

MOTION BY SUPERVISOR SHEILA KUEHL
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June 6, 2017

Eliminate Registration Fees

The Sixth Amendment to the US Constitution guarantees a right to legal counsel at each significant stage of criminal proceedings at government expense. This right was applied to the states in Gideon v Wainwright (372 U.S. 335 (1963)). Notwithstanding this Constitutional right, in Los Angeles County, defendants are generally required to pay a \$50 upfront “registration fee” prior to receiving services from the Public Defender, the Alternate Public Defender, or court-appointed counsel. This practice of collecting “registration fees” undermines the constitutionally-protected right to counsel.

In 1996, the California legislature authorized counties to choose, if desired, to impose a registration fee in the amount of \$25.00 (SB 251). This “fee” was to become operative in Los Angeles County only upon “the adoption of a resolution or ordinance by the Board of Supervisors” (California Penal Code section 987.5 (e) (adults)). California Welfare & Institutions Code section 903.15 (juveniles).The Los Angeles County Board of Supervisors adopted a resolution to implement these fees on December 17, 1996. On April 27, 2010, the Board adopted a resolution to implement the provisions of Senate

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Bill 676, which authorized the County to increase the registration fee for legal representation provided by the Public Defender, the Alternate Public Defender or other court appointed counsel from \$25 to \$50. The stated reason for the approval was to offset the costs to the County of providing court appointed counsel. Similar to the provisions of SB 676, the County's resolution provided that 20%, or \$10, of the fee is retained by the Court to offset collection costs and the remaining 80%, or \$40, was allocated to the Public Defender. Today the Public Defender receives 89% of the registration funds and the remaining 11% is paid to GC Services (a private, for-profit collection agency) to collect the fees. The total amount received by the Public Defender's Office in the last fiscal year was approximately \$300,000 which, according to them, is not earmarked for any specific usage. The County authorized a similar increase in the Public Defender registration fee for juveniles on November 22, 2011 to implement provisions of Assembly Bill 1053, which authorized the County to increase the fee for juveniles from \$25 to \$50.

The imposition of these fees can amount to a significant financial burden for some indigent defendants and may, in some cases, dissuade defendants from utilizing their constitutionally-guaranteed right to counsel. The fees can have a disproportionate impact on vulnerable classes of defendants, including non-citizen defendants who require the assistance of counsel to determine the immigration consequences of a contemplated criminal disposition.

At the conclusion of a criminal proceeding, a defendant may be assessed fines, fees, and penalties as a result of their conviction. Registration fees imposed at the outset exacerbate a defendant's court debt, which is a significant barrier to reentry for

many individuals involved in the criminal justice system. Onerous debt collection methods to recover these registration fees from indigent defendants can drive these individuals deeper into poverty and may prevent them from successfully reintegrating into society.

If defendants are unable to pay the fee and other fees and costs have been assessed, GC Services may use aggressive collection methods to recover the total amount, including wage garnishment or referral to the CA Franchise Tax Board.

There is precedent for either not authorizing or ceasing to charge this administrative fee. The San Francisco County Public Defender's Office opposed all administrative fees. In 2001, the Santa Barbara Public Defender also decided to no longer charge an administrative fee. The Public Defender made this decision for three reasons: the fee was not producing a large amount of money, there was some trouble administering the fee, and it was found to have a chilling effect in some cases.

Eliminating the \$50 registration fee will remove a potential barrier to counsel for the poorest criminal defendants. Repealing this fee would help safeguard Los Angeles County residents' Sixth Amendment right to counsel, promote trust between Public Defenders and their clients and alleviate an unnecessary financial burden on indigent defendants.

WE, THEREFORE, MOVE that the Board of Supervisors revoke authorization for the appointed counsel registration fees described in California Penal Code section 987.5 (a) and California Welfare & Institutions Code section 903.15.