



County of Fresno

Hall of Records, Rm. 301
2281 Tulare Street
Fresno, California
93721-2198

Legislation Text

File #: 19-0078, **Version:** 1

DATE: January 29, 2019

TO: Board of Supervisors

SUBMITTED BY: Lisa A. Smittcamp, District Attorney
Jean M. Rousseau, County Administrative Officer

SUBJECT: Salary and Budget Resolutions for District Attorney

RECOMMENDED ACTION(S):

- 1. Approve Amendment to the Salary Resolution adding one Deputy District Attorney I/II/III/IV and one Paralegal I/II/III positions to the District Attorney Org 2860, effective February 11, 2019 as reflected in Appendix F; and**
- 2. Adopt Budget Resolution increasing FY 2018-19 appropriations and estimated revenues for the District Attorney Org 2860 in the amount of \$142,411 (4/5 vote).**

Approval of the first recommended action will add two positions to the District Attorney's Office to immediately address the legislative responsibilities associated with implementation of Senate Bill (SB) 1437 (Chapter 1015, Statutes of 2018). Approval of the second recommended action will increase appropriations in the District Attorney Org 2860 to fund the costs of the added positions for the remainder of this fiscal year. This item is countywide.

ALTERNATIVE ACTION(S):

If your Board were not to approve the recommended actions, the District Attorney's positions will remain unchanged and the Department will not have sufficient staffing to address the impacts of the new legislation, SB 1437.

FISCAL IMPACT:

There is a \$142,411 increase in Net County Cost associated with the recommended actions. Approval of the second recommended action will increase appropriations by \$142,411 in the District Attorney Org 2860 to fund the costs of the additional positions for the remainder of the fiscal year. The additional Net County Cost will be funded from one-time monies in Unassigned Fund Balance that the Board has reserved in FY 2018-19 for budget mitigation in the amount of \$10,000,000. These funds are classified as Unassigned for financial reporting purposes, in compliance with Governmental Accounting Standards Board statement 54. One-time funding for these positions will be included in the Department's FY 2019-20 budget request. The continued need for these positions will be evaluated as part of the FY 2020-21 budget development.

DISCUSSION:

On August 30, 2018 the Legislature passed SB 1437, which was signed into law by Governor Brown one month later. SB 1437 amends the Felony Murder Rule retroactively, and adds Penal Code section 1170.95 providing for a resentencing scheme to anyone previously convicted of murder. Based on the new parameters,

inmates serving sentences for murder will be able to petition for early release or potentially a full re-trial and those currently facing prosecution for murder may argue for less prison time. The District Attorney's Office has the burden to oppose the petitions on behalf of the victims' families and the public, and must do so within a short time period.

Once a petition for resentencing is filed by a defendant, the District Attorney's Office has 60 days to obtain the original case file, contact the victim's family (pursuant to Marsy's Law), research whether or not the new law applies to the defendant, and respond to the petition. The burden is on the District Attorney's Office, at a hearing, to prove beyond a reasonable doubt that the defendant is ineligible for resentencing. Contested hearings will entail locating witnesses and presenting evidence on cases that were previously adjudicated, in some cases decades ago. If the Office fails to adequately respond to the petition, or fails to locate and present sufficient evidence at the hearing, the murder conviction will be dismissed and the defendant resentenced, most likely to credit for time served and being released from custody.

Since January 1, 2019 the Office has received 30 petitions for resentencing, on cases dating as far back as 1986, and anticipates the number of petitions will increase.

Due to the impact of this new legislation, the addition of one Deputy District Attorney and one Paralegal position will provide the initial dedicated staff assigned to these efforts.

REFERENCE MATERIAL:

BAI #IV - September 17, 2018

ATTACHMENTS INCLUDED AND/OR ON FILE:

Salary Resolution Amendment - Appendix F
On file with Clerk - Budget Resolution

CAO ANALYST:

Jeannie Z. Figueroa