

C O U N T Y A D M I N I S T R A T O R



SUSAN S. MURANISHI
COUNTY ADMINISTRATOR

June 22, 2016

Honorable Board of Supervisors
Administration Building
Oakland, CA 94612

Dear Board Members:

**SUBJECT: ADOPT AN ORDINANCE AMENDING ADMINISTRATIVE CODE SECTION 2.42.190
AND THE JUVENILE FEE SCHEDULES FOR PROBATION AND PUBLIC DEFENDER
TO REPEAL ALL JUVENILE FEES**

RECOMMENDATIONS:

Consistent with your Board's direction on March 29, 2016:

- A) Adopt an ordinance amending Section 2.42.190 of the Administrative Code of the County of Alameda to remove the assessment and collection of juvenile probation fees; and
- B) Amend Resolution No. 2009-468 to repeal juvenile fees collected by the Probation Department in their existing fee schedule for drug or substance abuse testing, laboratory test confirmations and electronic or Global Positioning System (GPS) monitoring; and
- C) Amend Resolution No. 2011-142 to repeal juvenile fees collected by the Public Defender's Office in their existing fee schedule for the Public Defender fee that is assessed for each juvenile case referred to their office.

DISCUSSION/SUMMARY:

On March 29, 2016, your Board passed and adopted Resolution No. 2016-66, which placed a moratorium on the assessment and collection of all juvenile Probation fees and the juvenile Public Defender fee for Alameda County youth involved in the juvenile justice system. The corresponding board letter requested that the County Administrator's Office, Auditor-Controller's Agency, Probation Department and the Public Defender's Office develop a plan and ordinance to amend Section 2.42.190 of the Administrative Code ("Collection of probation department fees") to repeal the portions related to assessment and collection of juvenile fees, which had been allowed per California Welfare and Institutions Code Sections 903 and 904.

Per the approved board letter and resolution, the Auditor-Controller's Agency immediately suspended the collection of juvenile probation fees on March 29, 2016. Action was taken to immediately close two financial hearing offices at the Juvenile Justice Center. Written notices regarding the moratorium were sent to all families on April 6, 2016. Every payment that was received after March 29th was returned or refunded, resulting in refunds totaling \$4,700 between March 29 and June 10. Over-the-counter payments, U.S. Postal Service payments and any checks were returned to families immediately. Tax intercepts, wage garnishments and lockbox check deposits were refunded promptly. All collections referred to the Franchise Tax Board were immediately withdrawn, but additional time was required for the State to receive and remit payments to the County. Since May 1, very few payments have been received resulting in fewer refunds processed.

The Probation Department has also reached out to Presiding Judge Charles Smiley of the Juvenile Dependency Court. Judge Smiley will continue to address each case and situation on its own merits, giving careful consideration to the recommendations of probation and its effects on families in the juvenile justice system.

County Impacts

Juvenile administrative fees paid for specific services provided to those involved in the system as allowed under California Welfare and Institutions Code Sections 903 and 904. Services included programs, activities and staffing costs. **The repeal of these juvenile fees represents a loss of revenue between \$500,000 and \$550,000 annually for Alameda County.** The Proposed Fiscal Year 2016-17 Budget eliminated the collection of juvenile administration fee revenue but expenditures remained in department's operating budgets relying on alternative revenue sources, including the County's General Fund. Additionally, there remains approximately \$2 million in outstanding (assessed, but uncollected) fees assessed since.

Details on departmental revenue reduction impacts are provided below.

Public Defender's Office

In Fiscal Year 2014-15, the Public Defender's Office received just over \$33,000 in revenue from the juvenile Public Defender fee per Resolution No. 2011-142, which is the estimated annual revenue loss. The fees were used to partially offset the cost of juvenile legal representation and were used to cover cost of telephone charges, equipment supplies and expert witnesses when necessary. These service costs will now be covered by other funding sources, primarily the General Fund, and there are no adjustments needed to continue the same level of service.

