

Commission on the Future of California's Court System

Public Comment Session



July 22, 2016

Ronald Reagan State Office Building
Auditorium
300 South Spring Street
Los Angeles, California 90013

Agenda

To submit written comments in advance of the session, request in advance to speak at the session, or request Spanish language services, send an e-mail to: FuturesCommission@jud.ca.gov. (The deadline to request Spanish language services is **July 13, 2016**; the deadline to submit written comments is **July 18, 2016**) For more information, please view the [comment procedures](#).

Important Agenda Information

- *Check-in will be available beginning at 9:30 a.m.*
- *The public comment session will begin at 10:00 a.m.*
- *For each concept, a 5-minute presentation will be conducted, followed by a public comment period for a **maximum** of 30 minutes.*
- *The concepts will be presented in the order provided below.*
- *Timeframes have not been provided, as the number of speakers for each concept cannot be determined in advance. In the event that there are few speakers for a given concept, the public comment period may not take the full 30 minutes and the meeting facilitator will move on to the next concept.*
- *A break will be taken at the direction of the meeting facilitator.*

Friday, July 22, 2016 – 10:00 a.m.

Audio of the public comment session will be broadcast real-time through the Futures Commission webpage available at <http://www.courts.ca.gov/futurescommission.htm>. The audiocast link is posted approximately 15 minutes before the session.

Welcome and Opening Remarks

Justice Carol A. Corrigan, Chair

Justice William R. McGuiness, Vice-Chair

Concept 1 One Juvenile Court—Consolidated Juvenile Court Jurisdiction in California –
Establish a consolidated juvenile court with jurisdiction that includes all current juvenile court cases (juvenile dependency and juvenile delinquency) under one unified juvenile court.

Click [here](#) for additional information.

Presentation (5 minutes)

Judge Stacy Boulware Eurie, Family/Juvenile Working Group Chair

Public Comment (maximum of 30 minutes)

Concept 2 **Efficient and Effective Resolution in Family Courts** – Implement a statewide, uniform, multi-tiered child-custody mediation process in California family courts, featuring the best practices from existing systems, and provide alternative dispute resolution and other expedited resolution services for all other family law matters.

Click [here](#) for additional information.

Presentation (5 minutes)

Judge Lorna A. Alksne, Family/Juvenile Working Group Vice-Chair

Public Comment (maximum of 30 minutes)

Concept 3 **Restructuring Criminal Fines and Fees** – Explore: 1) Increasing base fines for infractions and misdemeanors while eliminating surcharges, penalties, and assessments; 2) depositing fine revenue into a single fund for distribution to the courts and state and local programs; and 3) placing overall responsibility for collecting delinquent court-ordered debt in the state executive branch and not the courts and counties.

Click [here](#) for additional information.

Presentation (5 minutes)

Justice Peter J. Siggins, Fiscal/Court Administration Working Group member

Public Comment (maximum of 30 minutes)

Concept 1: One Juvenile Court—Consolidated Juvenile Court Jurisdiction in California

Establish a consolidated juvenile court with jurisdiction that includes all current juvenile court cases (juvenile dependency and juvenile delinquency) under one unified juvenile court.

Why is this concept being considered by the Futures Commission?

Juvenile courts are charged with the responsibility of overseeing the lives of children and families when there has been an allegation that direct state intervention is needed to protect the child, the family, or the community. Under a consolidated system, juvenile courts would enhance the effectiveness and efficiency of the juvenile court's orders by serving the family as a whole, ensuring a focus on the youth's wellbeing, and improving outcomes by integrating services across all of the systems and agencies that serve youth and families in juvenile courts. The concept does not seek to expand the court's jurisdiction over additional children and families, but rather to ensure that once the court has found that jurisdiction is in fact legally justified, the approach at the dispositional phase can address all of the circumstances that brought the child and family before the court.

Under the current construct, many children re-enter the juvenile court system shortly after exiting because of subsequent abuse and/or neglect or criminal behavior. This kind of repeat involvement with the court suggests opportunities to improve effectiveness and efficiency by delivering the needed services at the earliest opportunity, thereby limiting the number of times children and families return to juvenile court jurisdiction. System-involved youth have significantly lower educational outcomes than their peers who are not system-involved or in foster care, and youth who come before the juvenile court have higher rates of mental health and substance abuse disorders than their peers. In addition, the current juvenile system involves parents of juvenile justice youth in only a cursory fashion in some jurisdictions, which is not consistent with evidence-based intervention strategies that typically are family- and community-based to ensure lasting success. Similarly, when dependent children engage in alleged unlawful behavior, a consolidated court could provide services and enhance community safety by maintaining both the path to permanency that is underway via the child welfare system and the important stabilizing relationships with caseworkers, treatment providers, community, and attorneys who are familiar with the needs of the child.

