal systems. Much of this change came on the heels of the death of Michael Brown in Ferguson, Missouri at the hands of law enforcement. An investigation by the Department of Justice into the Ferguson Police Department after the death of Michael Brown found a systematic pattern of wealth extraction from Black communities by the courts and law enforcement.² This prompted much research into and many reforms of California's practices around court fines and fees imposition and collection.

From 2015-2017, California enacted a statewide temporary program to provide reductions in previously imposed bail or fines for traffic and non-traffic violations.³ The state legislature realized that, for many, the impact of unpaid fines resulted in driver's license suspensions, which can further depress an individual's economic situation. Shortly thereafter, in 2017, California's omnibus budget bill contained a provision to stop suspending driver's licenses for failure to pay fines.⁴

In 2018, California was the first state to eliminate all administrative fees for juvenile delinquency cases.⁵ SB 190 did not discharge fees assessed before 2018 or provide refunds for fees already paid before 2018.⁶ However, Los Angeles County had already eliminated these fees in 2009. Since the County had not discharged debt incurred prior to 2009, in 2018, its Board of Supervisors passed a motion to discharge pre-2009 juvenile delinquency debt.⁷ California also passed AB 2495 in 2018, which prevents its cities and counties from charging individuals for the investigation, prosecution or appeal of their criminal case.⁸

In early 2020, the Los Angeles Board of Supervisors eliminated criminal administrative fees, making Los Angeles County the fourth county in the state to eliminate these fees.⁹ California has yet to pass SB 824, which would repeal the authority to collect certain criminal administrative fees statewide including fees for public defenders, booking, mandatory drug testing and costs related to incarceration and probation supervision.¹⁰ However, 23 criminal fines and fees are set to be eliminated as part of a budget trailer bill, which if passed, will take effect in July 2021.¹¹

The recent attention to and elimination of many fees and fines in the criminal court system in Los Angeles and the state marks progress towards ending the punishment of poverty. It is also one of the many steps that Los Angeles County has taken in furtherance of its "care first, jail last" mission, which seeks to move the county away from "a purely punitive criminal justice system model."¹² One category of fees that have not yet been eliminated are program fees. When an individual is convicted and placed on probation for certain offenses, their probation terms can include the imposition of programs such as anger management programs, child abuse prevention classes, drug and alcohol classes, and batterers' intervention programs. Many of these programs are mandated by statute. Fees for these programs are not payable to the court, but instead are collected by these programs themselves.

This report highlights one of these categories of programs that charge fees: those of batterers' intervention programs ("BIP") in Los Angeles County. When someone is convicted of a domestic violence crime¹³, they are subject to several fees:

1. A court-imposed fee for domestic violence programs¹⁴:	\$500
2. A court-imposed restitution fine¹⁵:	a minimum \$150/\$300 per misdemeanor/felony conviction
3. Court operations assessment fee¹⁶:	\$40 per conviction
4. Restitution¹⁷	Not a fixed amount
5. Per class fee for a 52-week BIP¹⁸	Varies

A person convicted of one count of a misdemeanor domestic violence charge, attending the most expensive BIP program that this study identified could end up owing a total of \$4,070 plus restitution.

As this report articulates, the criminal justice debt that an individual convicted of a domestic violence charge incurs can often be well beyond the person's ability to pay. This can lead to many consequences for this individual, including re-incarceration. This cycle of incarceration based on expensive program fees warrants attention in the larger conversation around fines and fees and the burdens they place on communities of color and poor communities in Los Angeles County.

This report compiles information from 83 of the 142 BIP programs in Los Angeles County. The data and findings point to BIPs' role in contributing to probation violations and subsequent jailing of poor people by charging steep per class fees, refusing to accept court fee waivers or not offering sliding scale payments, among other practices documented. Based on this information, several interim recommendations are proposed as well as the ultimate recommendation to completely eliminate the fines and fees associated with domestic violence charges.

