

California Should Eliminate Fees in the Criminal System

Eliminating Fees – Here’s Why Doing So is Better Than Ability to Pay (ATP) Solutions:

- Most people in the criminal system are low-income. Over 85% of people are indigent and qualify for the services of a public defender. So if ability to pay (ATP) worked when it was supposed to, the significant majority of people would be screened out of paying.
- Ability to pay does not address the issue at its root. Due to the over-policing and over-targeting of low-income communities and communities of color, low-income people and Black and Latinx people are disproportionately involved in the criminal system. As a result, they face significantly more fees, essentially creating a regressive tax on these communities. Ability to pay does not address the underlying racial bias and discrimination in our courts and public safety systems, and only further legitimizes a harmful system.
- Ability to pay determinations rarely occur and are highly discretionary. Practices can vary widely across counties and even between courtrooms. Many courts do not even conduct these determinations. For those that do, few guidelines exist. As a result, some judges or financial evaluation officers may consider highly subjective factors—like the type of shoes a person is wearing or the car they drive—in determining if they have the ability to pay.
- Ability to pay processes place a high burden on the individual to show “inability to pay.” Many people in the system are struggling to make ends meet but may not qualify for ability to pay programs because they do not satisfy the court or county’s standard of low-income. Even if someone is determined to be low-income, their fees are rarely waived in full. Most are placed on a payment plan that can last for years or even decades. Some are offered community service as an alternative to payment, which often comes with its own set of burdensome fees and can be difficult to complete.
- Running an ability to pay process is administratively costly and yields little net revenue. The majority of people who are involved in the criminal system and who are charged fees are low-income. Counties often either improperly charge people who cannot pay, and net little revenue, or spend significant resources determining that the majority of people cannot afford to pay, and net even less. In fact, for every dollar collected, California counties spend on average 69 cents on assessment and collections.

Simply put, there is no efficient or fair way to charge fees. Any solution that does not contemplate full elimination only shifts discretion and perpetuates existing racial biases in the system.

For more information about the Debt Free Justice California Coalition, go to:

<https://ebclc.org/cadebtjustice/about/>