



BOARD OF SUPERVISORS

March 16, 2016

The Honorable Board of Supervisors
County Administration Building
Oakland, California 94612

Dear Board Members:

SUBJECT: ADOPT A RESOLUTION SUSPENDING THE ASSESSMENT AND COLLECTION OF JUVENILE PROBATION FEES AND THE JUVENILE PUBLIC DEFENDER FEE FOR ALL ALAMEDA COUNTY RESIDENTS

RECOMMENDATION:

1. Adopt a Resolution establishing a moratorium on the assessment and collection of juvenile probation fees and the juvenile public defender fee for all county residents (suspending both the assessment of new fees and the collection of outstanding fees).
2. Direct the County Administrator, Probation Department, the Auditor-Controller's Office, and the Office of the Public Defender to develop a plan and ordinance for the repeal of Section 2.42.190 of the Administrative Ordinance Code ("Juvenile Probation Department Fees Ordinance").

SUMMARY/DISCUSSION:

The moratorium being brought for your consideration would affect both the assessment and collection of juvenile administrative fees. With regard to assessment, no youth or his/her family shall be assessed juvenile fees by the County. With regard to the collection, no youth or his/her family who have been previously assessed juvenile fees shall be required to pay on outstanding amounts and no interest will accrue during the moratorium. Implementing a moratorium will reduce one source of revenue for the Probation Department, the Office of the Public Defender and the Auditor-Controller's Office. The County should ensure that expenditures for critical juvenile probation services be supported with funding from other sources to ensure no loss in services or impact on staff during the moratorium.

During this period, staff will continue to review the policy of assessing fees for juvenile probation services and the procedures under which such fees are referred, collected, or waived to develop a plan for implementing a repeal of juvenile probation fees and the juvenile public defender fee by June 28, 2016. The plan and draft ordinance repealing Section 2.42.190 of the Administrative Code will be presented for discussion at the Public Protection Committee prior to being brought to the full Board of Supervisors for consideration.

The intent of the moratorium is to freeze assessment and collection of fees to allow staff to develop a plan to address the effects of the repeal of these juvenile probation fees and to identify funding for the services currently supported with these juvenile probation fees. The effects of the

repeal could include practical issues, including but not limited to: identifying the universe of persons who are currently in the assessment and collections process, how to notify all persons with outstanding juvenile fee related debt, petitioning the juvenile court to vacate all court-ordered judgments for juvenile fees, recalling and halting collections referred to the Franchise Tax Board.

California Welfare and Institutions Code section 903 et seq. permits counties to charge youth and their families for the cost of services imposed on delinquency system-involved youth. These fees are assessed to youth and to parents or guardians, having custody and control of juveniles. Parents/guardians are charged the costs of detention in juvenile facilities (Juvenile Hall and Camp Wilmont Sweeney), public defender/court-appointed counsel, investigation, supervision, electronic (GPS) monitoring, and drug and substance abuse testing.

The Board of Supervisors adopted the current fee schedule in 2009. Prior to 2009, the County only charged youth and families fees for detention in Juvenile Hall and Camp Wilmont Sweeney and for public defender/court-appointed counsel representation. In order to offset the increased cost of providing probation services, the Board of Supervisors approved increases to the detention fees and added four new fees: investigation, supervision, electronic (GPS) monitoring, and drug testing based on their ability to pay.

The current fee schedule is as follows:

Fee	Amount
Juvenile Hall (per day)	\$25.29
Camp Sweeney (per day)	\$20.32
Public Defender or Court-Appointed Attorney (per case)	\$300.00
Juvenile Investigation (per case)	\$250.00
Juvenile Supervision (per month)	\$90.00
Juvenile Electronic & GPS Monitoring (per day)	\$15.00
Juvenile Drug & Substance Abuse Testing (per test)	\$7.17
Juvenile Lab Test Confirmation (per test)	\$21.51

Cal. Welf. & Inst. Code § 903.45, requires counties that charge these fees to ensure that families who cannot afford to pay are not billed. Currently, two financial hearing officers, who are employees of the Central Collections Division of the Auditor-Controller Agency, evaluate whether or not families in the County can afford to pay these fees. Existing ability to pay determination processes are highly discretionary and do not account for changes in circumstances (income, dependents, etc.). If a family does not meet with a financial hearing officer, they can be billed in full, regardless of ability to pay.

The County does not know how many families receive fee reductions or waivers based on inability to pay or how many families are billed in full. The County keeps no data on families charged, and cannot demonstrate that families who cannot pay have not been charged. In short, there is no data that confirms that only families who can pay are being assessed fees.

Many youth in the juvenile system and their families struggle to pay these fees. Imposing this kind of debt on families induces economic and familial instability, which undermines the rehabilitative purpose of the juvenile system. Outstanding fees become civil judgments, which result in referrals to the Franchise Tax Board where parents' wages can be garnished, bank accounts can be levied, and tax refunds can be intercepted.

Youth of color are disproportionality impacted by the imposition of fees. According to Alameda County Probation Department data youth of color are overrepresented in the system and, on average, serve longer probation terms than their white counterparts. This means that youth of color, and their families, have a heavier financial burden. These fees are unfair and unrealistic given the adverse economic conditions faced by families with youth in the juvenile system.

