

**Analysis of AB 177
(Elimination of Administrative Fines)
& Cheat Sheet**

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Assembly Bill 177, signed by the Governor on September 23, 2021, eliminates the authority of counties and superior courts to impose 17 administrative fees and/or costs on criminal defendants and also orders vacated any portion of a judgment imposing those fees and/or costs. It takes effect January 1, 2022, and closely tracks the wording of AB 1869 (2019-2020 Reg. Sess.), which eliminated 23 administrative fees and made the associated debt unenforceable and uncollectible (see Pen. Code, § 1465.9; Veh. Code, § 42240; AB 177, §§ 35, 45). Fees eliminated by AB 177 that are frequently imposed on our clients include administrative fees related to the collection of fines, restitution fines, and restitution orders; the costs of drug testing during probation; and assessments on installment accounts. A list of the fees eliminated by AB 177 is attached; a list of the fees eliminated by AB 1869 previously compiled by the Fines & Fees Justice Center is available [here](#).

Sections 1 and 2 of AB 177 contain an excellent explanation of the “racial and economic harms” of court-ordered fees on women, people of color, and families, and the need for legislation eliminating these fees, as “[c]riminal administrative fees have no formal punitive or public safety function.” Section 2 makes clear the Legislature’s intent in passing AB 177: “to eliminate the range of administrative fees” that “fund elements of the criminal legal system and to eliminate all outstanding debt incurred as a result” of these fees.

Like AB 1869, AB 177 eliminates certain fees, makes any unpaid balance related to those fees “unenforceable and uncollectible,” and requires that “any portion of a judgment imposing those costs shall be vacated.” (Pen. Code, § 1465.9, subd. (b); see also Govt. Code, § 6111; Veh. Code, § 42240.) To date, there are two published decisions interpreting AB 1869, both of which can be cited in appellate claims related to the application of AB 177:

- In ***People v. Clark* (2021) 67 Cal.App.5th 248**, Division Four of the First District agreed with appellant that AB 1869 applied to the probation supervision fee imposed prior to the bill’s passage and vacated the portion of the judgment imposing the fee. The court also found that Penal Code section 1237.2 does not require a defendant to first seek relief in the trial court if the now-eliminated fees were valid at the time they were imposed: “The situation we have here is therefore one where the challenged fee was correctly imposed and correctly calculated at the time of its imposition, but due to a change in the law—at least if Clark is correct that Assembly Bill 1869 applies to the \$100 per month fee imposed on him—the fee lacks any current legal basis. Because there was no ‘error in the imposition or calculation of fines, penalty assessments, surcharges, fees, or costs’ (§ 1237.2) at the time the challenged fees and fines were imposed, both the letter and underlying rationale of section 1237.2 militate in favor of addressing the issue Clark raises now, rather than requiring him to bring it to the trial court’s attention first by motion for correction.”
- In ***People v. Lopez-Vinck* (Sept. 15, 2021) (D077029) 2021 WL 4188427**, Division One of the Fourth District vacated the judgment as to only the amount of the criminal justice administration fee (former Govt. Code, § 29550.1) repealed by AB 1869 that remained unpaid on July 1, 2021. The court did not vacate the fee in its entirety, as it was valid from the time it was imposed up to June 30, 2021, and found the *Estrada* rule on retroactivity inapplicable. However, the court did agree with appellant that he was entitled to an order vacating the unpaid balance of the costs pursuant to Government Code section 6111, which mirrors Penal

Code section 1465.9's provisions concerning unpaid debt associated with eliminated fees. The court disagreed with the Attorney General's position that the bill was self-executing.

Though *Clark* and *Lopez-Vinck* analyze the retroactivity and scope of AB 1869 somewhat differently, both cases may be cited to support a claim on appeal that any unpaid debt associated with fees eliminated by AB 177 must be vacated after January 1, 2022. These claims may be raised now, assuming the client's case will not be final as of January 1.

