



Board Agenda Item 26

DATE: February 1, 2022

TO: Board of Supervisors

SUBMITTED BY: Kirk Haynes, Chief Probation Officer

SUBJECT: Amendment to Master Schedule of Fees - Probation Department

RECOMMENDED ACTION(S):

Conduct second hearing and adopt an Ordinance amending the County of Fresno Master Schedule of Fees, Charges and Recovered Costs Ordinance by deleting subsections 1807, 1811, 1812, 1814, and 1819 of Section 1800-Probation, for fees related to the Restitution Collection, Diversion Administrative Fee, Casual Meals, Drug Testing, and Juvenile Record Sealing (the Ordinance), and adding subsection 1815 establishing a daily fee rate to house youth from other counties at the Juvenile Justice Campus, and amend the title of subsection 1816 to accurately reflect the purpose of the fee; and Waive the reading of the proposed Ordinance in its entirety.

Approval of the recommended actions amends the Master Schedule of Fees, Charges and Recovered Costs Ordinance to delete certain Probation fees that the County no longer has the statutory authority to collect due to Assembly Bill (AB) 177, add a daily rate fee, and amend a title to accurately reflect the purpose of a fee. AB 177 approved on September 24, 2021 and effective as of January 1, 2022, results in changes to criminal administrative fees that may be charged by agencies and courts. This law repeals the authority of counties to collect past debts for various criminal justice and administrative fees for the costs of restitution collection, diversion administrative fees, casual meals, and drug testing, and also appropriates monies to counties for the first half of FY 2021-22, and on an ongoing basis starting with FY 2022-23 to allow for the backfill of associated revenue losses. Welfare and Institutions Code (WIC) section 781.1 also provides that probation departments shall not charge an applicant a fee for filing a petition to seal juvenile records. In addition, on September 30, 2020, the Governor signed Senate Bill (SB) 823 into law, which phases in the closure of the California Division of Juvenile Justice (DJJ) and transfers responsibility for the custody, care, and supervision of high-risk youth from the DJJ to the local county jurisdiction. The County applied for and received funds from the Board of State and Community Corrections (BSCC) to create a regional hub program for youthful sex offenders, which is intended to serve eight Central Valley counties (including Fresno). Approval of the recommended actions will allow the Department to charge sending counties a daily rate of \$380 per youth to be housed at the Juvenile Justice Campus (JJC), which may include youth being housed in the regional hub or in the general population area of the JJC. Subsection 1816 is an administrative fee for approval of batterer's programs, and is not a fee charged to domestic violence batterers. The title of subsection 1816 should be amended so that it is clear that the County may collect the administrative fee to approve domestic violence batterer programs, but may not collect the administrative fee from domestic violence batterers. Approval of the recommended actions will also formalize the Department's implementation of AB 177. It should be noted the Department as of FY 2021-22 stopped collecting the associated fees. This item is countywide.

ALTERNATIVE ACTION(S):

There are no viable alternative recommended actions. AB 177 deletes the above-referenced fees from the Government Code and Penal Code, and the County will have no further statutory authority to collect these fees. Amending the description of the domestic violence batterer administrative fee will clarify the purpose of that fee, and permit the County to continue to charge an administrative fee to annually approve each domestic violence batterer program. The Department is required to create a regional hub based on the receipt of funds from the BSCC for this purpose. The addition of the daily rate to the Master Schedule of Fees (MSF) is required to support the ongoing costs of accepting youth from other counties. If the recommended actions are not approved, the County will have to relinquish the BSCC grant funds for the regional hub and not accept youth from other counties.

FISCAL IMPACT:

The State set aside \$25 million for FY 2021-22 (for half-year implementation) and \$50 million annually thereafter to backfill associated revenue losses. The County's specific amount is unknown at this time, as the legislature will draft additional legislation by March 2022 to finalize the funding allocation methodology for distribution to each County. Modifying the language to clarify what the fee is being charged for will allow the County to recoup the annual cost to approve each program. In addition, the new daily rate of \$380 per youth per day to the MSF will allow the Department to offset any ongoing costs associated with housing other counties' youth. There are sufficient appropriations in the FY 2021-22 Adopted Budgets for Orgs 3430 and 3440 to absorb any related costs.

