



## Legislation Text

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**File #:** 23-0721, **Version:** 1

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**DATE:** August 22, 2023

**TO:** Board of Supervisors

**SUBMITTED BY:** Kirk Haynes, Chief Probation Officer

**SUBJECT:** Agreement and Annual Certification Report to participate in the Federal Equitable Sharing Program

### RECOMMENDED ACTION(S):

- 1. Approve and authorize the Chairman to execute annual Equitable Sharing Agreement with the Federal Government authorizing the Probation Department to participate in the Federal Equitable Sharing Program including receiving a share of asset forfeitures, and certifying as to funds received and expended during FY 2022-23 (\$326 in interest income);**
- 2. Authorize the Chief Probation Officer to execute as Agency Head and submit the Equitable Sharing Agreement and Certification; and**
- 3. Authorize the Chief Probation Officer, or his designee, to execute any necessary "Application for Transfer of Federally Forfeited Property (Form DAG-71)," and other required documents, as appropriate, and authorize the Chief Probation Officer to designate a Probation Department employee to accept forfeited property, transfer documents, and/or receive funds.**

There is no Net County Cost associated with the recommended actions, which will allow the Probation Department to continue to participate in Federal asset forfeiture cases. The submission of the annual Equitable Sharing Agreement and Certification is a requirement to participate in the Federal Equity Sharing program. Action Item 3 authorizes the Chief Probation Officer or his designee to execute a required certification on the Application for Transfer of Federally Forfeited Property Form, and to designate a Probation Department employee to accept forfeited property, transfer documents and receive funds. This item is countywide.

### ALTERNATIVE ACTION(S):

If the recommended actions are not approved, the Probation Department will lose any Federal asset forfeiture funds, for which it would have been eligible if the recommended Agreement and Certification were in place.

### FISCAL IMPACT:

There is no Net County Cost associated with the recommended actions. The recommended Agreement and Certification allows the Probation Department to participate in Federal asset forfeiture cases and the certification is an accounting of federal monies received and expended during FY 2022-23. The Probation Department did not receive any Federal asset forfeiture funds in FY 2022-23. The beginning fund balance as of July 1, 2022 was approximately \$16,623. A total of approximately \$326 in interest was earned in FY 2022-23 in the Federal Asset Forfeiture Special Revenue Fund, so the balance in Federal Asset Forfeiture funds as of June 30, 2023 was approximately \$16,950.

### DISCUSSION:

In order for the County to receive a share of asset forfeitures, as a result of the Probation Department's involvement in an arrest and confiscation of property/cash in accordance with asset forfeiture laws, an executed Federal Equitable Sharing Agreement and Certification must be on file with the Federal Government. The previous Equitable Sharing Agreement and Certification was approved by your Board on August 23, 2022. The Federal Equitable Sharing Agreement sets forth the requirements for participation in the Federal Equitable Sharing Program, and the restrictions upon the use of federally forfeited cash, property, proceeds, and any interest earned, which are equitably shared with the participating law enforcement agencies. Shared funds must be used to increase or supplement the resources of the receiving state or local law enforcement agency. Shared resources shall not be used to replace or supplant the resources of the state or local law enforcement agency.

The annual Equitable Sharing Agreement and Certification report is a requirement to participate in the program. Additionally, the Department of Justice requires that state and local law enforcement agencies requesting an equitable share of proceeds, complete and electronically submit an Application for Transfer of Federally Forfeited Property (Form DAG-71) within 45 days of the seizure. The Form DAG-71 contains a certification certifying that the number of workhours and contributions to the investigation are accurate, the property transferred will be used for permissible law enforcement purposes, and that all monies received pursuant to this request will be deposited and accounted for in accordance with the Department of Justice policies on Equitable Sharing. The field office will make a recommendation on the agency's sharing percentage based upon the information reported on this form. These percentages are ultimately approved by either the seizing agency headquarters, U.S. Attorney's Office, or the Criminal Division.

The Probation Department did not receive any Federal asset forfeiture funds in FY 2022-23. The Affidavit certifies that the Agency Head, in this case, the Chief Probation Officer, and the Governing Body Head, the Chairman of the Board of Supervisors, have read and understand their obligations under the Equitable Sharing Agreement, that the information submitted in conjunction with the document is an accurate accounting of funds received/spent by the Agency under the Justice and/or Treasury Guidelines during the reporting period, and the recipient Agency is in compliance with the National Code of Professional Conduct for Asset Forfeiture. This includes certifying that the recipient Agency (Probation) is in compliance with the nondiscrimination requirements of the laws cited therein, which prohibit discrimination based on race, color, national origin, disability, or age in any federally assisted program or activity, or on the basis of sex in any federally assisted education program or activity. It also certifies that the Probation Department has not suffered an adverse finding on claims that the Agency has violated the discrimination statutes or entered into a settlement of such claims.

Approval of the recommended actions will allow the Probation Department to continue to participate in Federal asset forfeiture cases and submit the required forms in the event of an asset seizure.

REFERENCE MATERIAL:

BAI #30, August 23, 2022

ATTACHMENTS INCLUDED AND/OR ON FILE:

On file with Clerk - Equitable Sharing Agreement and Certification

CAO ANALYST:

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