Effective collaboration between child-serving entities (child welfare, probation, mental health, and education) is hindered by the current separate jurisdictional processes, institutional mandates, funding, and terminology. Multiple hearings and case plans leave children and families confused and disengaged from the court process. Current jurisdictional constructs impede full delivery of all necessary services and interventions and distract from the shared responsibility to stabilize and protect the child, family, and community at large. All of these factors are high contributors to the low success rates for juveniles that frequently enter—and either exit and return or languish in—the system.

Goals and potential strategies

The Futures Commission's Family/Juvenile Working Group (working group) is exploring the benefits and challenges of consolidating the juvenile court under one jurisdictional statute. The overarching goals of such a system are to reduce recidivism, promote family self-sufficiency, and eliminate the need for further government intervention.

Changes in practice that would result from this concept

Multidisciplinary case planning and oversight

Within this jurisdictional scheme the court might have jurisdiction over a child or family as a result of allegations of abuse and/or neglect of the child, status offenses by the child, and/or criminal behavior by the child. Because this model is premised on the benefits of performing a full assessment of the needs and strengths of each child and family to shape appropriate and effective dispositional orders, it would require the involvement of multiple service agencies from inception to conclusion of a case. The objective is not to deliver more services, but rather to assess and prioritize services early in the case, and provide a mechanism for flexible revision of dispositional plans as the case develops. It would also demand shared accountability across child- and family-serving systems and eliminate incentives to shift responsibility for a particular child or family from one agency to another. The resulting system would assess all children and families who come before the juvenile court on a case-by-case basis and generate dispositional orders for the most effective and appropriate services based on need rather than the jurisdictional origin of the case.

Representation for parents

Because the concept would result in parents/guardians and children being represented parties regardless of the jurisdictional allegation, it would be an expansion of the court's existing authority under Welfare and Institutions code section 634 and would require appointment of counsel for parents at the initial hearing when their child is alleged to be a status offender or is accused of committing a criminal offense. Appointed counsel for parents would assist the court by ensuring that parents are informed and engaged from the detention/initial hearing through the termination of jurisdiction, and can be held accountable for ensuring that the child and family are receiving and completing the interventions needed to protect the community and rehabilitate the child. To ensure that the due process rights of a child alleged to have committed a crime are not compromised by this reform, attorneys for parents would have a very limited role at the jurisdictional phase of the case when the jurisdictional allegations solely involve the conduct of the child. Trial strategy in these cases would be at the sole discretion of the child and his or her attorney with parent's counsel providing a conduit of information to counsel for the child.

Representation for children

The most significant challenges in ensuring adequate representation for children under this jurisdictional model would be in cases in which there are jurisdictional allegations involving abuse and/or neglect of the child as well as criminal behavior by the child. Ideally, one attorney could be sufficiently trained to represent the child's needs and interests across the board with the benefit that the child could rely on that attorney to advocate for his or her needs holistically throughout the proceedings. However, given the challenges to achieving this level of training of counsel for children across the current spectrum, it is expected that two attorneys may need to be appointed in some cases to ensure the due process rights of the child.

Information sharing

The success of this concept is contingent on early and effective assessment and coordinated case planning and service delivery. The sharing of information and data will be needed to maximize case planning and must be done in such a way that the information gathered to craft an effective dispositional order will not be used to incriminate or sanction the child. To accomplish this goal will require redrafting current statutes to ensure that confidential information gathered to deliver effective services is not available for use outside of the dispositional case planning phase of the case. Such an approach would build upon the model currently in Welfare and Institutions Code section 18961.7.

Trauma-informed courts

Many of the children and their families who will come before the consolidated juvenile court will have been exposed to trauma or adverse childhood experiences that make it more difficult for them to effectively participate in productive court proceedings. To address this challenge the concept would envision that all judicial officers and staff who interact with children and families at the court would be trained in trauma-informed practices, and court facilities would be organized as safe and supportive environments for accomplishing the underlying purpose of the juvenile court. It is expected that implementation of such practices can mitigate any risks of placing children who have been abused and neglected in proximity with children who have engaged in criminal behavior within the courthouse setting.