Probation Department

Based on Fiscal Year 2014-15 totals, the Probation Department estimates that \$275,000 in revenue for juvenile probation fees will be lost annually due to the amendments to Section 2.42.190 of the Administrative Code and Resolution No. 2009-468. These fees were used to support juvenile life skills and educational programming in Camp Sweeney and Juvenile Hall, which could see a reduction in scope of services, activities or events due to the loss of revenue. This includes but is not limited to: Camp Sweeney's Freedom School, Camp Sweeney's Annual Tolerance Tour, Juvenile Hall's Annual Resource Fair and the Destiny Arts Program. Ancillary costs such as special events, bus tickets, payment for bills, etc., are not mandatory but do help youth and families complete their terms and conditions of probation. Other sources of revenue, including the County General Fund, will be needed to continue these services.

Juvenile GPS monitoring is court-ordered per California Welfare and Institutions Code section 601. As such, these are mandated services that the County must continue to provide. The estimated annual cost of electronic/GPS monitoring for juveniles is \$180,000. Today, there are 69 youth in Probation currently being monitored. Additionally, each lost or damaged device costs over \$23,000 to replace. GPS monitoring costs have never been fully offset by juvenile fees, but now the Probation Department, through use of General Funds, will be required to cover the whole cost of these services.

While drug testing for juveniles may also be court-ordered, it is also a term of probation and Camp placement. Juvenile drug testing and post-testing laboratory confirmation costs the department approximately \$30,000 annually. Drug testing costs have never been fully offset by juvenile fees, but now the Probation Department, through use of General Funds, will be required to cover the whole cost of these services.

Auditor-Controller's Office

The estimated revenue lost by the Auditor-Controller's Office is between \$200,000 and \$250,000 annually. Staff in the Auditor-Controller's Office is assigned to the collection of a wide variety of fees, including these juvenile fees. This fee revenue was used to support a portion of staff salary and benefits costs. Since the establishment of the moratorium, affected staff has been assigned to other collection activities.

Given the steps that have been taken by the Auditor-Controller's Office to halt the assessment and collection of fees and the actions that each affected department has taken to plan and assess how the loss of revenue will affect programs, services and staffing, we ask that your Board approve the attached ordinance to repeal the juvenile probation fees and the juvenile Public Defender fee effective immediately.

FINANCING:

The repeal of the juvenile fees translates into loss of revenue for the County of up to \$558,000 annually in newly assessed fees, which breaks down as follows:

Department	Annual Revenue Loss*
Auditor-Controller	\$ 200,000 – 250,000
Probation	275,000
Public Defender	33,000
Total	\$ 508,000 – 558,000

*Approximate

As a result of the Board's action to enact a moratorium on Juvenile Administrative Fees, the FY 2016-17 Proposed Budget reduced revenue collections as indicated above. Department expenses funded previously with fee revenue are budgeted to continue without a specific new revenue source. This revenue loss was part of the FY 2016-17 funding gap and resulted in increased General Fund costs of up to \$558,000.

Additionally, \$2 million in outstanding fees assessed since 2009 will remain uncollected. With service-related expenditures continuing, the net loss to the County is the full amount of revenue that had been generated each year plus any prior year collections that we may have been able to recover.

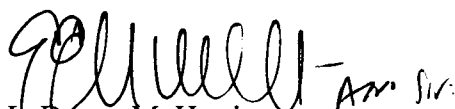
Respectfully submitted,




Susan S. Muranishi
County Administrator



Steve Manning
Auditor/Controller



LaDonna M. Harris
Chief Probation Officer



Brendon D. Woods
Public Defender

SSM:MLC:mcp
cc: County Counsel

ORDINANCE NO. 2016-35

AN ORDINANCE AMENDING SECTION 2.42.190 OF THE ADMINISTRATIVE ORDINANCE CODE TO REPEAL JUVENILE PROBATION FEES, AMENDING RESOLUTION NO. 2011-142 TO REPEAL THE PUBLIC DEFENDER FEE FOR REPRESENTATION OF JUVENILES, AND AMENDING RESOLUTION NO. 2009-468 TO REPEAL THE PROBATION DEPARTMENT JUVENILE SUPERVISION, JUVENILE ELECTRONIC AND GLOBAL POSITIONING SYSTEMS MONITORING, AND JUVENILE DRUG AND SUBSTANCE ABUSE TESTING FEES

