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**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



FROM: Executive Office

SUBMITTAL DATE:
August 29, 2012

SUBJECT: Adoption of Resolutions 12-153 and 12-154 Establishing a \$50 Registration Fee to be Assessed Against Defendants in Criminal Cases when Represented by Assigned Counsel

RECOMMENDED MOTION: That the Board of Supervisors approve the attached Resolutions establishing registration fees for defendants in criminal cases who have attorneys appointed at public expense.

BACKGROUND: Supervisor Stone urged the Executive Office to pursue cost recovery through the courts whenever possible in order to ensure that tax payer dollars are not spent when individuals are able to pay for services. Penal Code §987.5 gives County Board of Supervisors authority to assess every adult defendant a \$50 registration fee when represented by court appointed counsel



Elizabeth J. Olson
Principal Management Analyst

Continued

FINANCIAL DATA	Current F.Y. Total Cost:	N/A	In Current Year Budget:	N/A
	Current F.Y. Net County Cost:	N/A	Budget Adjustment:	N/A
	Annual Net County Cost:	N/A	For Fiscal Year:	FY 12/13

SOURCE OF FUNDS: Superior Court fees	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION:

APPROVE

BY: _____
Christopher M. Hans

County Executive Office Signature

- Policy
- Policy
- Consent
- Consent

Dept's Recomm.:
Per Exec. Ofc.:

*Departmental Concurrence

RE: Adoption of Resolutions 12-X and 12-X Establishing a \$50 Registration Fee to be Assessed Against Defendants in Criminal Cases when Represented by Assigned Counsel

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Provision for authority to assess the parents of a minor a \$50 registration fee when the youth is represented by court appointed counsel is found in Welfare and Institutions Code §903.15. Both codes further state that no fee shall be required of any defendant or parents financially unable to pay the fee and no defendant, adult or minor, shall be denied the assistance of counsel if payment is not made. Any fees paid would be additional revenue to the County and early estimates are that \$1 million in new revenue is possible.

At arraignment, an unrepresented defendant who wishes to be represented by an attorney but who indicates that he/she is unable to afford counsel is appointed an attorney by the court. At this point the judicial officer would also indicate that a \$50 appointment fee will be imposed if such a fee is approved by the Board. When the court appoints a public defender, or other counsel, a determination may be made of the defendant's ability to pay the appointment fee as well as fees for legal services. If the court determines the defendant has the ability to pay, an order will be made requiring the defendant to pay all or part of the fees and service costs. This order has the same force and effect as a civil judgment.

Penal Code §1203.1d. lists the priority distribution for fines and fees collected from a convicted defendant. These are: 1. Victim restitution, 2. A 20% state surcharge, 3. Any court ordered fines or fees, and 4. Any other reimbursable costs. The appointment fee would fall under category three.

Sherri Carter, Court Executive Officer reports that in FY 10/11 the court collected \$149,374,338 in total revenue and directly remitted \$50,458,019 to Riverside County. This amount is \$1,005,891 more than was remitted in FY 09/10. Court staff further estimate that in FY 10/11 counsel was appointed at public expense for 45,619 defendants charged with felonies and misdemeanors. Of these Public Defender appointments totaled 41,763 and conflict counsel totaled 4,075. If 50% of those requesting counsel had paid the \$50 fee the county could have netted \$1,140,494. The Superior Court has encouraged the County to adopt this fee.

Court fines and fees remaining unpaid are handled by the court's collections division. In FY 09/10, the last year for which comparative data is available, the Riverside Enhanced Collections Division collected \$47,229,174 in total delinquent debt. This amount is \$11,624,431 more than Orange County and \$5,695,853 more than San Bernardino County in total delinquent debt collections. The court has initiated innovative methods to facilitate and increase payments and like the county fully understands the need to increase revenue to meet both county and court obligations.

Approval of the fee at appointment of counsel does not guarantee that revenue will increase; however to date there has been no fee imposed; the county has been losing potential revenue.

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3 RESOLUTION NO. 2012-153

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5 A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF RIVERSIDE
6 ESTABLISHING A REGISTRATION FEE TO BE ASSESSED AGAINST DEFENDANTS
7 IN CRIMINAL CASES WHEN REPRESENTED BY APPOINTED COUNSEL

8 WHEREAS, Penal Code Section 987.5 authorizes the County to establish a registration fee
9 in an amount not to exceed \$50.00 to be assessed against defendants in criminal cases when represented by
10 appointed counsel; and,

11 WHEREAS, it is the desire of the Board of Supervisors of the County of Riverside to
12 establish such a registration fee as authorized by Penal Code Section 987.5;

13 NOW, THEREFORE, BE IT RESOLVED AND ORDERED by the Board of Supervisors of
14 the County of Riverside assembled in regular session assembled on _____, 2012, that pursuant to
15 Penal Code Section 987.5, there is, effective immediately, established in the County of Riverside a
16 registration fee in the amount of \$50.00 that shall be assessed against each criminal defendant appearing in
17 the courts of the County of Riverside when represented by appointed counsel;

18 BE IT FURTHER RESOLVED AND ORDERED that no fee shall be required of any
19 defendant financially unable to pay said fee;

20 BE IT FURTHER RESOLVED AND ORDERED that at the time of the appointment of
21 counsel by the court, or upon commencement of representation by appointed counsel, if prior to court
22 appointment, the defendant shall be asked if he or she is able to pay the registration fee or any portion
23 thereof and, if the defendant indicates that he or she is able to pay the fee or any portion thereof, the court
24 or appointed counsel shall make an assessment in accordance with the ability to pay; no fee shall be
25 assessed against any defendant who asserts that he or she is unable to pay the fee or any portion thereof and
26 no other inquiry concerning the defendant's ability to pay shall be made until proceedings are held pursuant
27 to Penal Code Section 987.8;