Delivery of consistent evidence-based services

A key advantage of the consolidated juvenile court is the opportunity for all child- and family-serving agencies within a county to work together to identify the most effective services and interventions available to meet the needs of their children and families and to initiate those services in a timely and efficient manner with regular follow-up. This approach is in contrast to current practices in which the quality and nature of services can vary greatly.

Need to pilot consolidated approach to inform statewide implementation

In keeping with the ambitious goals set by the Chief Justice for the Futures Commission, this proposal would result in substantial changes to the existing statutory framework and the way that juvenile court cases are heard in California. Accordingly, the working group acknowledges that implementation of the concept would have significant impact on our under-resourced child welfare and juvenile justice systems. To address these legitimate concerns, it is proposed that prior to considering statewide implementation of this concept, a piloting of the concept model in a number of courts would occur to allow for data collection and evaluation of the actual impact of the proposal. A piloting of the concept would also enable the judicial branch to evaluate and determine the extent to which re-entry and recidivism rates are reduced and other positive outcomes achieved over a sufficient length of time.

Such a pilot would ideally include at least one small, medium, and large court and reflect the geographic diversity of the state. Pilot courts would be given the resources needed to plan for and implement the consolidated court, and be provided with technical assistance and data collection support to ensure that information gleaned from the pilot can be used for effective statewide implementation.

[Back to top](#)

Concept 2: Efficient and Effective Resolution in Family Courts

Implement a statewide, uniform, multi-tiered child-custody mediation process in California family courts, featuring the best practices from existing systems, and provide alternative dispute resolution and other expedited resolution services for all other family law matters¹.

Why is this concept being considered by the Futures Commission?

Family courts handle some of the most important decisions in the lives of California families, including decisions that impact personal safety, living arrangements, child custody and visitation, support, and property

¹ The Family Law Subgroup of the Futures Commission's Family/Juvenile Working Group is also recommending increased self-help services, increased access through technology, and access to a record in all family law cases. These recommendations will be presented through the Futures Commission's Technology Working Group.

distribution. Reducing the time and costs it takes to resolve family law matters would benefit the parties, their children, their extended families, the courts, and society.

Currently, California law allows substantial differences in the way California courts provide early resolution of family law disputes. Also, California law mandates that mediation be offered in all contested child custody cases; however, courts in some counties provide confidential mediation while courts in other counties authorize mediators to make custody recommendations to the judge on behalf of the parents (child custody recommending counselors; see Cal. Family Code § 3183), and others follow different procedures. As a result, families are treated differently depending on which county they reside in, a party whose case is properly transferred from one county to another may go from a recommending to a non-recommending program, and lawyers who practice family law in more than one county must work in different systems. The Family Law Subgroup of the Futures Commission's Family/Juvenile Working Group (Family Law Subgroup) believes that due process concerns dictate a need for an efficient, uniform process throughout the state, and it is considering recommending a consistent statewide approach to child-custody mediation to the benefit of the parties, practitioners, and the courts.

Providing confidential mediation for every family would help keep the parties' focus on resolving issues as opposed to winning; then, if unsuccessful, at a hearing a judge can determine at his or her discretion if additional fact finding or recommending mediation is needed (fact finding and recommending mediation represent the second and third tiers offered in the tiered mediation program, explained below). The Family Law Subgroup hopes to ensure that one day all litigants in contested child custody cases will have access to confidential mediation, with the goal of helping families going through a traumatic separation find a way to move forward and to facilitate their reaching an agreement on parenting their children.

Additionally, for non-custody issues in many family law courts (child support, property division, and other dissolution matters), opportunities are unavailable for early resolution that would provide litigants with simple paths to the relief they seek. Even in simple cases with limited assets and no disputes between the parties, the current process to obtain dissolution is often time-consuming and difficult, and couples can wait years for a final dissolution judgment. Alternative dispute resolution and expedited resolution programs would aid in hastening resolution of such cases, greatly benefiting the parties and the court.

Goals and strategies

The Family Law Subgroup is considering a multi-tiered child custody mediation approach to provide a consistent, effective process that begins with confidential mediation and results in the best outcome for the families involved, while ultimately reducing expenditure of court time and expenses. The subgroup is also considering recommending that all courts provide some form of early resolution program for non-custody matters.

Why a multi-tiered mediation approach?

