

Date of Hearing: May 6, 2015

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Brian Maienschein, Chair

AB 1127 (Cooley) – As Amended April 6, 2015

SUBJECT: Domestic and family violence: Sacramento County.

SUMMARY: Allows Sacramento County to increase fees by up to \$4 for certified copies of marriage certificates, birth certificates, fetal death records, and death records to fund domestic and family violence prevention, intervention, and prosecution. Specifically, **this bill:**

- 1) Establishes the Sacramento County Zero Tolerance for Family Violence and Human Trafficking Act.
- 2) Allows the Sacramento County Board of Supervisors (Board), upon making findings and declarations for the need for governmental oversight and coordination of the multiple agencies dealing with domestic violence, to authorize an increase in the fees for certified copies of marriage certificates, birth certificates, fetal death records, and death records, up to a maximum increase of \$4.
- 3) Allows the Board, effective July 1 of each year, to authorize an increase in these fees by an amount equal to the increase in the California Consumer Price Index (CPI) for the preceding calendar year, rounded to the nearest 50 cents. The fees shall be allocated pursuant to the provisions outlined in 7) through 9), below.
- 4) Requires an applicant for a certified copy of a marriage certificate, birth certificate, a fetal death record, or death record in Sacramento County to pay to the local registrar, county recorder, or county clerk the fees established by the Board pursuant to 2) and 3), above.
- 5) Requires the Board to submit to the Legislature, no later than July 1, 2017, a report containing the following information:
 - a) The total annual amount of funds received and expended from fee increases for the purpose of governmental oversight and coordination of domestic violence prevention, intervention, and prosecution efforts in the county; and,
 - b) Outcomes achieved as a result of the activities associated with the Sacramento County Zero Tolerance for Family Violence and Human Trafficking Act.
- 6) Requires the report described above to be submitted in compliance with existing law governing the process for submitting reports to the Legislature.
- 7) Requires the Board to direct the local registrar, county recorder, and county clerk to deposit fees collected pursuant to the provisions described, above, into a special fund.
- 8) Requires proceeds from the fund to be used for governmental oversight and coordination of domestic violence and family violence prevention, intervention, and prosecution efforts among the court system, the district attorney's office, the public defender's office, law

enforcement, the probation department, mental health, substance abuse, child welfare services, adult protective services, and community-based organizations and other agencies working in Sacramento County in order to increase the effectiveness of prevention, early intervention, and prosecution of domestic and family violence.

- 9) Allows Sacramento County to retain up to 4 percent of the fund for administrative costs associated with the collection and segregation of the additional fees and the deposit of these fees into the special fund.
- 10) Makes the following findings and declarations:
 - a) Since 2005, over 150 individuals have died in homicides related to domestic violence. This number includes children, one as young as two years old;
 - b) In 2013 alone, a total of 18,000 domestic violence-related calls were reported by law enforcement entities within Sacramento County, with over 4,000 adult cases arrested and over 2,400 cases filed and prosecuted;
 - c) More than 21,000 crisis calls are made to the three domestic violence shelter programs in Sacramento County every year;
 - d) Domestic violence has many hidden costs. These costs include exposing children to recruitment by human traffickers. Currently in Sacramento, 76 percent of the children screened by the juvenile court are found to be involved with, or vulnerable for recruitment to, human trafficking have a family history with child protective services, and 20 percent have an open case with child protective services;
 - e) Sacramento has a high rate of human trafficking, and in 2013, the FBI Human Trafficking Task Force, in a multiday sweep involving Sacramento, rescued the sixth highest total of underage trafficking victims in the country;
 - f) Domestic violence is ubiquitous, it cuts across all economic and education levels, all age groups, ethnicities, and other social and community characteristics;
 - g) Domestic violence is insidious, it is characterized by a predictable, repetitious cycle that can result in injury or death of victims, including children;
 - h) Domestic violence puts children at risk. Children in homes where domestic violence occurs are physically abused or seriously neglected at a rate significantly higher than the national average in the general population;
 - i) Domestic violence is learned and generational. Studies show that boys who witness family violence are more likely to batter their female partners as adults than boys raised in nonviolent homes. Girls who witness their mothers' abuse have higher rates of being battered as adults and it is often a precursor to becoming a victim of human trafficking. Over 80 percent of victims of human trafficking either suffered abuse in their homes or witnessed such abuse between parents;

