

THE BOARD OF SUPERVISORS OF CONTRA COSTA COUNTY, CALIFORNIA

and for Special Districts, Agencies and Authorities Governed by the Board

Adopted this Resolution on 09/17/2019 by the following vote:

AYE: ☒ 3 **John Gioia**
Diane Burgis
Federal D. Glover

NO: ☒ 2 **Candace Andersen**
Karen Mitchoff

ABSENT: ☒

ABSTAIN: ☒

RECUSE: ☒



Resolution No. 2019/522

IN THE MATTER OF a proposed moratorium on the assessment and pursuit of collection of certain adult criminal justice fees.

WHEREAS, criminal justice financial obligations, such as fees for probation, indigent defense, and work release programs, can have long-term effects that can undermine successful societal reentry goals of the formerly-incarcerated, such as attaining stable housing, transportation, and employment.

WHEREAS, criminal justice debt levied against low income or indigent adults compromises key principles of fairness in the administration of justice in a democratic society and engenders deep distrust of the criminal justice system among those overburdened by such debt.

WHEREAS, according to a report by the Ella Baker Center for Human Rights, the average debt incurred for court-ordered fines and fees line was roughly equal to the annual income for low-income respondents.

WHEREAS, a national survey of formerly incarcerated people found that families often bear the burden of fees.

WHEREAS, on July 21, 1994, Contra Costa County Board of Supervisors approved a resolution pursuant to California Penal Code § 1203.1 to charge up to a ten percent fee ("10% Fee") of the amount of restitution ordered by the Superior Court.

WHEREAS, Contra Costa County is currently authorized by Resolution No. 88/565 and California Government Code § 76102 to establish a County Automated Fingerprint Identification Fund in Contra Costa County and to charge a fifty cent (\$0.50) assessment ("California Fingerprint ID Penalty") for each \$10 fine, penalty, or forfeiture imposed and collected by the Superior Court for all criminal offense and certain violations of the Vehicle Code for the purpose of assisting the County in the establishment and maintenance of adequate fingerprint facilities and suspect booking identification facilities.

WHEREAS, Contra Costa County is currently authorized by Ordinance No. 2011-13 and California Government Code § 29550 to recover any criminal justice administration fee ("Booking Fee") imposed by the County from the arrested person if the person is convicted of any criminal offense related to the arrest.

WHEREAS, Contra Costa County is currently authorized by California Penal Code § 1211 and resolution approved by the Board of Supervisors on July 21, 1994 to charge a fee ("Drug Diversion fee") for the administrative and laboratory analysis costs incurred in processing a drug diversion case.

WHEREAS, Contra Costa County is currently authorized by Resolution No. 88/28 and California Penal Code § 1463.14 and § 1463.16 to charge two separate \$50 assessments (the "Alcohol Test fee" and "C.A.P. fee") on defendants convicted of violating California Vehicle Code § 23152 or § 23153 (driving a motor vehicle under the influence of alcohol or drugs).

WHEREAS, on September 14, 1995, the Contra Costa County Board of Supervisors authorized a Probation Drug Diversion administrative fee ("Probation Department Drug Diversion fee") for the Probation Department's processing of clients into a drug diversion program pursuant to Penal Code § 1001.15.

WHEREAS, Contra Costa County's Probation Department is currently authorized by Resolution No. 2010/262 and Penal Code § 1203.1b to charge a Probation Supervision Fee ("Cost of Probation fee") to recover the cost of probation supervision.

WHEREAS, Contra Costa County's Probation Department is currently authorized by Penal Code § 1203.1ab to charge a

Probation Drug Test fee ("Probation Drug Testing fee") to recover the cost of drug testing required as a condition of one's probation.

WHEREAS, Contra Costa County's Probation Department is currently authorized by Ordinance 2009-28 and Penal Code § 1203.1b and § 1203.7 to charge a Probation Report Fee ("Probation Report Fee") to recover the cost to conduct a preplea investigation of a criminal defendant and prepare a preplea report.

WHEREAS, Contra Costa County is currently authorized by Resolution 99/347 and Penal Code § 1463.13 to charge an Alcohol and Drug Assessment Fee ("Alcohol and Drug Assessment Fee") to recover the cost of providing community substance abuse services for those convicted of driving under the influence.

WHEREAS, Contra Costa County is currently authorized by Penal Code § 987.81 to charge Public Defender Fees ("Public Defender Fees") to recover the cost of court appointed counsel.

WHEREAS, the Contra Costa County Office of the Sheriff is currently authorized by Resolution 2008/303 and Penal Code § 4024.2 and § 1203.016 to charge fees to participate in the Custody Alternative Program to recover the cost of administering the program.

WHEREAS, the Board of Supervisors referred to the Public Protection Committee the matter of whether the County should continue to assess and collect certain adult criminal justice fees in light of the financial hardship and social impact of such fees on individuals and their families.

WHEREAS, the Public Protection Committee received testimony from the community expressing concern that these fees are assessed without a consistent ability-to-pay determination.

WHEREAS, the Board of Supervisors finds that it is in the best interest of the County, justice-involved adults, and the larger community to place a moratorium on the assessment and collection of the above-named adult fees.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. Effective September 17, 2019, and until further action by the Board of Supervisors, the Office of the Sheriff's authority to assess Custody Alternative Facility program fees is temporarily suspended. In addition, the Office of the Sheriff will not pursue collection of such fees on existing accounts.
2. Effective September 17, 2019, and until further action by the Board of Supervisors, the Probation Department's authority to assess and collect the following fees is temporarily suspended: Probation Report Fee, Cost of Probation fee, Probation Drug Testing fee, and Probation Department Drug Diversion fee. In addition, the Probation Department will not pursue collection of such fees on existing accounts.
3. Effective September 17, 2019, and until further action by the Board of Supervisors, Contra Costa County will temporarily suspend the assessment and collection of the following fees: 10% Fee, California Fingerprint ID Penalty, Booking Fee (collected from arrestee), Drug Diversion fee, Alcohol Test fee, C.A.P. fee, Alcohol and Drug Assessment Fee, and Public Defender Fees.
4. The County Administrator will notify the Superior Court of this moratorium on the assessment and collection of the above adult criminal justice fees that are collected by the Superior Court. This includes a moratorium on the collection of such fees on existing accounts.
5. The County Administrator will report back to the Board of Supervisors on this matter on or before December 31, 2019.

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: September 17, 2019

David J. Twa, County Administrator and Clerk of the Board of Supervisors

Jami Napier
By: Jami Napier, Deputy



Contact: Paul Reyes, 925-335-1096

cc: Robert Campbell, Auditor-Controller