WHEREAS, on March 29, 2016, the Board of Supervisors adopted Resolution No. 2016-66 (the Resolution) placing a moratorium on the assessment and collection of seven juvenile probation fees and the Juvenile Public Defender Fee (collectively the Fees); and

WHEREAS, the Resolution directed staff to return to the Board of Supervisors no later than June 28, 2016, with a plan and an ordinance for the repeal of the Fees; and

WHEREAS, the Board of Supervisors finds that it is in the best interest of the County to repeal the Fees and terminate the moratorium;

NOW, THEREFORE, the Board of Supervisors of the County of Alameda ordains as follows:

SECTION I

Section 2.42.190 of the Alameda County Administrative Ordinance Code is hereby amended to read as follows:

2.42.190 - Collection of probation department fees.

The following fees and charges shall be paid to the Alameda County probation department or the county of Alameda collection agent:

A. Fees for adult investigations and for providing probation supervision of adults, pursuant to Penal Code Section 1203.1 b, as follows:

1. Adult investigations: Seven hundred ten dollars (\$710.00) per case.
2. Adult supervision: Ninety dollars (\$90.00) per month.

The administrator of the home detention program or his designee, shall have the option to waive the fees for program supervision when deemed necessary, justified or in the interest of justice. All fees paid for program supervision shall be deposited into the general fund of the county. Inmates involuntarily participating in the home detention program shall not be charged fees or costs for the program.

B. Fees for the petition for a change of plea or setting aside of a verdict shall be as follows, pursuant to Penal Code Section 1203.4:

1. Costs of actual services rendered: Not to exceed one hundred fifty dollars (\$150.00) per case.

This fee shall be applied to a person whether or not the petition is granted and the records are sealed or expunged.

SECTION II

The Probation Department schedule of fees adopted in Resolution No. 2009-468 on December 1 2009, is amended to repeal the "Juvenile Supervision Fee" of \$90.00 per month, the "Juvenile Electronic and Global Positioning Systems Monitoring Fee" of \$15.00 per day for the cost of electronic surveillance of a minor, and the "Drug and Substance Abuse Testing Fee" of \$7.17 per drug test and \$21.51 per laboratory confirmation for juveniles. The "Drug and Substance Abuse Testing Fee" of \$7.17 per drug test and \$21.51 per laboratory confirmation for adults shall remain in effect.

SECTION III

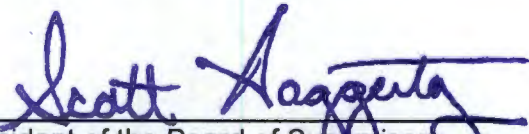
The Public Defender schedule of fees adopted in Resolution No. 2011-142 on May 10, 2011, is amended to repeal the \$300 fee for representation of juveniles established in Section 1.A of the Resolution.

SECTION IV

This ordinance shall take effect and be in force thirty (30) days from and after the date of passage and before the expiration of fifteen (15) days after its passage it shall be published once with the names of the members voting for and against the same in the Inter-City Express, a newspaper published in the County of Alameda.

Adopted by the Board of Supervisors of the County of Alameda, State of California, on the 12th day of July, 2016, by the following called vote:

AYES: Supervisors Carson, Chan, Miley, Valle & President Haggerty
NOES: None
EXCUSED: None



President of the Board of Supervisors

ATTEST:

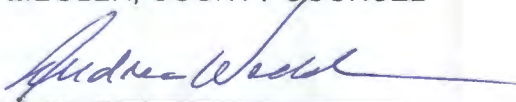
Clerk of the Board of Supervisors,

By: 

Deputy Clerk

APPROVED AS TO FORM:

DONNA R. ZIEGLER, COUNTY COUNSEL

By: 

Andrea L. Weddle
Assistant County Counsel