The Family Law Subgroup recognizes that the way each of the 58 counties handle child custody mediation has deep historical ties. Indeed there are strong feelings that have been an impediment to changing the practice of mediation, even though a similar structure was recommended by the Elkins Task force several years ago. The goal of the Family Law Subgroup is to ensure in the future that all families have access to the same resources throughout the state. By creating a multi-tiered approach, the judge has the ability in each county to fashion the services that are best for families when they cannot resolve their own custodial arrangements in confidential mediation. It is not the intent of the Family Law Subgroup to say one of the current mediation systems is better than the other, but instead to offer all families more opportunities to

resolve their case and more options for the judicial officer in cases that need extra services. Indeed, Family court is the only court in the state that treats its litigants procedurally and substantively differently based on local practice. The multi-tiered mediation approach resolves the issue of the non-uniform practices being used from court to court, while offering a variety of services that allow courts to use the one they prefer, without drastically changing the current processes in each court. In making this recommendation, the Family Law Subgroup is mindful of the following concerns raised by litigants about counties that practice recommending mediation:

- Allowing mediators to provide recommendations at the outset prevents litigants from being able to speak confidentially at mediation.
- Litigants sometimes experience confusion regarding the effect of the recommendation on the court, believing that the court will simply “rubberstamp” the recommendation.
- Some courts may in fact rely too heavily upon the evaluator’s recommendation.
- Some courts lack the resources to provide effective mediation services that result in meaningful recommendations.

While multi-tiered mediation will not alleviate all litigants’ criticisms, it takes all of these concerns into consideration by combining best practices from non-recommending and recommending counties to protect the interests of litigants and their children, as well as providing information to the court as required. The one court that has implemented this program has found it to be extremely successful, serving to empower parents, accomplish the timely resolution of custody disputes, and provide more efficient use of court resources.

The multi-tiered mediation program begins with confidential, non-recommending mediation, but offers additional levels of service as needed or desired by the court in each case. The different levels are as follows:

Tier I: Confidential, Non-Recommending Mediation. All regularly filed cases would be required to participate in confidential, non-recommending mediation, to be scheduled when a request for hearing is filed in court. It is anticipated that many disputes would be resolved at this initial level. If a dispute is not resolved at this level, the parties would attend a hearing before a family law judicial officer, during which they could testify and present evidence. The judicial officer could issue a custody decision at this time.

If the judicial officer is unable to reach a decision at the hearing, he or she has the discretion to order the parties to proceed to Tier II. In cases on the domestic violence calendar where custody is ordered at the time a permanent restraining order is granted, the court could provide brief, non-recommending, in-court mediation.

Tier II: Non-Recommending Fact Gathering. This level would provide the judicial officer with additional factual information to assist in making custody orders. A mediator would conduct interviews and gather additional information through various resources, such as school attendance records and any criminal history or history with Child Protective Services, as requested by the court. The mediator would then prepare a fact-based report, but would not divulge communications from the prior confidential mediation and would not make a recommendation to the court. The matter would then be scheduled for a hearing, when the bench officer could make appropriate orders. If the judicial officer does not resolve the custody issue at that point, he or she may choose to direct the parties to proceed to Tier III.

Tier III: Child Custody Recommending Counseling. This tier would provide the judicial officer with a report and recommendation from the child custody recommending counselor. In an emergency, and in only the most complex cases, the court could order the parties directly into Tier III from the outset of the case.

It is anticipated that, as in the court that currently operates this multi-tiered approach, most cases would be resolved—either by agreement of the parties or order of the court—In Tier I. Even those that proceed to Tier II will involve a less costly process than a full report and recommendation.

Need to pilot the multi-tiered approach to inform statewide implementation

The Family Law Subgroup recognizes that statewide implementation of the multi-tiered mediation for child custody cases would be a substantial change to family law processes in many parts of California, and also acknowledges that the proposed tiered mediation approach has only been fully implemented in one court at this time. Accordingly, prior to considering statewide implementation of a multi-tiered mediation program, the current proposal would be to pilot the program in multiple courts of varying size across the state, in some courts currently using confidential mediation and some currently using recommending counselors. The pilot should be of sufficient length to determine how the tiered program compares to the child-custody mediation programs currently in use, in terms of effectiveness for parties and cost to the courts. A pilot will also allow consideration of whether the program should be tailored to fit different types of courts.

The Family Law Subgroup is continuing to consider and address the challenges of statewide implementation through research and analysis, and hopes to demonstrate that the efficiencies and effectiveness for both courts and parties in family law cases will outweigh any costs of the multi-tiered program. A pilot program will allow the judicial branch to continue such analysis in real time, based on the actual experiences of the courts and the parties.