The Problem

The Los Angeles County Probation Department generates a list entitled “Approved 52-Week Batterers’ Intervention Programs.”¹⁹ There are 142 programs on the 2020 list and each programs’ address, telephone number and limited special information is provided, such as in what language the programs are offered or if they are gender-specific. Generally, an individual who is convicted of a domestic violence crime will be given this list of programs after a conviction and it is their responsibility to locate and enroll in a program.

Other than a listing of three program locations offered through the Department of Veterans Affairs as having “free services”, there is no other information on this Probation generated list of the costs associated with any particular program. While over half of the programs interviewed for this report have websites, only eight of them advertise their prices on the website. Thus, an individual who is given this list must either call or visit in-person each program to determine whether or not they can afford the program. People on probation often face numerous burdens on their time and adding such an obstacle to their ability to enroll in a court-mandated program can often lead to delays or difficulties in enrollment. As illustrated by a report authored by the Let’s Get Free LA Coalition, one individual ordered to take a 52-week course “tried for months to identify classes he could afford, to no avail. The Probation Department confirmed that there were no free or waived-fee classes offered near the individual’s home.”²⁰

Individuals typically have a date by which to show proof of enrollment to the court. If someone, like the individual mentioned above, has to try for months to enroll and is unable to enroll because they cannot find a program they can afford, this could be a potential probation violation.

Additionally, the various costs associated with these programs as well as the other court fees and restitution imposed after a domestic violence conviction can be an incredible burden to many individuals facing these convictions. According to a 2020 Federal Report, 37% of American adults lack the savings necessary to cover an unanticipated expense of \$400 or more.²¹ Further, people impacted by the justice system tend to have much lower incomes compared to those who are not. Nationally, 66% of people on probation make less than \$20,000 a year. This means that the maximum fines/fees for one misdemeanor domestic violence conviction as calculated above (\$4,070), could amount to 20% or more of an individual’s salary.

A 2009 study conducted by the Judicial Council of California on BIP specifically found that the majority of people enrolled in these programs were “poor”, with nearly 20% of the people reporting no income for the past year.²² This same report found that as an individual’s self-reported income increased, the rate of completion also increased.²³ Thus, individuals with less money face obstacles to completing their probation terms as compared to those who can afford it, leading to negative outcomes for those without the finances to afford these costs.

Because people fear these probation violations, they often are forced to take out loans to pay for these costs or take drastic measures such as donating their own plasma multiple times to cover their fees.²⁴ Further, the individual who is convicted is not the only one impacted by court-related costs. Research has found that two in three families had difficulty meeting basic needs as a result of a loved one’s conviction.²⁵

However, it is often the case that an individual or their loved ones are not able to scrape together the finances to cover these fees. The consequences of these fines and fees, once imposed, can and do perpetuate the practice of debtors' prisons as individuals who cannot pay are often subsequently jailed for not completing probation terms, including failure to complete their 52-week BIP because they could not pay the weekly program fee.²⁶ Incarcerating someone for a non-willful failure to pay has been explicitly deemed illegal in the case *Bearden v. Georgia*.²⁷ However, as others have noted, in practice, courts will frame the decision to incur jail time in exchange for eliminating probation terms (like remaining BIP classes) as a "choice".²⁸ Most often this "offer" from the courts comes without any inquiry into the individual's ability to pay.²⁹ While state law provides that the \$500 fee, BIP program per class fee and restitution must be determined based on an individual's ability to pay, it is infrequent that courts engage in such an analysis.³⁰ Because many individuals cannot predict or guarantee a change in their financial situation they may "choose" the offer for jail time from the court in order to wipeout the fines/fees owed. The outcome, thus, is a probation violation for the individual and incarceration.

