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Children's Advocacy Institute



University of San Diego School of Law
5998 Alcalá Park / San Diego, CA 92110
(619) 260-4806 / (619) 260-4753 (Fax)

717 K Street, Suite 509
Sacramento, CA 95814
(916) 444-3875 / (916) 444-6611 (Fax)

Reply to: San Diego Sacramento

www.cachildlaw.org

April 15, 2011

The Honorable Mike Feuer, Chair
Assembly Judiciary Committee
1020 N Street, Room 104
Sacramento, CA 95814

Via Fax: 916-319-2188

Re: Support for AB 1111 (Fletcher and Mitchell)

Dear Assemblymember Feuer:

The Children's Advocacy Institute at the University of San Diego School of Law, which for over 20 years has worked to improve the well being of children in California through regulatory, legislative, and judicial advocacy, is pleased to support and sponsor AB 1111, an important and common sense bill that would ensure that we do not lock homelessness youth into a cycle of homelessness and make our streets less safe at the same time.

Californians younger than 21 are only homeless involuntarily and because of what adults do to them. They are homeless because they are either (i) former foster youth, uniformly abused and neglected, who we by state policy frequently kick out to the streets to fend for themselves on or around their 18th birthdays; (ii) runaways who have fled home to remove themselves from a dangerous or abusive home life; or (iii) youth who have been forcibly evicted from their homes by their parents.

Sometimes, these homeless youth are ticketed for infractions that are the consequence of their involuntary homelessness. Such offenses include vagrancy, loitering, and the like. **To reiterate: ticketing homeless youth cannot dissuade them from being homeless. It is like ticketing someone for being tall.** They do not choose to be homeless—living dangerously on the streets. The danger and precariousness of their every nighttime is a far greater disincentive to engage in the offending conduct than a ticket.

Even so, they are given tickets not because of their own choices but because of the policies or conduct of adults. This is bad enough. Worse, as documented by the

California Research Bureau¹, is that when these young people fail to show up for their hearings and pay the fine—how can they?—sometimes the tickets will be turned over to collections.

And, collections will sometimes garnish their wages or bank accounts making it far harder for homeless youth to end their homelessness by the sweat of their own brow; making it far more likely that the offense the tickets are supposed to dissuade will re-occur. Indeed, according to the Bureau's study, 43% of homeless youth surveyed were trying to earn money through employment, temporary work, or odd jobs. The number of youth who reported obtaining money through employment exceeded the number of youth obtaining money through public assistance.²

As the Research Bureau documents:

The great majority [of homeless youth] said they did not pay these tickets because they were not able to. According to the Campaign to End Homelessness, warrants issued due to inability to pay fines can impede homeless people from obtaining a driver's license, getting a job, and securing housing. 'These cycles of arrests create escalating legal barriers for homeless people that all too often impede their ability to overcome homelessness.'²⁴ This was true for the young people in our study, who reported that failure to pay led to problems including having their wages garnished and having warrants issued for their arrest, complicating subsequent cases involving the custody of their children and going to jail.³

This, quite simply, is a terrible reflection of our values. It also is self-defeating. The tickets are issued to dissuade the offense. But, where involuntarily homeless youth are concerned, the garnishment of their wages makes it far harder for the youth to find a place to live thus making it ***even more likely that the offense will be repeated.***

Worse, such garnishments signal to homeless youth that the only way that can reliably earn their way out of homelessness is through illegitimate employment.

Moreover, a recent study by the Judicial Council of its collection processes demonstrated that garnishing wages and bank accounts is expensive and cost-ineffective for this homeless population. This is why private debt collectors do not oppose the measure.

¹ *Voices From The Street*, Bernstein, N., Foster, L. California Research Bureau, (2008)
<http://www.library.ca.gov/crb/08/08-004.pdf>

² *Id.* at p. 47

³ *Id.*, at p. 57

Current law (Penal Code § 1463.007) already describes the things every court or their agents already do to collect debt in the order they do them.⁴ For every debt collection, a court will already and always attempt telephone or written contact and pull a credit report prior to garnishment (observe the statute uses wage and bank account “garnishment” and not “levy.”)

Based on Judicial Council’s *Report to the Legislature on Statewide Collection of Court-Ordered Debt* (January 2010) and existing statute (Penal Code §§ 1463.007 and 1463.010), it appears safe to assume that every court collector will already, as a part of its current collection efforts (whether contracted out or not), obtain information as to whether a debtor has a valid address or likely falls within one of the categories federal law defines as “homeless.”

It also seems safe to infer from the Report that the collection rates for truancy, loitering, curfew violations, or illegal lodging in cases where the collector also has no valid address will be extraordinarily low; far lower than for the routine traffic citations studied by the Council, which, themselves, showed a marked reduction in “inherent collectability” when the initial address check fails to confirm an address.

For example, current law (Penal Code § 1463.007) already describes the things every court or their agents already do to collect debt in the order they do them.⁵ For every debt collection, a court will already and always attempt telephone or written contact and pull a credit report **prior to garnishment** (observe the statute uses wage and bank account “garnishment” and not “levy”).

In addition, the Gartner analysis in the Council’s Report emphasizes that the “inherent collectability of the debt” is influenced by the “accuracy of the initial address information,” and suggests that every program should already be both obtaining and *evaluating* initial address information (Gartner Report, pp. 8-9)

Against this backdrop, the modesty of this bill is clear. The bill does **not** prohibit tickets from issuing. It also does **not** exculpate the youth of the offense. It does not block the overwhelming majority of collection practices. It does **not even** excuse the obligation of the youth to pay the fines. Rather, the bill narrowly and simply presses a **temporary a pause button on the ability of the courts to garnish wages and bank accounts** of homeless youth until their 25th birthday to give them the space to be able to pull themselves up by their bootstraps through legitimate, tax-paying employment.

⁴ This order is consistent with the information we obtained in our last conference call with the Judicial Council, indicating that garnishment is only considered after other steps that will reveal whether the debtor has a valid address. We were told this was in part due to the expense of garnishment.

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In sum, this bill—by simply suspending government from doing something for which there is no business case anyway—helps public safety and aids homeless young adults by rewarding hard work.

We thank you for authoring this common sense, compassionate measure to help California's homeless youth end their own homelessness by the sweat of their own brow.

Sincerely,

A handwritten signature in black ink, appearing to read "Ed Howard", written in a cursive style.

Ed Howard
Senior Counsel,
Children's Advocacy Institute

cc: Members of the Assembly Judiciary Committee