1 BE IT FURTHER RESOLVED AND ORDERED that no defendant shall be denied the
2 assistance of appointed counsel due solely to the failure to pay their registration fee;

3 BE IT FURTHER RESOLVED AND ORDERED that an order to pay the registration fee
4 will be enforced in the manner provided for enforcement of civil judgments generally, but may not be
5 enforced by contempt;

6 BE IT FURTHER RESOLVED AND ORDERED that the fact that a defendant has or has
7 not been assessed a fee pursuant to Penal Code Section 987.5 shall have no effect in any later proceedings
8 held pursuant to Penal Code Section 987.8, except that the defendant shall be given credit for any amounts
9 paid as a registration fee toward any lien or assessment imposed pursuant to Penal Code Section 987.8;

10 BE IT FURTHER RESOLVED AND ORDERED that said registration fee, once ordered by
11 the Court pursuant to Penal Code Section 987.5, shall be collected by the Enhanced Collections Program of
12 the Superior Court of Riverside County;

13 BE IT FURTHER RESOLVED AND ORDERED that 10% of any registration fees
14 collected shall be allocated to the Superior Court of Riverside County Enhanced Collections Program to
15 cover said collection costs, 60% shall be allocated to the Public Defender (Fund 10000-24001-772850) and
16 30% shall be allocated to Indigent Defense (Fund 10000-11099-772850) as departmental revenue.

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3 RESOLUTION NO. 2012-154

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5 A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF RIVERSIDE
6 ESTABLISHING A REGISTRATION FEE TO BE ASSESSED AGAINST THE PARENT OF ANY
7 MINOR, OR OTHER PERSON WHO IS LIABLE FOR SUPPORT OF THE MINOR ON WHOSE
8 BEHALF A PETITION IS FILED PURSUANT TO SECTION 601 AND 602 OF THE WELFARE AND
9 INSTITUTIONS CODE WHEN THE MINOR IS REPRESENTED BY APPOINTED COUNSEL

10 WHEREAS, Welfare and Institutions Code Section 903.15 authorizes the County to
11 establish a registration fee in an amount not to exceed \$50.00 to be assessed against the parent of any
12 minor, or other person who is liable for the support of the minor, on whose behalf a petition is filed
13 pursuant to Welfare and Institutions Code Section 601 or Welfare and Institutions Code Section 602, when
14 the minor is represented by appointed counsel; and,

15 WHEREAS, it is the desire of the Board of Supervisors of the County of Riverside to
16 establish such a registration fee as authorized by Welfare and Institutions Code Section 903.15;

17 NOW, THEREFORE, BE IT RESOLVED AND ORDERED by the Board of Supervisors of
18 the County of Riverside assembled in regular session assembled on _____, 2012, that pursuant to
19 Welfare and Institutions Code Section 903.15, there is, effective immediately, established in the County of
20 Riverside, a registration fee in the amount of \$50.00 that shall be assessed against the parent of any minor,
21 or other person who is liable for the support of the minor, on whose behalf a petition is filed pursuant to
22 Welfare and Institutions Code Section 601 or Welfare and Institutions Code 602, when the minor is
23 represented by appointed counsel;

24 BE IT FURTHER RESOLVED AND ORDERED that no fee shall be required of any parent
25 or other person who is financially unable to pay said fee;

26 BE IT FURTHER RESOLVED AND ORDERED that at the time of the appointment of
27 counsel by the court, or upon commencement of representation by appointed counsel, if prior to court
28 appointment, the parent or other person shall be asked if he or she is able to pay the registration fee or any
portion thereof and, if the parent or other person indicates that he or she is able to pay the fee or any portion

1 thereof, the court or appointed counsel shall make an assessment in accordance with the ability to pay; no
2 fee shall be assessed against any parent or other person who asserts that he or she is unable to pay the fee or
3 any portion thereof and no other inquiry concerning the parent's or other person's ability to pay shall be
4 made until proceedings are held pursuant to Welfare and Institutions Code Section 903.45;

5 BE IT FURTHER RESOLVED AND ORDERED that no minor shall be denied the
6 assistance of appointed counsel due solely to the failure of the parent or other person to pay the registration
7 fee; and the registration fee shall be a joint and severable liability of the parent or other person who is
8 liable for support of the minor;

9 BE IT FURTHER RESOLVED AND ORDERED that an order to pay the registration fee
10 may be enforced in the manner provided for enforcement of civil judgments generally, but may not be
11 enforced by contempt;

12 BE IT FURTHER RESOLVED AND ORDERED that the fact that a parent or other person
13 who is liable for the support of the minor has or has not been assessed a fee pursuant to Welfare and
14 Institutions Code Section 903.15 shall have no effect in any later proceedings held pursuant to Welfare and
15 Institutions Code Section 903.1 or Welfare and Institutions Code Section 903.45, except that the parent or
16 other person shall be given credit for any amounts paid as a registration fee toward any assessment imposed
17 pursuant to Welfare and Institutions Code Section 903.1 or Welfare and Institutions Code Section 903.45
18 for legal services;

19 BE IT FURTHER RESOLVED AND ORDERED that said registration fee, once ordered by
20 the Court pursuant to Welfare and Institutions Code Section 903.15, shall be collected by the Enhanced
21 Collections Program of the Superior Court of Riverside County;

22 BE IT FURTHER RESOLVED AND ORDERED that 10% of any registration fees
23 collected shall be allocated to the Superior Court of Riverside County Enhanced Collections Division to
24 cover said collection costs, 60% shall be allocated to the Public Defender (Fund 10000-24001-772850) and
25 30% shall be allocated to Indigent Defense (Fund 10000-11099-772850) as departmental revenue.
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