Methodology

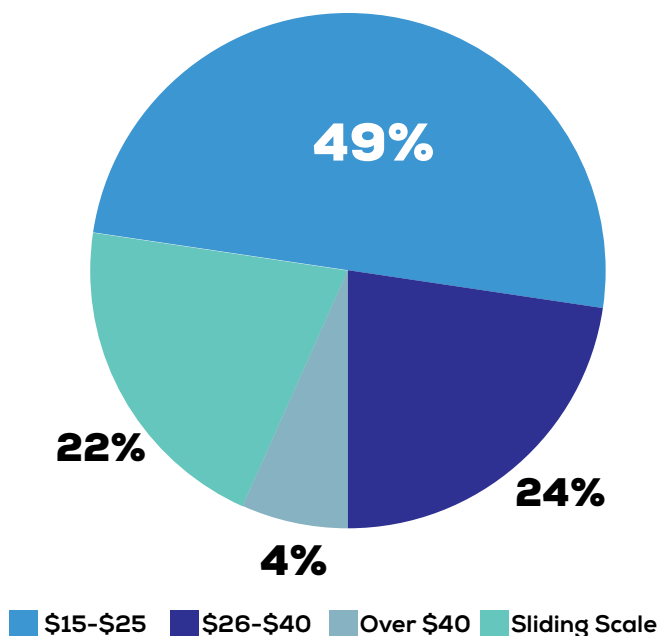
In an effort to uncover what BIPs charge in Los Angeles County, calls were placed to every program on the Probation Department list, with full interviews conducted of 83 out of the 142 programs. All programs were asked the same series of questions to determine a variety of information related to program fees, assessment of sliding scale, and fee waivers. The interviews were conducted with one employee from each program, with the employees' positions ranging from office clerk to billing administrator to executive director. Answers were then coded for each program and analyzed accordingly.

Analysis

The following analysis provides the key data points related to program fees that could be obstacles to individuals' ability to enroll in and complete a BIP.

Weekly Cost per class

Without taking sliding scale pricing into consideration, programs ranged in their weekly cost per class from a low of \$15 to a high of \$150. That is an annual range of course tuition from \$780 to \$3,380. For the 64 courses that have a fixed per class cost, the median cost was \$25 per class, which equates to \$1,300 annually.



Sliding Scale

California law requires that the court or probation department shall refer each person to a batterers' intervention program that abides by a litany of standards, one of which is that the program must offer a sliding scale based on the individual's ability to pay.³¹ The law states that each program "shall develop and utilize a sliding fee scale that recognizes both the defendant's ability to pay and the necessity of programs to meet overhead expenses."³² Los Angeles County Probation Department's Standards for the Intervention and Treatment of Court Ordered Domestic Violence Offenders (last updated in 2012) also requires BIPs to utilize a sliding fee schedule which should be approved by the Probation Department.³³ While this may give programs broad discretion in determining the range of their sliding fee scale, it still remains that programs must offer a sliding scale.

Nineteen (23%) of the programs called do not offer a sliding scale option. 13 of the 64 programs that do offer a sliding scale would not disclose the sliding scale option over the phone, mostly responding that the sliding scale depends on the individual's situation. Of those programs that did disclose the sliding scale range, the range of the lowest cost for each program was from \$5 – \$70. Almost all of the programs stated that they based the sliding scale amount on financial need and income. Only one of the programs disclosed exactly how they calculate the sliding scale.

Thus, an individual seeking information about a sliding scale fee amount before attending a class would not frequently be able to do so without going to the program in person and providing documentation about their financial situation. If they cannot afford the sliding scale fee offered to them, they would have to continue to visit programs until they find one they can afford.

Fee Waivers

California law allows a court to waive the program fee after a hearing and a finding by a court that the individual does not have the ability to pay even a nominal fee.³⁴ How this often works is that an individual has identified a program that is convenient for them for whatever reason, they enroll in the program and the program fee is determined. If the program will not provide a fee that the individual can afford, the individual returns to court to request a fee waiver. At this stage, some courts may grant a fee waiver or if the individual does not bring proof of income or expenses to the court hearing, a judge may ask the individual to return once again to court to provide the necessary proof. If the fee waiver is granted, the individual takes that back to the program and expects the program to accept the fee waiver. Research indicates that fee waivers are often hard to obtain and that court practices vary widely across Los Angeles County.³⁵

If someone in Los Angeles County does manage to get a court to waive their program fee, they will find that 55% of programs contacted do not accept fee waivers from the court. This leaves individuals at a loss for where they can seek relief from the fees associated with BIP classes. Of the programs that do accept fee waivers from the court, many had conditions on those acceptances. For example, some programs said the fee waiver would only apply for half of the classes, others will not waive the fee completely (meaning they will not reduce the cost to \$0), while others said only a certain number of people enrolled in a given class series could benefit from a fee waiver. One program that does not accept fee waivers stated that judges don't understand that the programs are not paid through external funding, suggesting they rely on collecting program participants' fees to stay in business.

