

Fines Imposed When Diversion Granted or When Sentence Includes Probation or Parole Term					
Authorizing Statute	Applies To	Amount	Ability to Pay Provision?	Fine Mandatory?	Original Effective Date / Most Recent Amendment
Health & Saf. Code, § 11350, subd. (c) (fine for possessing specified controlled substances where probation granted)	Anyone granted probation following a conviction for felony controlled substance possession under this code section.	(c)(1) First offense: fine of at least \$1,000 or community service. (c)(2) Second or subsequent offense: fine of at least \$2,000 or community service.	Yes	Yes ¹	1992/2018
Pen. Code, § 1001.15 (felony diversion enrollment fees)	REPEALED (AB 177) Anyone granted felony diversion.	Repealed	n/a	n/a	1982/2022
Pen. Code, § 1001.16 (misdemeanor diversion enrollment fees)	REPEALED (AB 177) Anyone granted misdemeanor diversion.	Repealed	n/a	n/a	1982/2022

Authorizing Statute	Applies To	Amount	Ability to Pay Provision?	Fine Mandatory?	Original Effective Date / Most Recent Amendment
Pen. Code, § 1001.90, subds. (a) & (b) (diversion restitution fine)	Anyone charged with a felony or misdemeanor whose case is diverted (including deferred entry of judgment).	\$100 - \$1,000	No	Yes - absent compelling & extraordinary reasons stated on the record.	1995/2022
Pen. Code, § 1001.90, former subds. (g) & (h) (cost of collecting diversion restitution fine)	REPEALED (AB 177) Anyone charged with felony or misdemeanor whose case is diverted (including deferred entry of judgment).	Repealed	n/a	n/a	1995/2022
Pen. Code, § 1202.44 (probation revocation restitution fine)	All crimes where a conditional sentence or a sentence that includes a period of probation is imposed.	Same as amount imposed for restitution fine (Pen. Code, § 1202.4, subd. (b)). ^{2, 3} Suspended unless probation revoked.	No	Yes - absent compelling & extraordinary reasons stated on the record.	2004/(n/a) ⁴

Authorizing Statute	Applies To	Amount	Ability to Pay Provision?	Fine Mandatory?	Original Effective Date / Most Recent Amendment
Pen. Code, § 1202.45 (parole revocation restitution fine)	All crimes in which sentence includes parole term, or defendant subject to postrelease community supervision (Pen. Code, § 3451) or mandatory supervision (Pen. Code, § 1170, subd. (h)(5)(B)).	Same as amount imposed for restitution fine (Pen. Code, § 1202.4, subd. (b)). Suspended unless parole, postrelease community supervision, or mandatory supervision revoked.	No	Yes ⁵	1995/2013 ⁶
Pen. Code, § 1203.044 (victim restitution & 20% county surcharge ordered as condition of probation)	REPEALED (Built-in Sunset Provision) Anyone convicted of felony theft >\$50,000 in single transaction / occurrence where probation granted.	Repealed	n/a	n/a	1992/2008
Pen. Code, § 1203.097 (domestic violence conviction fee)	Anyone convicted of a domestic violence crime (as defined in Fam. Code, § 6211) who is granted probation.	≥\$500 ^{7, 8}	Yes	Yes, unless the court finds no ability to pay, then the court may reduce or waive the fee.	1995/2013

Authorizing Statute	Applies To	Amount	Ability to Pay Provision?	Fine Mandatory?	Original Effective Date / Most Recent Amendment
<p>Pen. Code, § 1203.1, subd (e)</p> <p>(cost of emergency response due to alcohol/drug-influenced motor vehicle incident)</p>	<p>Anyone granted probation following alcohol or drug influenced motor vehicle incident.</p>	<p>Liability for expense of emergency response by a public agency to motor vehicle incident. (Gov. Code, § 53150, as referenced in Pen. Code, § 1203.1, subd. (e).)</p>	<p>No</p>	<p>No</p>	<p>1936/2022</p>
<p>Pen. Code, § 1203.1, former subd. (l)</p> <p>(cost of collecting victim restitution if ordered as condition of probation)</p>	<p>REPEALED (AB 177)</p> <p>Anyone granted probation.</p>	<p>Repealed</p>	<p>n/a</p>	<p>n/a</p>	<p>1936/2022</p>
<p>Pen. Code, § 1203.1ab, subd. (a)</p> <p>(cost of drug testing as condition of probation)</p>	<p>AMENDED⁹ (AB 177)</p> <p>Anyone convicted of drug offense(s) where probation granted with condition defendant not use / be under influence of controlled substances.</p>	<p>Repealed</p>	<p>n/a</p>	<p>n/a</p>	<p>1988/2022</p>

