



April 20, 2020

Dear Presiding Judges of the Superior Courts of California,

We write to request your immediate action on a matter of serious concern to residents in your county that have been negatively impacted by debt imposed for juvenile and criminal legal system involvement, traffic violations, and infractions (hereinafter referred to as “government-imposed debt”).

In acknowledgement of the urgent and increasing need for debt relief due to the economic fallout from COVID-19, superior courts should act within their existing and new authority granted by Chief Justice Tani G. Cantil-Sakauye¹ to immediately suspend the assessment and collection of all government-imposed debt² for 120 days or until the second month following the end of the public health emergency, whichever is later.

Some courts have already suspended payment obligations for government-imposed debt. For example, San Bernardino County extended all payment due dates that fall between March 17 and April 30.³ Fresno County has suspended traffic infraction collections activity until June 22.⁴ San Francisco County has offered a 60-day suspension of collection for people on payment plans.⁵ Los Angeles County is not sending traffic and infraction matters to collections if they remain unpaid or assessing civil assessments.⁶

Acknowledging the difficult times many Californians are facing, State Controller Betty Yee placed a moratorium on the Franchise Tax Board’s collection of all government-imposed debt through its Interagency Intercept Collection and Court-Ordered Debt Collection programs.⁷

Oregon’s state courts have suspended the imposition of collection fees, referrals to state revenue departments and private collection agents, issuing new garnishment orders, imposing late fees, and sending delinquency notices.⁸ Similarly, Maine’s court system has vacated warrants for unpaid fines, restitution, fees, and failure to pay/appear as well as extended the deadline to pay such debt until May 4.⁹

Given the Governor’s COVID-19 State of Emergency and the deepening economic impacts of the public health crisis in the state, including the substantial loss of income hindering Californian’s ability to pay for rent, food, utilities, and other necessities, **we urge you to take the following actions:**

- I. *Suspend Collection Activity:* Immediately suspend collection of payment for all government-imposed debt including collection by court clerk offices or collection units and third-party collection agents for no less than 120 days or until the second full month following the end of the public health emergency, whichever is later, including by:
 - a. Adopting a proposed rule or rule amendment pursuant to authority under rule 10.613(i) of the California Rules of Court that would suspend payment obligations.
 - b. Discharging the collection program from further accountability pursuant to authority under Government Code section 25259.9.¹⁰
 - c. Issuing stop work orders to and/or temporarily amending agreements to cease collection services by third-party agencies (e.g., Alliance One, GC Services, Linebarger Goggan Blair & Sampson, Municipal Services Bureau, Financial Credit Network, Progressive Financial, Wakefield, RCA).

2. *Suspend Referrals to Franchise Tax Board:* Building on the FTB’s March action,¹¹ immediately recall past referrals and stop making new referrals of outstanding government-imposed debt to the Franchise Tax Board for no less than 120 days or until the second full month following the end of the public health emergency, whichever is later.
3. *Suspend Assessment:* Waive the assessment of any new government-imposed debt, and cease accrual of interest¹² and the imposition of other fees and/or sanctions¹³ on outstanding government-imposed debt for no less than 120 days or until the second full month following the end of the public health emergency, whichever is later, including by:
 - a. Adopting a proposed rule or rule amendment pursuant to authority under rule 10.613(i) of the California Rules of Court that would suspend assessment of new government-imposed debt.¹⁴
4. *Dismissal:* Dismiss all cases where the only outstanding matter is outstanding government-imposed debt.¹⁵
5. *Discharge Outstanding Debt:* Write-off all outstanding government imposed-debt and discharge, vacate, or declare as satisfied liens, fee agreements, and civil judgments, including by
 - a. Issuing an order to vacate all orders and entries of judgments.
6. *Cease Penalties for Failure to Pay:* Stop imposing civil assessments and vacate arrest warrants for failure to pay or appear.¹⁶
7. *Notification:* Notify individuals of your actions, including updating public-facing websites and payment portals, so they can plan their finances accordingly.
8. *Make Changes Permanent:* Consider making any efforts taken in response to COVID-19 permanent.

We need to relieve all Californians from the hardship of making ongoing payments on government-imposed debt burdens to help individuals, communities, and the state weather the current crisis and emerge more secure, just, productive, healthy, and hopeful.

Sincerely,

Debt Free Justice California

CC: Judicial Council
Public Defender
District Attorney
Court Executive Officer

¹ See Cal. Gov. Code § 68115; Judicial Council of California, Statewide Order by Hon. Tani G. Cantil-Sakauye, Chief Justice of California and Chair of the Judicial Council (Mar. 23, 2020) (“All superior courts are authorized under rule 10.613(i) of the California Rules of Court to adopt any proposed rules or rule amendment that is intended to address the impact of the COVID-19 pandemic to take effect immediately, without advance circulation for 45 days of public comment.”) https://newsroom.courts.ca.gov/internal_redirect/cms.ipressroom.com.s3.amazonaws.com/262/files/20202/Statewide%20Order%20by%20the%20Chief%20Justice-Chair%20of%20the%20Judicial%20Council%203-23-2020.pdf.