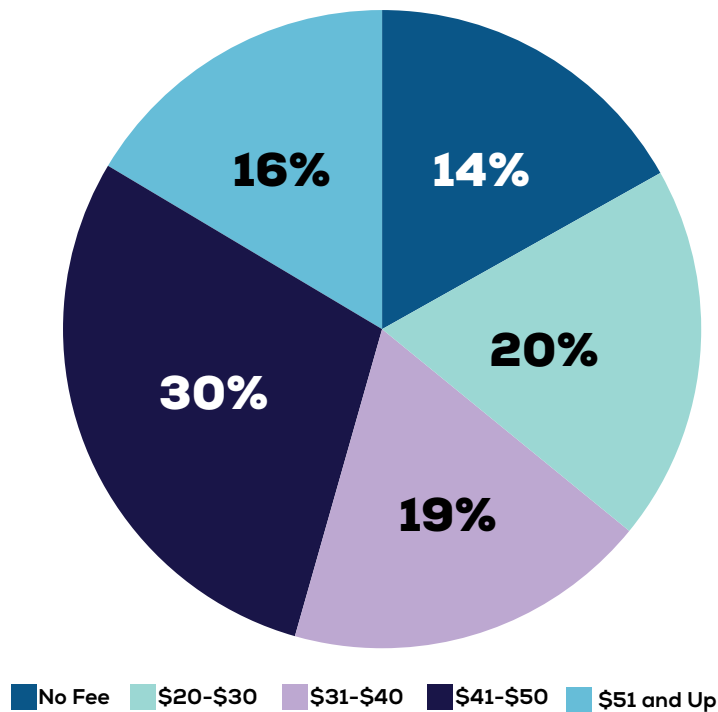
Payment Plans

One of the statutory requirements for BIPs is that the participant should be allowed to negotiate a deferred payment plan.³⁶ However, 31 of the programs (or 37%) do not offer the possibility of a payment plan.

Additional Fees Incurred

Only 14% of programs charge no registration fee. Programs that do charge a fee vary in their pricing. Registration fees varied from \$20 to \$128 with a median registration fee of \$40. Eleven programs offer a sliding scale for their registration fee, but only two of those programs indicated that the registration fee could be waived entirely if someone could not afford to pay. 66% of the programs require an individual to pay the registration fee before they can be assessed for a sliding scale per class amount. If an individual does not have the money to pay the registration fee, it seems as they would be shut out from accessing the majority of the programs.

Registration Fee



Sixteen of the 83 programs charge a fee for absences, and some of those programs only charge an absence fee when the absence is unexcused. The fee for absences ranges from \$3 for a missed class up to \$30, or the same as that program's price per class. The Probation Department's standards explicitly state that fees are not to be charged for absences.³⁷ Courts often ask for progress reports from the individual throughout the 52-week period, to follow an individual's progress. Three programs charge a fee for providing a report to the court, ranging from \$5 to \$40; one program charges a fee after the first report; and three programs charge a fee for a "same day" report.

In addition to the more common fees associated with these programs like the registration fee, fee for absences, and fee per class, many programs charge for other aspects of their programs.

Additional fees programs charge are:

- Fees for reinstatement after an individual has been dropped from the class
- Fees for the exit interview which allows the individual to then show proof of completion to the court
- Fees for class materials and to replace lost class/program materials
- Fees for makeup classes (in addition to the fee for the class that was missed)

It is unclear whether these programs are up front about these additional fees when someone enrolls in the program or if these fees become an additional and unexpected burden as the person nears completion.