Authorizing Statute	Applies To	Amount	Ability to Pay Provision?	Fine Mandatory?	Original Effective Date / Most Recent Amendment
Pen. Code, § 1203.1b (cost of postconviction supervision, investigation, reporting, and transfer processing)	REPEALED (AB 1869) Anyone convicted of an offense where: a preplea / presentence investigation and report is prepared; or probation is granted; or a conditional sentence is given; or mandatory supervision is ordered.	Repealed	n/a	n/a	1981/2021
Pen. Code, § 1203.1c (cost of local detention related to probation)	REPEALED (AB 177) Anyone incarcerated in county jail as a condition of probation.	Repealed	n/a	n/a	1983/2022
Pen. Code, § 1203.1e (cost of parole supervision)	REPEALED (AB 1869) Anyone released on parole.	Repealed	n/a	n/a	1991/2021
Pen. Code, § 1203.1g (victim restitution as probation condition)	Anyone convicted of sexual assault on minor who is granted probation.	Cost of victim's medical or psychological treatment.	No	Yes	1986/ 1995

Authorizing Statute	Applies To	Amount	Ability to Pay Provision?	Fine Mandatory?	Original Effective Date / Most Recent Amendment
<p>Pen. Code, § 1203.4, subd. (d)</p> <p>(cost of court services rendered related to filing of petition, whether or not petition granted)</p>	<p>Anyone who petitions for a change of plea or setting aside of a verdict.</p>	<p>≤\$150</p>	<p>Yes^{10,11}</p>	<p>No</p>	<p>1983/2022</p>
<p>Pen. Code, § 1203.9, subd. (d)(2)</p> <p>(cost of transferring a probation case)</p>	<p>AMENDED¹² (AB 177)</p> <p>Any case where probation granted and case transferred to different jurisdiction.</p>	<p>Repealed</p>	<p>n/a</p>	<p>n/a</p>	<p>1994/2022</p>
<p>Pen. Code, § 1210.15</p> <p>(cost of electronic monitoring imposed as probation condition)</p>	<p>REPEALED (AB 1869)</p> <p>Anyone granted probation that involves electronic monitoring.</p>	<p>Repealed</p>	<p>n/a</p>	<p>n/a</p>	<p>2005/2021</p>

Authorizing Statute	Applies To	Amount	Ability to Pay Provision?	Fine Mandatory?	Original Effective Date / Most Recent Amendment
Pen. Code, § 2085.5, former subds. (e), (f) & (i) (cost of collecting restitution while imprisoned)	REPEALED (AB 177) Anyone incarcerated in prison or county jail (Pen. Code, § 1170, subd. (h)) upon whom restitution under either Pen. Code, § 1202.4; Gov. Code, § 13967; or Welf. & Inst. Code, § 730.6 imposed.	Repealed	n/a	n/a	1994/2022
Pen. Code, § 2085.6, former subd. (d) (cost of collecting restitution during postrelease supervision)	REPEALED (AB 177) Anyone subject to some form of postrelease supervision where restitution imposed under either Pen. Code, § 1202.4; Gov. Code, § 13967; or Welf. & Inst. Code, § 730.6.	Repealed	n/a	n/a	2015/2022
Pen. Code, § 3010.8 (cost of electronic monitoring while on parole)	REPEALED (AB 1869) Anyone on parole who is subject to electronic monitoring.	Repealed	n/a	n/a	2005/2021

Fines When Sentenced to Prison					
Authorizing Statute	Applies to	Amount	Ability to Pay Provision?	Fine Mandatory?	Original Effective Date / Most Recent Amendment
Pen. Code, §1203.1m (cost of imprisonment)	REPEALED (AB 177) Anyone sentenced to prison.	Repealed	n/a	n/a	1994/2022

¹ “If a defendant does not have the ability to pay the minimum fines specified in paragraphs (1) and (2), community service shall be ordered in lieu of the fine.” (Health & Saf. Code, § 11350, subd. (c)(3).)

² Where the trial court fails to impose the probation revocation restitution fine (Pen. Code, § 1202.44) and the prosecution does not object, the prosecution cannot raise the issue on appeal. (*People v. Tillman* (2000) 22 Cal.4th 300.) Does this mean the appellate court cannot impose the fine on appeal on its own motion in, for example, a *Wende* review? (See *People v. Williams* (1997) 17 Cal.4th 148, 161, fn. 6, suggesting that the waiver rule binds only the parties.)