DISCUSSION:

On January 18, 2022, your Board conducted the first hearing to amend Section 1800 of the MSF, to delete certain fees that were affected by AB 177, WIC section 781.1, amend the title of subsection 1816, and add a daily rate related to SB 823. AB 177 repeals the authority of counties to collect various criminal justice and administrative fees for the costs for restitution collection, administrative fees for diversion, casual meals, and drug testing, and also appropriates monies to counties for the first half of FY 2021-22, and on an ongoing basis starting with FY 2022-23 to allow for the backfill associated revenue losses. WIC section 781.1 provides that probation departments shall not charge an applicant a fee for filing a petition to seal juvenile records. Subsection 1816 is an administrative fee for approval of batterer's programs, and is not a fee charged to domestic violence batterers. SB 823 phases in the closure of the DJJ and transfers responsibility of custody, care, and supervision of high-risk youth from the DJJ to the local county jurisdiction. The Juvenile Justice Realignment Block Grant (JJRBG) program, established by SB 823, allocated block grant funding from DJJ to the County for the transfer of jurisdiction.

As of FY 2021-22 the Probation Department no longer receives fees from individuals from whom they collect restitution, administrative fees from participation in a diversion program, casual meals, and drug testing. Effective January 1, 2022, AB 177 repeals the County's authority to collect these fees.

AB 177 also prohibits the collection of unpaid balances of the above-referenced fees and any portion of a judgement imposing those costs will be vacated; therefore, the Probation Department will no longer be able to collect these fees, as previously assessed against individuals on Probation.

Additionally, pursuant to (WIC) 781.1, the Probation Department shall no longer charge an applicant a fee to file a petition to seal their record.

The recommended actions will eliminate subsections 1807, 1811, 1812, 1814, and 1819, amend the title of subsection 1816, and approve the addition of subsection 1815 of Section 1800-Probation from the Master Schedule of Fees, which are shown in Attachment A. As a result of the recommended actions, the Probation Department and Auditor-Controller/Treasure-Tax Collector's Office will:

1. Stop assessing all fees repealed by AB 177;
2. Cease all collection efforts for any fees repealed by AB 177, including notifying and updating contracts with third-party debt-collection agencies;
3. Discharge all remaining balances for previously assessed AB 177 fees; and
4. Notify all impacted individuals of the actions being taken to implement AB 177 and provide notification of any unpaid balances for other fees and/or fines still owed, and not affected by the implementation of AB 177.

SB 823 transfers responsibility for the custody, care, and supervision of high-risk youth from the DJJ to the local county jurisdiction and established the JJRBG program, which allocated block grant funding to the County for the transfer of jurisdiction of these high-risk youth. The County has also been conditionally awarded funding from the BSCC in the amount of \$1 million to establish a regional hub program for youthful sex offenders. This program will provide a secure residential placement option for the following eight counties located in the Central Valley Region of California: Fresno, Kern, Kings, Madera, Mariposa, Merced, Mono, and Tulare. Eligible youth will include youth between the ages of 14 and 21 who have been adjudicated on a qualifying sexual offense. The addition of the daily rate fee to the MSF will allow the Department to offset ongoing costs associated with housing youth in the regional hub, as well as costs associated with housing youth from other counties in the general population area of the JJC .

The amendment of the title of subsection 1816 will accurately reflect the purpose of the fee, and the County will continue to be able to charge an administrative fee for the approval of domestic violence batterer programs. The amended title will clarify this fee is not a charge for domestic violence batterers.

With your Board's approval, the recommended ordinance will take effect 30 days thereafter.

REFERENCE MATERIAL:

BAI #4 January 18, 2022

ATTACHMENTS INCLUDED AND/OR ON FILE:

Attachment A - Probation Fee Schedule
Ordinance
Exhibit A

CAO ANALYST:

Greg Reinke