Compliance with Probation Conditions

The 2009 Judicial Council report on BIPs found that "Nonpayment of fees was frequently cited as a reason for program termination and/or failure to complete [the program]."³⁸ It seems that these practices still occur today. Thirty-one (37%) of the programs contacted indicate that an individual will be terminated from their program or "sent back to court" if they cannot pay at any point during the 52-week program. Some of these programs will give somewhat of a grace period (3 weeks or 30 days in most cases) but will eventually terminate the individual for lack of payment. Six programs indicated that if an individual cannot pay the program would refer them to another program, even though the Probation Department's standards specifically indicate that inability to pay cannot be a basis to refuse enrollment.³⁹ Being discharged from the program can be a probation violation that could lead to re-incarceration.

Once an individual has completed all 52 classes, the program will issue a proof of completion to the court. However, 65 of the programs contacted (78%) will not provide proof of completion to the court if the individual has an outstanding monetary balance. If the proof of completion is not sent within the allotted time period by the court, the individual will be considered in violation of probation.

Thus, a person's ability to complete their terms of probation relies on their bank balance and not on whether they have put the time and effort into completing their obligations.

Recommendations

The batterers' intervention programs contacted for this report indicate that across Los Angeles County there is a wide spectrum of practices around program fees, fee waivers, and completion of probation terms. While some of the programs contacted were willing to work with individuals and their financial situation or refer people to other programs without instigating the process of a probation violation, there is no consistency and many of the programs' practices would likely result in a violation of probation and potentially subsequent incarceration. Although incarceration for inability to pay is unlawful, this is one of those instances in which the daily experience of the court process operates outside of lawful bounds for those who do not have the ability to pay. While this issue has been documented as continuing the practice of debtors' prisons, and California and L.A. County have made great strides in eliminating fines and fees, program fees are another category that deserve attention so that more people do not end up incarcerated simply because of their financial situation. The following recommendations can help to address this problem.

Central Recommendation: Eliminate Statutory & Program Fees

As previously stated, the County has acknowledged on multiple occasions the immense burden of court fees on many Angelenos. The County has also found that only 9% of the \$121 million in fines and fees imposed since 2014 were actually collected by the County.⁴⁰ Thus, while the \$500 statutorily mandated fee is meant to, in part, fund domestic violence programs and education, the fact that this revenue remains largely un-collected, means that these programs and initiatives are already not receiving funding from those convicted of crimes and burdened by criminal justice debt. Although a legislative change may be ultimately necessary to permanently eliminate the \$500 fee, judges in Los Angeles County do have the discretion to refrain from imposing these fees now. As the American Bar Association has noted in its opinion on judges' ethical obligations regarding fines and fees, "Failure to adopt and consistently follow 'carefully prescribed procedures' in proceedings that could result in incarceration for failure to pay strikes at the very roots of the fair and impartial administration of justice and poses a direct threat to public faith in the legitimacy of the judicial process."⁴¹

Fees associated with programs should also be eliminated. As laid out above, the fees associated with BIPs can be incredibly high and the process for getting them waived arduous and ineffective. There is an evident tension when programs need to collect program fees to stay afloat (as was explicitly stated in at least one program interview) and when a participant in the program requires a fee waiver, sliding scale, or a payment plan. Although some programs were flexible and would agree to work with individuals, they all ultimately still needed to collect the agreed upon amount at some point. The impact of these fees on people who are already financially struggling are immeasurable and can often result in other negative consequences for that individual and a revolving door of incarceration. To prevent individuals from having to prove their financial situation repeatedly, to different decisionmakers, and sometimes to no avail, a policy that eliminates program fees across the board would be the most equitable and would ease the process of enrollment and completion of the programs.

