



Senator Scott Wiener, 11th Senate District

Senate Bill 1106 – The Fresh Start Act

SUMMARY

Senate Bill 1106 precludes courts from denying a request for criminal record relief based on outstanding debt related to restitution.

BACKGROUND/EXISTING LAW

Current law authorizes courts to require people convicted of crimes to pay restitution fines, as well as restitution payments to compensate survivors for harm caused. Courts can order people to pay direct restitution based on the amount of loss or injury but, in setting the amount, are not required to take into account a person's ability to pay that restitution.

Courts also impose restitution fines — a fixed amount charged to anyone with a conviction regardless of the crime and its impacts. A 2021 study of restitution data from 15 California counties found that people are ordered to pay a median amount of approximately \$10,000 in direct restitution and approximately \$2,000 in restitution fines.

Black and brown people are disproportionately burdened by restitution orders. For example, in Los Angeles County, Black people make up 8% of the population but were charged 20% of all dollars owed in restitution.

Approximately 80% of Californians charged with crimes are unable to pay off their restitution and restitution fine debt, due to poverty. Because restitution debt never expires and cannot be discharged in bankruptcy proceedings, many Californians live with this debt for the rest of their lives.

Victims of crime who are awarded restitution overwhelmingly receive either nothing or a small percentage of the restitution, due to the defendant lacking the resources to actually pay restitution.

Current law allows courts to deny a request for criminal record relief — even if the individual is otherwise eligible — if they have any outstanding unpaid restitution. A court can deny criminal record relief on this basis even if the defendant is living in poverty.

PROBLEM

Technically, people who still owe restitution and restitution fines legally qualify for criminal record relief. However, in practice, people are regularly denied criminal record relief solely based on their inability to pay this outstanding debt.

Denial of criminal record relief makes it much more arduous for individuals to get back on their feet and stabilize financially. Furthermore, this denial makes it considerably harder for the individual to repay debts, including restitution debts, oftentimes trapping them in a cycle of poverty.

In practice, current law means that people leaving the criminal justice system are more likely to get trapped by fines and fees that they cannot get a job to actually pay off restitution. This helps neither the person ordered to pay restitution nor the person who would receive compensation from the payment.

SOLUTION

When a person is able to get criminal record relief, it increases their access to employment and housing, provides them with a higher earning capacity, and reduces their reliance on public assistance payments.

A 2014 study by Stanford University and the San Jose State University Record Clearance Project found that the estimated benefits of criminal record relief outweigh costs by about \$5,800 (\$6,500 with inflation) per person each year.

To be clear, this bill does not waive or reduce the restitution or restitution fines owed, but rather removes it as a barrier to criminal record relief.

Because successful re-entry into society for formerly incarcerated people benefits the broader community, SB 1106 ensures that criminal record relief is not denied simply due to outstanding restitution debt.

SUPPORT

ACLU California Action (co-sponsor)
All of Us or None (co-sponsor)
Anti-Recidivism Coalition (co-sponsor)
Californians for Safety and Justice (co-sponsor)
Community Healers Network (co-sponsor)
Debt Collective (co-sponsor)
East Bay Community Law Center (co-sponsor)
Freedom 4 Youth (co-sponsor)
Initiate Justice (co-sponsor)
Insight Center for Community Economic
Development (co-sponsor)
Justice2Jobs Coalition (co-sponsor)
Legal Services for Prisoners with Children (co-
sponsor)
Root and Rebound (co-sponsor)
San Francisco Financial Justice Project (co-sponsor)
United CORE Alliance (co-sponsor)
Western Center on Law and Poverty (co-sponsor)

FOR MORE INFORMATION

Alan Moore, *Legislative Aide*
Alan.Moore@sen.ca.gov
(916) 651-4011