³ If the execution of a defendant’s prison sentence is suspended and he or she is placed on probation, the trial court should impose the Pen. Code, § 1202.44 probation revocation restitution fine and not the Pen. Code, § 1202.45 parole revocation restitution fine. (*People v. Hunt* (2013) 213 Cal.App.4th 13, 16–20.) Nor should the trial court impose both fines. (*Id.* at pp. 19–20.)

⁴ There have been no amendments to this code section, however, this fine is to be imposed in “same amount as that imposed pursuant to subdivision (b) of Section 1202.4.” (Pen. Code, § 1202.44.) Multiple amendments have affected the Pen. Code, § 1202.4 restitution fine amount. The relevant dates are:

- Jan. 1, 1984 to Sept. 11, 1992: \$100-\$10,000 (felony offenses)
- Sept. 12, 1992 to Sept. 27, 1994: \$200-\$10,000 (felony offenses)
- Sept. 28, 1994 to Dec. 31, 2011:
 \$200-\$10,000 (felony offenses)

-
- \$100-\$1,000 (misdemeanor offenses)
 - Jan. 1, 2012 to Dec. 31, 2012:
 - \$240-\$10,000 (felony offenses)
 - \$120-\$1,000 (misdemeanor offenses)
 - Jan. 1, 2013 to Dec. 31, 2013:
 - \$280-\$10,000 (felony offenses)
 - \$140-\$1,000 (misdemeanor offenses)
 - After Jan. 1, 2014:
 - \$300-\$10,000 (felony offenses)
 - \$150-\$1,000 (misdemeanor offenses)

⁵ Where the trial court imposes a restitution fine (Pen. Code, § 1202.4, subd. (b)) but omits or imposes an erroneous parole revocation fine (Pen. Code, § 1202.45), the error can be corrected even if the prosecution fails to object because it results in an unauthorized sentence. (*People v. Smith* (2001) 24 Cal.4th 849, 851–852.)

⁶ Although there have been amendments to Pen. Code, § 1202.45, they have not been as to amount. Rather, as stated, “the court shall, at the time of imposing the restitution fine pursuant to subdivision (b) of Section 1202.4, assess an additional postrelease community supervision revocation restitution fine or mandatory supervision revocation restitution fine in the same amount as that imposed pursuant to subdivision (b) of Section 1202.4....” (Pen. Code, § 1202.45, subd. (b).) Multiple amendments have affected the Pen. Code, § 1202.4 restitution fine amount. The relevant dates are:

- Jan. 1, 1984 to Sept. 11, 1992: \$100-\$10,000 (felony offenses)
- Sept. 12, 1992 to Sept. 27, 1994: \$200-\$10,000 (felony offenses)
- Sept. 28, 1994 to Dec. 31, 2011:
 - \$200-\$10,000 (felony offenses)
 - \$100-\$1,000 (misdemeanor offenses)
- Jan. 1, 2012 to Dec. 31, 2012:
 - \$240-\$10,000 (felony offenses)
 - \$120-\$1,000 (misdemeanor offenses)
- Jan. 1, 2013 to Dec. 31, 2013:
 - \$280-\$10,000 (felony offenses)
 - \$140-\$1,000 (misdemeanor offenses)

-
- After Jan. 1, 2014:
 - \$300-\$10,000 (felony offenses)
 - \$150-\$1,000 (misdemeanor offenses)

⁷ At original January 1, 1995, effective date, fine was ≥\$200; January 1, 2007, increased to ≥\$400; January 1, 2013, increased to ≥\$500.

⁸ Issue to watch out for: “The fee imposed by this paragraph shall be treated as a fee, not as a fine” (Pen. Code, § 1203.097, subd. (5)(D).) “The . . . fee paid by a person granted probation for a crime of domestic violence does not constitute a ‘fine, penalty, or forfeiture’ to which penalty assessment provisions [of Penal Code § 1464 or Government Code § 76000] apply.” (81 Op. Atty. Gen. 131, 3-20-98.)

⁹ AB 177 eliminated from Pen. Code, § 1203.1ab, subd. (a), language that, where a person has the ability, the court shall order that he or she pay all or part of the costs of drug testing ordered as a condition of probation.

¹⁰ The trial court “may” order payment for all or any portion of the cost of services related to a petition for postconviction relief only if the court determines that the petitioner has the ability to pay; “may” in this context means that the court has discretion whether to order reimbursement and must exercise that discretion. (*Lewis v. Clarke* (2003) 108 Cal.App.4th 563, 569.)

¹¹ Clerk cannot impose fee at time of filing; court determines ability to pay. (*Lewis v. Clarke* (2003) 108 Cal.App.4th 563, 570.)

¹² AB 177 amended Penal Code § 1203.9, subd. (d)(2), to expressly prohibit the receiving court and county probation department from imposing additional local fees and costs related to the transfer of a case.