While this report does not cover other program and statutory fees such as those associated with child abuse prevention classes, anger management, or drug and alcohol awareness, these classes are similarly situated to the BIPs and any fees associated with them should also be eliminated. These recommendations are consistent with those put forth by the Los Angeles County Alternatives to Incarceration workgroup in their 2020 report.⁴²

This recommendation should not be construed to mean that state and local governments have no responsibility to supplant the funds that could be lost through the elimination of these fees. In fact, it should remain a priority to provide domestic violence prevention, response, shelter, and education and instead to allocate to these important efforts a more stable stream of funding rather than relying on fines and fees, which are often not actually collected. Thus, there should be government streams of funding allocated to both BIPs and other domestic violence programs, shelters, and education.⁴³

Interim recommendations:

Until elimination of these fees occur, the following additional proposals could be helpful to alleviate the burdens of these programs on individuals navigating their probation terms.

1. Increase Program Transparency

The program list given to those convicted of a domestic violence crime provides no information about the cost of the program, registration costs, if they offer sliding scale fees, what paperwork an individual must bring to the program to be offered a sliding scale fee, nor does it include any of the additional fees an individual might have to pay as documented above, once enrolled in the program. The Probation Department, which publishes the list of programs, should publish the list with all of the necessary financial information to assist people in choosing a program that will work for their unique financial situation.

2. Enforce Fee Waivers and Sliding Scale Options

The Probation Department is required to implement “an approval and renewal process” for BIPs and the Los Angeles County Probation Department has explicitly stated that a sliding fee scale must be offered after approval by the Department.⁴⁴ In both the approval and renewal process, Probation should ensure that programs are made aware that they must accept fee waivers from the court and that absent a fee waiver they are still required to offer sliding scale options and payment plans. The Probation Department could implement a regular reporting/audit process to verify that BIPs are accepting unlimited fee waivers when granted by the court, that they offer a sliding scale, and are allowing for payment plans.

The Probation Department should also add a policy that an individual attempting to enroll in a BIP should not be required to pay a registration fee prior to the assessment of the sliding scale cost for that individual. The registration fee should also be required to be on a sliding scale and the ability to be waived if a person is unable to afford it.

Court time is often taken up by multiple hearings regarding individuals’ ability to pay program fees. Not all judges will consider ability to pay at the sentencing phase, requiring an individual to come back potentially multiple times to court to obtain a fee waiver. This process takes up court resources on a matter that could be handled with just one court appearance. Thus, judges should receive training on conducting ability to pay hearings and making findings at the point of sentencing. Judges are already required to inform individuals at sentencing of their constitutional rights and in the same vein, judges should be required to inform individuals that there will be fees and fines attached to their probation terms, to affirmatively ask if the individual can afford them, and to adjudicate the issue at sentencing through a hearing with findings regarding the individual’s ability to pay (unless the hearing/issue is waived by the individual or counsel).

Endnotes

1 Alicia Virani is The Gilbert Foundation Director of the Criminal Justice Program (CJP) at UCLA School of Law. Many thanks to: Isabelle Ortiz-Luis and Naomi Haryono, two UCLA undergraduate student workers with CJP, for the hours of labor they put into calling these organizations and diligently recording and organizing the data collected; to Karina Silva, CJP's summer law student clerk for making additional calls and all her research support; the Let's Get Free LA Coalition for their feedback and input and brilliant visions for transformation; Jordana Siracusa, Meredith Gallen, Leslie Wolf and Emerald Berg for their insights into the day-to-day operations of the court and domestic violence providers, and the burdens placed on your clients by the system; Máximo Langer for your incredible edits; and Ben Nyblade and Henry Kim for your assistance with the data analysis and mapping.

2 Civil Rights Div., U.S. Dep't of Justice, Investigation of the Ferguson Police Department (2015), https://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson_police_department_report.pdf.

3 Cal. Veh. Code § 42008.8.

4 A.B. 103 (2017), codified at Cal. Veh. Code §§ 13365, 40509 and 40509.5

5 S.B. 190 (2018), codified at Cal. Gov. Code §27757.

6 *Id.*

7 Motion by Hilda L. Solis and Janice Hahn, Discontinuing Collection of Outstanding Juvenile Detention Fees (Oct. 9, 2018), <http://file.lacounty.gov/SDSInter/bos/supdocs/128147.pdf>.