- j) Substance abuse is a significant factor contributing to, although not necessarily a cause of, domestic violence. Many domestic violence offenders have documented histories of substance abuse or were under the influence of drugs or alcohol at the time a felony crime was committed. Over 80 percent of human trafficking victims had parents that abused substances;
- k) Domestic violence is costly, both in human and organizational terms. The results of domestic violence have many hidden costs, such as job turnover, loss of productivity, school absenteeism, low school performance, in addition to the high cost of law enforcement, civil and criminal justice, health services, mental health services, substance abuse treatment, human services, and community-based services;
- l) The domestic violence prevention, intervention, and prosecution system is complex and multifaceted, spanning civil, criminal, health, and social service sectors, and in order to be effective, there must be an alignment in the objectives, protocols, policies, and activities of each sector; and,
- m) A special law is necessary and a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances of Sacramento County with respect to domestic violence and human trafficking.

11) Provides that this bill shall remain in effect only until January 1, 2021, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2021, deletes or extends that date.

EXISTING LAW allows the following local jurisdictions to increase fees for copies of marriage certificates, birth certificates, fetal death records, and death records to fund governmental oversight and coordination of domestic violence prevention, intervention, and prosecution programs: the City of Berkeley (birth and death records only) and the Counties of Alameda, Contra Costa, Solano, Sonoma, and Stanislaus.

FISCAL EFFECT: None

COMMENTS:

- 1) **Bill Summary.** This bill allows Sacramento County to increase fees by up to \$4 for certified copies of marriage certificates, birth certificates, fetal death records, and death records to fund domestic and family violence prevention, intervention, and prosecution. The Board must submit a report to the Legislature by July 1, 2017, a report containing the following information:
 - a) The total annual amount of funds received and expended from fee increases for the purpose of governmental oversight and coordination of domestic violence prevention, intervention, and prosecution efforts in the county; and,
 - b) Outcomes achieved as a result of the activities associated with the Sacramento County Zero Tolerance for Family Violence and Human Trafficking Act.

This bill is sponsored by the Sacramento County Board of Supervisors and the Sacramento County District Attorney.

- 2) **Author's Statement.** According to the author, "In 2013 alone, a total of 18,000 domestic violence-related calls were reported by law enforcement entities within Sacramento County. More than 21,000 crisis calls are made to the three domestic violence shelter programs in Sacramento County every year.

"Domestic violence puts children at risk. Children in homes where domestic violence occurs are physically abused or seriously neglected at a rate significantly higher than the national average. Children in these homes are more vulnerable to recruitment to human traffickers. Currently, in Sacramento, 76 percent of children screened by the Juvenile Court and found to be involved or vulnerable for recruitment to trafficking have a family history with Child Protective Services (CPS). Twenty percent have an open case with CPS.

"The domestic violence prevention, intervention, and prosecution system is complex and multi-faceted. It spans the civil, criminal, health and social service sectors. To ensure the effectiveness of the efforts to address domestic violence in these sectors, it is necessary to ensure that their objectives, protocols, policies, and activities are aligned."

- 3) **Background.** The Legislature has allowed the following local jurisdictions to increase fees for copies of marriage certificates, birth certificates, fetal death records, and death records to fund governmental oversight and coordination of domestic violence prevention, intervention, and prosecution programs: the City of Berkeley (birth and death records only) and the Counties of Alameda, Contra Costa, Solano, Sonoma, and Stanislaus.

Contra Costa is allowed an increase of \$4, while all other jurisdictions are allowed a \$2 increase. All jurisdictions may approve additional increases based on the CPI for the San Francisco metropolitan area. These programs were initially established on a pilot basis and were made permanent after submitting required reports on their effectiveness to the Legislature (with the exception of Stanislaus County, which has a sunset date of January 1, 2016).

