

BILL ANALYSIS

Department, Board, Or Commission	Author	Bill Number
Franchise Tax Board	Senate Committee on Judiciary	SB 0647

SUBJECT

FTB To Collect Court-Appointed Counsel Costs

SUMMARY

This bill would, among other things, allow the Franchise Tax Board (FTB) to collect specified legal costs relating to an order of the juvenile court.

PURPOSE OF BILL

According to the Committee staff, the purpose of this provision of the bill is to assist in collecting the amounts owed to the court from the persons liable for the costs of counsel appointed to represent parents or minors in dependency proceedings.

EFFECTIVE/OPERATIVE DATE

This bill would become effective January 1, 2012, and would apply to debts referred to the FTB for collection on or after that date.

ANALYSIS

STATE LAW

Current state law authorizes the FTB to use administrative collection tools to collect delinquent court-ordered debt (COD). Collection actions include, but are not limited to, attaching bank accounts and garnishing wages.

Under current state law, COD for fees, penalties, forfeitures, restitution orders, fines, or certain amounts imposed by a superior or municipal court or a specified governmental entity in California that are delinquent for 90 days or more can be referred by the court or government entity to the FTB for collection.

COD may be referred to the FTB by a government entity under the following conditions:

- The government entity has the authority to collect on behalf of the state or victim.
- The government entity is responsible for the distribution of the amounts collected from the restitutions orders.

Anne Maitland, FTB Contact Person (916) 845-6333 (Office)	Executive Officer Selvi Stanislaus	Date 09/07/11
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- The government entity ensures that in making the referral and distribution that it coordinates with any other related collection activities that may occur by superior courts, counties, or other state agencies.
- The government entity referring debts pursuant to a restitution fine or restitution order are to ensure compliance with the laws relating to reimbursement of the State Restitution Fund.

After issuing a preliminary notice to the debtor, the FTB is authorized to collect the referred COD in the same manner as authorized for collection of a delinquent personal income tax liability. The costs for collecting are reimbursed through the collected COD amounts and are limited to 15 percent of the amount collected. The county or state fund originally owed the debt receives the net collection proceeds after reduction by the amount of the FTB's collection costs.

THIS BILL

This bill would allow the FTB to collect specified legal costs relating to an order of the juvenile court. Specified legal costs would include the costs for counsel appointed to represent parents or minors pursuant to dependency proceedings.

LEGISLATIVE HISTORY

AB 2928 (Spitzer, Stats. 2008, Ch. 752) authorizes the California Department of Corrections and Rehabilitation (CDCR) to refer restitution orders owed by persons who are or have been under CDCR jurisdiction to the FTB for collection and allows the person who is owed the restitution to decline collection assistance.

AB 367 (De Leon, Stats. 2007, Ch. 132) establishes a task force to evaluate the imposition of criminal COD and distribution of revenue from the collection of those debts, and lowers the minimum balance requirement for referral of COD for collection to the FTB to \$100.

SB 246 (Escutia, Stats. 2004, Ch. 380) extends indefinitely the provisions authorizing superior or municipal courts of the State of California to refer COD to FTB for collection, thereby expanding the collection of CODs by the FTB to all 58 California Counties.

PROGRAM BACKGROUND

The FTB currently collects fines; state or local penalties, forfeitures, restitution fines, restitution orders, or other amounts imposed by a superior or municipal court of the State of California referred from courts of 43 participating counties and maintains an inventory of approximately 1.1 million cases. COD collection is accomplished primarily through the use of wage garnishments and bank levies.

FISCAL IMPACT

This bill would not impact the department's costs because the cost to the FTB to collect these reimbursements debts would be deducted from any amounts collected prior to being distributed. The FTB's COD system can accommodate the increase in the workload that this bill is expected to generate.

ECONOMIC IMPACT

This bill would not impact state income tax revenues.

APPOINTMENTS

None.

SUPPORT/OPPOSITION¹

Support: California Law Revision Commission (co-source)
Executive Committee of the Trusts & Estates Section of the
State Bar of California (co-source)
Judicial Council of California (co-source)
Los Angeles County Sheriff's Department (co-source)
San Francisco City Attorney's Office (co-source)
State Humane Association of California (co-source)

Opposition: None provided.

VOTES

Concurrence	09/06/11	Y: 40 N: 0
Assembly Floor	08/25/11	Y: 78 N: 0
Senate Floor	05/27/11	Y: 38 N: 0

LEGISLATIVE STAFF CONTACT

Contact	Work
Anna Caballero, Agency Secretary, SCSA	916-653-3358
Christine J. Lally, Deputy Secretary, Legislative Affairs, SCSA	916-653-2656
Selvi Stanislaus, Department Director	916-845-4543
Anne Maitland, Interim Legislative Director	916-845-6333

¹ As reported by the Senate Floor Analysis August 26, 2011, http://www.leginfo.ca.gov/cgi-bin/postquery?bill_number=sb_647&sess=CUR&house=B&author=committee_on_judiciary [as of September 7, 2011]