8 A.B. 2495 (2018) codified at Cal. Penal Code § 688.5.

9 Motion by Hilda L. Solis and Sheila Kuehl, Eliminating Los Angeles County Criminal System Administrative Fees (Feb. 18, 2020), <http://file.lacounty.gov/SDSInter/bos/supdocs/144092.pdf#:~:text=Eliminating%20Los%20Angeles%20County%20Criminal%20System%20Administrative%20Fees,to%20be%20punitive%20or%20restorative%20but%20are%20simply>.

10 Families over Fees Act, S.B. 824 (2020).

11 *Id.*

12 Eliminating Los Angeles County Criminal System Administrative Fees, *supra* note 9.

13 These programs are imposed on anyone charged with a crime where the victim is: a spouse or former spouse; a cohabitant (one who regularly resides in the household) or former cohabitant; someone with whom the person is or was in a dating or engagement relationship; a person with whom the respondent has a child (with some caveats); or anyone with the same ancestor of the person convicted. Cal. Fam. Code § 6211. This indicates how broad a category of crimes fall under this definition and those who would be subject to BIP programs as a probation condition.

14 Cal. Penal Code § 1203.097(a)(5)(A). Two-thirds of this fee goes to the county's domestic violence programs special fund. The remaining one-third of the fee is split evenly between the Domestic Violence Restraining Order Reimbursement Fund and the Domestic Violence Education Fund.

15 Cal. Penal Code § 1202.4(b)(1).

16 Cal. Penal Code § 1465.8.

17 Cal. Penal Code § 1203.097(a)(11)(B).

18 Cal. Penal Code § 1203.097.

19 County of Los Angeles Probation Approved 52-Week Batterers' Intervention Programs (2020), <http://www.lacourt.org/division/criminal/pdf/DomesticViolenceProgramList.pdf>.

20 LET'S GET FREE LA COALITION, COSTS OF INJUSTICE, HOW CRIMINAL SYSTEM FEES ARE HURTING LOS ANGELES COUNTY FAMILIES (2019), <https://www.aclusocal.org/en/publications/costs-injustice-how-criminal-system-fees-are-hurting-los-angeles-county-families>.

21 BD. OF GOVERNORS OF THE FED. RESERVE SYS., REPORT ON THE ECONOMIC WELL-BEING OF U.S. HOUSEHOLDS IN 2019 (2020), <https://www.federalreserve.gov/publications/2020-economic-well-being-of-us-households-in-2019-dealing-with-unexpected-expenses.htm#:~:text=Report%20on%20the%20Economic%20Well-Being%20of%20U.S.%20Households,handle%20unexpected%20expenses%20had%20improved%20markedly%20since%202013>.

22 DAG MACLEOD ET AL., BATTERER INTERVENTION SYSTEMS IN CALIFORNIA, AN EVALUATION, Judicial Council of California, 55, 98 (2009), <https://www.ncjrs.gov/pdffiles1/nij/grants/230702.pdf>.

23 *Id.* at 71.

24 The Ella Baker Center found that 1 in 5 families had to take out a loan to cover court-related costs. ELLA BAKER CENTER, WHO PAYS? THE TRUE COST OF INCARCERATION ON FAMILIES (2015), <http://whopaysreport.org/who-pays-full-report/>; COSTS OF INJUSTICE, *supra* note 20 .

25 *Id.*

26 ALICIA BANNON, ET AL., CRIMINAL JUSTICE DEBT: A BARRIER TO REENTRY (2010), <https://www.brennancenter.org/our-work/research-reports/criminal-justice-debt-barrier-reentry>

27 *Bearden v. Georgia*, 461 U.S. 660 (1983).

28 *Bannon*, *supra* note 26.

29 ETHICAL OBLIGATIONS OF JUDGES IN COLLECTING LEGAL FINANCIAL OBLIGATIONS AND OTHER DEBTS, FORMAL OPINION 490, AM. BAR ASS'N (2020).