Early/expedited resolution programs in all other family law matters

The Family Law Subgroup is considering recommending, for all family law matters, expedited resolution avenues such as: mediation, an easier-to-understand process for early dissolution of marriage, “one-day divorce” programs for swift issuance of final judgments, self-help programs, and other programs to facilitate faster resolutions for all litigants.

Even when there are no minor children involved, family law cases can present emotional disputes over property and support. The parties in those matters may often benefit from mediation or other forms of alternative dispute resolution (ADR) to facilitate resolution of their cases. But many California courts offer mediation only for custody disputes. This can be particularly problematic for self-represented litigants who may find it extremely difficult to reach resolution without the assistance of a skilled third party who might help them focus their discussions, consider potential solutions, and draft a written agreement. There is evidence that the availability of ADR in all family law matters would be effective and that the benefits would outweigh the costs.

In addition, many dissolution cases could be more quickly brought to judgment when the parties have limited disputes and assets. Unfortunately, all too often such cases do not resolve quickly. In straightforward dissolution cases, expedited resolution services could benefit the parties and the court.

Following are programs that the Family Law Subgroup has been considering for facilitating resolution of non-custody law matters:

- “One-day divorce” programs to assist parties in obtaining a final judgment quickly after all necessary pleadings have been filed and disclosures have been exchanged.
- Online dispute resolution services that allow litigants to use internet- and web-based technology, including e-mail, videoconferencing, or both, to arrange mediations without court or judge involvement.
- Early case resolution processes to provide early assistance in completing paperwork and expediting simple dissolution cases, including online tutorials and other self-help mechanisms.

Need to pilot early/expedited resolution programs to inform statewide implementation

Several other forms of early/expedited resolution programs have also been used in various courts with success. The Family Law Subgroup is considering these programs, along with the programs mentioned above, to determine the best ones to recommend be used in pilot projects in courts of various sizes and types to find best practices and programs that could potentially be implemented across the state.

[Back to top](#)

Concept 3: Restructuring Criminal Fines and Fees

Explore: 1) Increasing base fines for infractions and misdemeanors while eliminating surcharges, penalties, and assessments; 2) depositing fine revenue into a single fund for distribution to the courts and state and local programs; and 3) placing overall responsibility for collecting delinquent court-ordered debt in the state executive branch and not the courts and counties.

Why is this concept being considered by the Futures Commission?

Fines/Fees are no longer commensurate with underlying offense

Fines/fees for infractions and misdemeanors in California, especially low-grade ones, are among the highest in the country. For example, a moving violation infraction has a base penalty of \$35, but because of enhancements and assessments added by the legislature over the years, the total fine for this violation is \$238. A more serious violation such as driving more than 25 MPH over the speed limit can result in a total fine of \$490, and if not timely paid, \$790 after all enhancements and assessments have been added. Because traffic offenders are also subject to driver license suspensions for failure to timely pay a traffic fine (or for failure to appear in court to address the citation), a job may be lost if an offender is no longer able to drive, or if a work location does not have practical, accessible public transportation options. As a result, the steep cost of infractions and misdemeanors is often out of reach for California’s most economically disadvantaged citizens and is disproportionate to the offense.

Current fines/fees structure presents the appearance of impropriety and is a declining source of revenue

The vast majority of states do not provide significant support for judicial branch operations with revenue derived from court-imposed fines or fees; California appears to be one of ten states that do. For Fiscal Year 2015-16, \$1.7 billion or approximately 1.4 percent of California’s General Fund provides 46 percent of the judiciary’s \$3.7 billion budget. This 1.4 percent share of the general fund appears to remain among the lowest of court systems supported by state general funds. The remaining necessary financial support for the judicial branch is largely revenue-derived from fines and fees imposed in criminal cases and infractions and from civil filing fees.

Despite the judicial branch’s reliance on criminal fines and fees, the state Legislative Analyst’s Office has recently observed that the revenue distributed from this system has steadily declined since 2010-2011.

In recent years, many critics of California's fines and fees system have argued that fines and fees are geared not toward addressing public safety, but rather toward raising revenue. Considerations of public policy support some separation between court and agency funding and the assessment and collection of fines. Unless there is such separation, the public has reason to question the independence and impartiality of courts with a direct economic stake in fines and fees. Furthermore, serious questions of due process may arise when an adjudicative entity has a pecuniary interest in the outcome of cases.