List of Fees Eliminated by AB 177

Relevant Code Section	Description of Fee Eliminated	Relevant Section of AB 177
Pen. Code, § 1001.15	Related to enrollment in felony diversion program; eliminates administrative fees related to payment of criminalistics laboratory analysis, application for diversion, and cost of supervising diversion.	AB 177, §§ 15
Pen. Code, § 1001.16	Related to enrollment in misdemeanor diversion; eliminates administrative fees related to criminalistics laboratory analysis, application for diversion, and supervising diversion.	AB 177, § 16
Pen. Code, § 1001.90	Eliminates administrative fee to cover the costs of collection of a diversion restitution fine (former § 1001.90, subds. (g) & (h)). A diversion restitution fine may still be imposed.	AB 177, §§ 17, 18
Pen. Code, § 1202.4	Eliminates administrative fee to cover the costs of collecting a restitution fine (former § 1202.4, subd. (l)).	AB 177, §§ 19, 20
Pen. Code, § 1203.1, subd. (l)	Eliminates administrative fee related to collection of victim restitution ordered as condition of probation (former § 1203.1, subd. (l)).	AB 177, §§ 21, 22
Pen. Code, § 1203.1ab	Eliminates fee related to cost of drug testing ordered as condition of probation.	AB 177, §§ 23, 24
Pen. Code, § 1203.1c	Eliminates fee to cover costs of incarceration in county jail, city jail, or local detention facility.	AB 177, § 25
Pen. Code, § 1203.1m	Eliminates fee to cover costs of imprisonment in state prison.	AB 177, § 26
Pen. Code, § 1203.4a	Eliminates application fee for petition of dismissal of misdemeanor or infraction after 1 year (former subd. (e)).	AB 177, §§ 27, 28
Pen. Code, § 1203.9	<p>Eliminates provision in former subdivision (d)(2) allowing the receiving court and county probation department to impose additional local fees after an individual's probation or mandatory supervision is transferred to a different county.</p> <p>The new subdivision (d)(2) provides: "The receiving court and county probation department shall not impose additional local fees and costs."</p> <p>Also prohibits the receiving county from charging administrative fees for collections performed for the transferring county (subd. (e)(1)).</p>	AB 177, §§ 29, 30
Pen. Code, § 1205	Eliminates administrative fees for the processing of both installment accounts and non-installment accounts (former subd. (e)).	AB 177, §§ 31, 32

Pen. Code, § 1214.5	Eliminates collection of interest on unpaid restitution when restitution imposed as a condition of probation.	AB 177, § 33
Pen. Code, § 1463.07	Eliminates administrative screening fee when individual released on own recognizance; eliminates citation processing fee.	AB 177, § 34
Pen. Code, § 2085.5	Eliminates administrative fee to cover the cost of collecting restitution fines and orders from people incarcerated state prison, people incarcerated in county jail pursuant to section 1170, subd. (h), and parolees (former § 2085.5, subds. (e), (f), (i)).	AB 177, §§ 36, 37
Pen. Code, § 2085.6	Eliminates administrative fee imposed by county on individuals subject to PRCS or mandatory supervision to cover costs of collecting restitution fines and orders (former § 2085.6, subd. (d)).	AB 177, §§ 38, 39
Pen. Code, § 2085.7	Eliminates administrative fee related to collection of restitution fine and orders from individuals released from county jail after completion of term pursuant to section 1170, subd. (h)(5)(A) (former § 2085.7, subd. (d)).	AB 177, §§ 40, 41
Veh. Code, § 40508.5	Eliminates assessment on individuals who fail to appear following arrest for a violation of the Vehicle Code or local traffic ordinance.	AB 177, § 42
Veh. Code, § 40510.5	Eliminates collection of processing fee on installment accounts related to Vehicle Code infractions (former § 40510.5, subd. (g)).	AB 177, §§ 43, 44