30 The court shall order the defendant to comply with all probation requirements, including the requirements to attend counseling, keep all program appointments, and pay program fees based upon the ability to pay. Cal. Penal Code § 1203.097(a)(7)(A)(i); “For any order to pay a fine, to make payments to a battered women’s shelter, or to pay restitution as a condition of probation under this subdivision, the court shall make a determination of the defendant’s ability to pay.” Cal. Penal Code § 1203.097(a)(11)(B). A Brennan Center report indicates that courts “rarely hold hearings to establish defendants’ ability to pay.” Matthew Menendez et al., *The Steep Costs of Criminal Justice Fines and Fees* (2019), <https://www.brennancenter.org/our-work/research-reports/steep-costs-criminal-justice-fees-and-fines>.

31 Cal. Penal Code § 1203.097 (c)(1)(P).

32 *Id.*

33 LOS ANGELES COUNTY PROBATION DEPARTMENT, “DRAFT” STANDARDS FOR THE INTERVENTION AND TREATMENT OF COURT ORDERED DOMESTIC VIOLENCE OFFENDERS (2012). This document is on file with author pursuant to a California Public Records Act Request. The document received is titled “draft” and has many comments in parentheses editing, altering, or disputing certain provisions. However, the author was informed by the Probation Department that this is the policy that is currently being used and is not finalized. Unless otherwise noted, the author only included Probation Department provisions that did not have comments, and thus is operating under the assumption that this is the active policy.

34 Cal. Penal Code § 1203.097(c)(1)(P).

35 *See* BANNON, ET AL., *supra* note 26 (indicating that only 6% of fines and fees in Texas were waived); *see also* TARA GAMBOA EASTMAN, *THE PROBLEM WITH PROBATION: A STUDY OF THE ECONOMIC AND RACIAL IMPACT OF PROBATION FEES IN CALIFORNIA* (2018), https://wclp.org/wp-content/uploads/2018/06/TheProblemWithProbation_GamboaEastman_ForWCLP_Final.pdf (finding that ability to pay proceedings in California rarely occur and thus provide little relief to those who are low-income and on probation); *see also* COSTS OF INJUSTICE, *supra* note 20.

36 *Id.*

37 STANDARDS FOR THE INTERVENTION AND TREATMENT OF COURT ORDERED DOMESTIC VIOLENCE OFFENDERS, *supra* note 33.

38 MACLEOD, *supra* note 22.

39 STANDARDS FOR THE INTERVENTION AND TREATMENT OF COURT ORDERED DOMESTIC VIOLENCE OFFENDERS, *supra* note 33.

40 CHIEF EXECUTIVE OFFICE, REPORT BACK ON ADDRESSING FINES AND FEES ASSOCIATED WITH CRIMINAL JUSTICE INVOLVEMENT (2019), http://file.lacounty.gov/SDSInter/bos/bc/1065611_121319.B101299.FinesandFees.bm.pdf

41 FORMAL OPINION 490, AM. BAR ASS'N, *supra* note 29.

42 LOS ANGELES COUNTY ALTERNATIVES TO INCARCERATION WORKGROUP, CARE FIRST, JAILS LAST, 61 (2019), https://lcalternatives.org/wp-content/uploads/2020/03/ATI_Full_Report_single_pages.pdf

43 In May 2020, Governor Gavin Newsom announced \$5 million in funding with a promise to secure additional private funding to support several domestic violence initiatives around the state, funds that could potentially be drawn from to replace the money programs may lose if these fines and fees are eliminated. Office of Governor Gavin Newsom, Governor Newsom and First Partner Siebel Newsom Announce New and Expanded Support for Victims of Domestic Violence (May 29, 2020), <https://www.gov.ca.gov/2020/05/29/governor-newsom-and-firstpartner-siebel-newsom-announce-new-and-expanded-support-for-victims-of-domestic-violence/>.

Legislation that eliminates these fines and fees should include a provision to backfill revenue to jurisdictions that lose money from the repeal of these fines and fees, similar to the backfill provided for by A.B. 1869 (2020)

44 Cal. Penal Code § 1203.097(c); STANDARDS FOR THE INTERVENTION AND TREATMENT OF COURT ORDERED DOMESTIC VIOLENCE OFFENDERS, *supra* note 33.