

Assembly Bill No. 1111

CHAPTER 466

An act to add Section 1463.011 to the Penal Code, relating to debt collection.

[Approved by Governor October 4, 2011. Filed with
Secretary of State October 4, 2011.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1111, Fletcher. Debt collection: homeless youth.

Existing law requires the Judicial Council to adopt guidelines for a comprehensive program concerning the collection of moneys owed for fees, fines, forfeitures, penalties, and assessments imposed by court order.

This bill would prohibit a court from garnishing wages or levying a bank account for the enforcement and collection of fees, fines, forfeitures, or penalties imposed by a court against a person under 25 years of age who has been issued a citation for truancy, loitering, curfew violations, or illegal lodging that is outstanding or unpaid if the court obtains information that the person is homeless or has no permanent address, as defined. This bill would authorize a court to use these collection procedures when that person is 25 years of age or older, or if the court subsequently obtains evidence that the individual is no longer homeless. The bill would make related findings and declarations.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) There are approximately 1.6 million homeless youths nationwide, according to the United States Department of Justice.

(b) Homeless youths generally become homeless because they flee dangerous homes, are barred from home by their parents, or are former foster children forced to live on their own at 18 years of age.

(c) Homeless youths are routinely ticketed for offenses that are the inevitable symptoms of homelessness. These offenses include truancy, loitering, curfew violations, and illegal lodging.

(d) The California Research Bureau has documented that if a homeless youth fails to show up to contest or pay a ticket, that homeless youth's wages or bank accounts may be garnished.

(e) Garnishment of the wages and savings of a homeless youth makes it far more difficult for homeless youths to rent their own apartments and end their homelessness by their own willpower and initiative.

(f) In many cases, taking money from homeless youths makes it more, and not less, likely that they will continue to be homeless, and may actually encourage the commission of offenses the laws are meant to dissuade, including illegal lodging and loitering.

(g) It is therefore in the best interest of the state to discourage wage and bank account garnishment practices that make it more difficult for youths who are homeless to obtain housing through their own hard work without exculpating them from the offenses they commit.

SEC. 2. Section 1463.011 is added to the Penal Code, to read:

1463.011. (a) Notwithstanding any other provision of law, if a court, during the course of its routine process to collect fees, fines, forfeitures, or other penalties imposed by a court due to a citation issued for the violation of a state or local law, obtains information indicating that a person under 25 years of age, who has been issued a citation for truancy, loitering, curfew violations, or illegal lodging that is outstanding or unpaid, is homeless or has no permanent address, the court shall not garnish the wages or levy against bank accounts of that person until that person is 25 years of age or older, as that age is recorded by that person's credit report or other document already in the possession of, or previously provided to, the court.

(b) For purposes of this section a person is considered to be "homeless" or as having "no permanent address" if that person does not have a fixed, regular, adequate nighttime residence, or has a primary nighttime residence that is one of the following:

(1) A supervised publicly or privately operated shelter designed to provide temporary living accommodations, including, but not limited to, welfare hotels, congregate shelters, and transitional housing for the mentally ill.

(2) An institution that provides a temporary residence for individuals intended to be institutionalized.

(3) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

(c) Nothing in this section shall be construed to prevent a court from engaging in any other lawful debt collection activities.

(d) Nothing in this section shall be construed to require a court to perform any further investigation or financial screening into any matter beyond the scope of its regular duties.

(e) Nothing in this section shall be construed to prevent the Judicial Council from altering any best practices or recommendations for collection programs pursuant to Section 1463.010.

(f) Nothing in this section shall be construed to prevent a court from garnishing a person's wages or levying against a person's bank accounts if the court, subsequent to its initial determination that the person was a homeless youth exempt from wage garnishment or levy under this section, obtains evidence that the individual is no longer homeless.