² State law requires courts to impose certain fines and fees and authorizes courts to use its discretion on other types of fines and fees. This letter and its recommended actions apply to all fines and fees that are within the discretion of the court to act on.

3 Press Release: Presiding Judge Michael A. Sachs Issues Amended and Updated Implementation Order Effective April 3 to Continue All Non-Emergency Matters Due to Covid-19 Pandemic (Apr. 1, 2020), <https://www.sb-court.org/sites/default/files/News%20Notices/PJSachsReissuesImplementationOrderEffectiveApril3.pdf>.

4 Superior Court of California, County of Fresno, Notification Regarding Amended Appearance and Payment Dates Being Heard at the “M” Street Traffic Division Courthouse, (Apr. 7, 2020), http://www.fresno.courts.ca.gov/_pdfs/COVID-19%20Notification%20Regarding%20Traffic%20Cases.pdf.

5 City and County of San Francisco, Treasurer’s Office, Roundup of San Francisco Actions to Alleviate the Burden of Government Fines, Fees, and Collections During the COVID-19 Health Crisis (Apr. 7, 2020) https://sftreasurer.org/sites/default/files/2020-04/San_Francisco_Fine_and_Fee_Discounts_COVID_4.7.2020.pdf.

6 Press Release: Presiding Judge Kevin C. Brazile Announces Immediate Temporary Relief for All Traffic and Non-Traffic Infraction Defendants for 90 Days (Apr. 10, 2020), <http://www.lacourt.org/newsmedia/uploads/1420204109422520NRPRESIDINGJUDGEBRAZILEANNOUNCESTRAFFICRELIEF.pdf>.

7 Debt Free Justice California, “Franchise Tax Board Suspends Collection of Debts Owed to Government Agencies,” http://ebclc.org/wp-content/uploads/2018/11/2020.04.07_DebtCollectionSuspension_FTB_Flyer-_DFJCI.pdf.

8 State of Oregon, Judicial Department, Oregon State Courts Ease the Burden of State Court Fines, Fees, and Collections During the COVID-19 Pandemic (on file with authors).

9 State of Maine, Superior Court, District Court, Emergency Order Vacating Warrants for Unpaid Fines, Unpaid Restitution, Unpaid Court-Appointed Counsel Fees, and Other Criminal Fees (Mar. 17, 2020), <https://www.courts.maine.gov/covid19/emergency-order-vacating-warrants-fines-fees.pdf>; State of Maine, Superior Court, District Court, Emergency Order Extending the Time for Payment of Fines, Restitution, Court Fees, and Reimbursement of Court-Appointed Counsel Fees, <https://www.courts.maine.gov/covid19/emergency-order-fines.pdf>.

10 See also Judicial Branch of California, Discharge from Accountability Information Sheet, <https://www.courts.ca.gov/partners/documents/rev-coll-Discharge-from-Accountability-Information-Sheet.pdf>.

11 Press Release: California’s Franchise Tax Board to Halt Debt Collection Immediately (Mar. 27, 2020), <http://ebclc.org/wp-content/uploads/2018/11/2020.03.27-DFJC-on-FTB-Action-Press-Release.pdf>.

12 Cal. Penal Code 1202.4(f)(3)(G). (The restitution order shall include “interest, at the rate of 10 percent per annum, that accrues as of the date of sentencing or loss, *as determined by the court.*”) (emphasis added). See also Cal. Penal Code 1214.5. (“In any case in which the defendant is ordered to pay more than fifty dollars in restitution as a condition of probation, the court *may*, as an additional condition of probation since the court determines that the defendant has the ability to pay, as defined in subdivision (e) of Section 1203.1b, order the defendant to pay interest at the rate of 10 percent per annum on the principal amount remaining unsatisfied.”) (emphasis added).

13 See Cal. Penal Code 1203.1 (15% restitution collection administration fee).

14 See also Cal. Rules of Court, rule 4.335 (“Based on the ability-to-pay determination, the court may exercise its discretion to...(C) Suspend the fine in whole or in part.”).

15 Cal. Penal Code § 1385.

16 Imposing civil assessments is not mandatory. Cal. Penal Code § 1214.1 (“In addition to any other penalty in infraction, misdemeanor, or felony cases, the court may impose a civil assessment of up to three hundred dollars (\$300) against a defendant who fails, after notice and without good cause, to appear in court for a proceeding authorized by law or who fails to pay all or any portion of a fine ordered by the court or to pay an installment of bail as agreed to under Section 40510.5 of the Vehicle Code.”). A court must vacate civil assessments upon good cause. *Id.* (“If the defendant appears within the time specified in the notice and shows good cause for the failure to appear or for the failure to pay a fine or installment of bail, the court shall vacate the assessment.”); see also Cal. Rules of Court, rule 4.106.