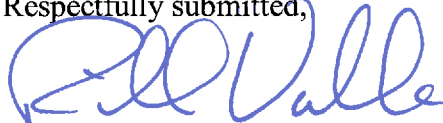
There is little financial gain for the County from these fees. Staff within the Probation Department and the Auditor-Controller's Office, in collaboration with the Policy Advocacy Clinic at Berkeley Law, have gathered data, identified information gaps, and performed an initial review of juvenile fees in Alameda County. For example, in fiscal year 2014-15, Alameda County referred juvenile probation fess of more than \$475,000 to approximately 300 families. Based on the number of staff and resources involved in the assessment and collection of juvenile fees, the County spent more than \$250,000 to collect approximately \$420,000.

	FY 2014-15
Referred	\$476,152
Collected	\$419,830
Costs	\$250,938
Net to County	\$168,892

FINANCING:

The County Administrator's Office working with the appropriate departments will identify alternative funding sources to replace any lost revenue or support impacted staff caused by a moratorium on the assessment and collection of juvenile fees.

Respectfully submitted,



Richard Valle
Supervisor, Second District



Keith Carson
Supervisor, Fifth District

RESOLUTION NO. 2016- 66

A RESOLUTION PLACING A MORATORIUM ON THE ASSESSMENT AND COLLECTION OF ALL JUVENILE PROBATION FEES AND THE JUVENILE PUBLIC DEFENDER FEE

WHEREAS, the County of Alameda currently charges youth involved in the juvenile justice system and their families six Probation Department fees and a Public Defender fee; and

WHEREAS, the seven fees are as follows: 1) a fee for each night spent in Juvenile Hall, 2) a fee for each night spent at Camp Wilmont Sweeney, 3) a one-time fee for public defender representation, 4) a one-time investigation fee, 5) a daily electronic monitoring fee, 6) a monthly supervision fee, and 7) a fee for drug testing and lab confirmation; and

WHEREAS, in 2009 the Alameda County Board of Supervisors increased the two existing detention fees (Juvenile Hall and Camp Sweeney) and added four new fees to the existing fee schedule, and in 2015, the Board eliminated the juvenile record sealing fee; and

WHEREAS, families and advocates in Alameda County have reported that these fees cause financial hardship and disrupt family stability; and

WHEREAS, unpaid administrative fees become civil judgments, which can result in referrals to the Franchise Tax Board where parents' wages can be garnished, their bank accounts can be levied and their tax refunds can be intercepted; and

WHEREAS, it is in the interest of the County, of young people involved in the juvenile justice system and their families, and of the larger community that the County repeal the seven juvenile probation fees and public defender fee; and

WHEREAS, it is in the interest of the County to adopt this resolution in order to allow staff to develop a plan to address the effects of the repeal of these juvenile probation fees and to identify funding for the services currently supported with these juvenile probation fees to maintain the fiscal integrity of affected County departments, including, but not limited to, the Probation Department, the Auditor-Controller's Office, and the Office of the Public Defender; and

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors as follows:

Section 1. A moratorium is imposed on the assessment and collection of juvenile probation and juvenile public defender fees, suspending the assessment and collection of:

- A. Fees for time juveniles spend in Juvenile Hall;
- B. Fee for time juveniles spend at Camp Wilmont Sweeney;
- C. Fees for the Public Defender's and court-appointed counsel's representation of juveniles;
- D. Fees for the Probation Department's investigation of juvenile cases;
- E. Fees for the Probation Department's supervision of juveniles;
- F. Fees for the electronic (GPS) monitoring of juveniles; and
- G. Fees for drug testing of juveniles.

Section 2. Unless extended by action of this Board, the moratorium shall expire upon repeal of the fees listed in Section 1.

Section 3. For the purpose of implementing this moratorium, no later than June 28, 2016, County staff is directed to return to the Board of Supervisors with a plan and ordinance for the repeal of fees listed in Section 1.

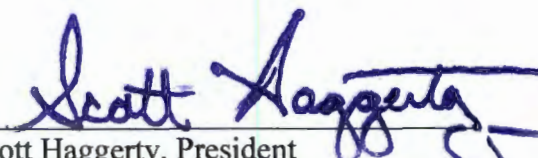
Section 4. That the moratorium imposed by Section 1 of this Resolution shall be effective as soon as it is reasonably possible for the County Auditor-Controller to stop collecting the fees.

THE FOREGOING WAS PASSED AND ADOPTED by the Board of Supervisors this 29th day of March, 2016, to wit:

AYES: Supervisors Carson, Chan, Miley, Valle & President Haggerty

NOES: None

EXCUSED: None



Scott Haggerty, President
Board of Supervisors

ATTEST:
Clerk of the Board of Supervisors

By: R. Bailey, Deputy

APPROVED AS TO FORM:
DONNA R. ZIEGLER, COUNTY COUNSEL

By: Donna R. Ziegler
Donna R. Ziegler, County Counsel