This bill establishes in a nearly identical fashion the same authority for Sacramento County, which estimates additional revenue of \$500,000 annually from the bill's authority. Sacramento County's current fees for these records range from \$11 to \$28, depending on the type or record requested and the type of requestor (a government agency or a member of the public). Sacramento County would like to use funds generated by the fee increases to assist in establishing a Family Justice Center.

- 4) **Sacramento County Family Justice Center.** According to Sacramento County's website, "In 2011, the national Family Justice Center Alliance chose Sacramento County to receive initial funds to launch a Family Justice Center (FJC). The FJC will be available to serve victims of family violence and sexual assaults, including victims of marital and dating violence, elder and child abuse and human trafficking. The FJC collaborative will include government agencies and community based organizations working together with one central facility where victims and their families can come to access almost all services available in the county.

"Services will include immediate crisis intervention, safety planning, social service eligibility, counseling, child advocacy, emergency food and transportation, and many other support services designed to keep them from falling back into the hands of the accused. Services will be either housed at the center or linked via video. Although there are currently 15 FJCs throughout California, the Sacramento center will be a first-of-its-kind in the state because it will integrate Sacramento State as a key partner. The center will provide unique learning and research opportunities for both students and faculty members."

- 5) **Proposition 26.** In the November 2010 election, California voters approved Proposition 26, which amended the California Constitution to expand the definitions of local taxes and tax increases that require voter approval. Under Proposition 26, any levy, charge, or exaction of any kind imposed by a local government is a tax, requiring voter approval, except for:
- a) A charge for a benefit or privilege conveyed directly to the payor and not conveyed to those not charged;
 - b) A charge for a service or product provided directly to the payor and not provided to those not charged;
 - c) A fee to cover certain costs of regulation;
 - d) Entrance fees for state or local property;
 - e) Fines imposed by a court or a local government;
 - f) A charge imposed as a condition of property development; and,
 - g) Assessments and property-related fees governed by Proposition 218.

It is not clear that local fees on vital records to fund the coordination of domestic violence prevention efforts qualify as fees under any of Proposition 26's exceptions. Instead, they may be local special taxes, which must be approved by two-thirds of voters before they can be added to the charges for copies of vital records.

- 6) **Policy Considerations.** This bill establishes the Sacramento County Zero Tolerance for Family Violence and Human Trafficking Act. While the provisions of this bill are nearly identical to existing programs for a handful of other local jurisdictions in California, including the purposes for which funds generated by increased fees must be allocated, the inclusion of human trafficking in these statutes is new. While the prevention of human trafficking is laudable, the Committee may wish to consider whether the statutes governing the authority of local jurisdictions to increase fees for the support of programs addressing domestic violence should include human trafficking in the language.
- 7) **Previous Legislation.** AB 1852 (Campos) of 2012 would have allowed a county board of supervisors, or a city council of a city with a local registrar, to increase fees for certified copies of marriage certificates, birth certificates, fetal death records, and death records by up to \$5. AB 1852 was vetoed with the following message:

"Domestic violence and child abuse prevention programs are well worth the investment of public funds, but seeking a fee increase on vital records, when the fee is already going up by \$6 for some of these records, would burden people of modest means."

AB 1770 (Galgiani), Chapter 578, Statutes of 2010, established a similar domestic violence prevention funding pilot program in Stanislaus County until January 1, 2016.

SB 635 (Wiggins), Chapter 356, Statutes of 2009, established a similar domestic violence prevention funding pilot program in Sonoma County until January 1, 2015. SB 154 (Wolk), Chapter 120, Statutes of 2011, repealed the sunset date, making the program permanent.

SB 425 (Torlakson), Chapter 90, Statutes of 2001, established a similar domestic violence prevention funding pilot program in Contra Costa County. SB 968 (Torlakson), Chapter 635, Statutes of 2006, repealed the sunset date, making Contra Costa's program effective indefinitely.

AB 2010 (Hancock), Chapter 830, Statutes of 2004, established the pilot programs in Alameda County and Solano County. AB 1712 (Hancock), Chapter 545, Statutes of 2005, authorized the City of Berkeley, within Alameda County, to also participate in the pilot program. AB 73 (Hayashi), Chapter 215, