



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.

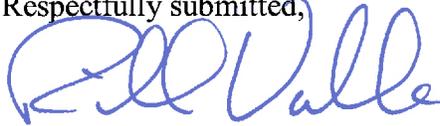
There is little financial gain for the County from these fees. Staff within the Probation Department and the Auditor-Controller's Office, in collaboration with the Policy Advocacy Clinic at Berkeley Law, have gathered data, identified information gaps, and performed an initial review of juvenile fees in Alameda County. For example, in fiscal year 2014-15, Alameda County referred juvenile probation fees 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

COUNTY ADMINISTRATOR



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.

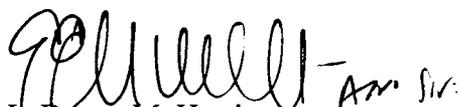
Respectfully submitted,



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

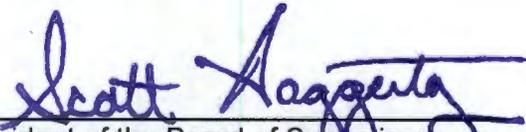
The Public Defender schedule of fees adopted in Resolution No. 2011-142 on May 10, 2011, is amended to repeal the \$300 fee for representation of juveniles established in Section 1.A of the Resolution.

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:

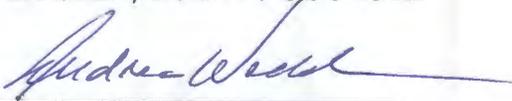
Clerk of the Board of Supervisors,

By: 

Deputy Clerk

APPROVED AS TO FORM:

DONNA R. ZIEGLER, COUNTY COUNSEL

By: 

Andrea L. Weddle
Assistant County Counsel