Current fines/fees structure is an inappropriate and inflexible mechanism for funding state and local programs

Of the approximately \$1.7 billion annually generated by fines and fees in Fiscal Year 2013-14, approximately \$940 million provided funding to more than 100 state and local programs. This aspect of the existing fines and fees system undermines the authority of the Governor and legislature to assess and provide funding to worthwhile programs through the budgetary process. Funding for state and local programs should be assessed annually against existing revenue and priorities. Gubernatorial and legislative discretion is limited when traffic violator revenue is automatically applied to specific programs and restricted in use pursuant to current statutory formulae.

Current delinquent collections structure lacks consistent standards and presents the appearance of impropriety

Despite significant efforts by the courts and counties to collect delinquent court-ordered debt, including an amnesty program in 2012, in Fiscal Year 2013-2014 the amount of outstanding court debt grew to \$9.1 billion from \$8.3 billion the previous year.

With the exception of the 2015 amnesty program, there are no current standards or guidelines that permit collecting courts or counties to accept less than payment in full in satisfaction of court-ordered debt. Yet, sound considerations of public policy may support doing so in certain cases. As noted above, the inability to pay court-imposed fines can have collateral adverse consequences for those violators who try their best but cannot fulfill their financial responsibility. In some cases, compromise of the amount due may be the most desirable outcome. A single state agency charged with statewide collection responsibilities can establish policies to inform these kinds of decisions to compromise in a way that is free from any taint that its policy positions may be affected by a direct interest in the collection of revenue. Unifying collection efforts under a single executive branch agency will also foster the equitable treatment of violators who are unable to pay fines in full or on time for valid reasons because a policy approach to these cases will be made on the basis of statewide experience, not court by court or county by county.

Goals and Strategies

Increasing base fines and eliminating all add-ons

Given the current levels, after the elimination of penalties and assessments, it is not unreasonable to consider raising base fines by multiples of four or six. This would mean that an offense currently with a base fine of \$20 would be recalibrated to a total fine of \$80 or \$120, and an offense with a base fine of \$70 would be recalibrated to a total fine of \$280 or \$420. The exact amounts of reconfigured base fines may vary based upon what the legislature considers to be roughly proportionate to the offenses in light of present day economic realities.

Once new base fines are agreed upon, the amount available for distribution to programs will be affected by the amount considered by the legislature to be appropriate and fair for different classes of violations. Obviously, if restructuring base fines does not cause a reduction in total revenue, funds could be

appropriated to the courts and state and local programs much the same as under the current system. But fines will be set on the basis of fairness that takes into account the gravity of the offense, and to the extent that base fine revenue is not calculated to yield current levels of support, programs will be funded upon need and desirability rather than a rigid and preconceived statutory formula. Such a distribution will reflect gubernatorial and legislative priority, and will allow policymakers to consider the needs of the many worthwhile programs currently funded automatically from court-generated revenues.

Depositing fine revenue in a special deposit fund

Under this proposal, the revenue collected from newly structured base fines will be payable to the state and placed in a special deposit fund to be applied for the benefit of the courts and state and local programs as determined by the legislature. Revenue from court-ordered fines and fees, which are on a downward trend, are taken into account when the Governor considers the level of general fund support required by the courts in the state budget. To the extent this proposal centralizes receipt of those monies in an account in the state treasury, this proposal will ensure that forecasting for the judicial branch accurately accounts for this declining stream of projected revenue and that fines are used to supplement not supplant the state's general fund obligation to fund the judiciary.

Placing payment and collection of all court-ordered criminal fines at the state level will also afford policymakers the opportunity to consider whether revenue supporting the courts from such fines should be replaced with some source that is more stable than the general fund.

Shifting collection responsibility out of the courts and counties

Once the penalties for infractions are restructured into a schedule of new base fines and all criminal fines are payable to the state for deposit in a special deposit fund, sound public policy supports transferring the overall responsibility for collection of delinquent fines from the courts and counties to a single state executive branch agency. The amounts due will no longer be received and distributed by the courts or counties, but will be obligations owed to the state. If in setting the penalty for an infraction, ability to pay may be taken into account or alternative sanctions may be imposed, the courts will be charged with exercising the discretion to do so. Thus, as the arbiters of the measure and possible alternatives to fines, sound policy considerations support relieving the courts of the primary responsibility for enforcement and collection. To continue relying on the courts as arbiters and collection agencies may cast doubt on judicial impartiality and undermine public confidence in the judiciary. Similarly, to continue relying on the counties for law enforcement and collection agency services may cast doubt on the impartiality of local law enforcement and undermine public confidence in county governments. At present, the California Franchise Tax Board has two programs that provide collection services to courts and counties, and could possibly provide the appropriate oversight of collection programs statewide.

[Back to top](#)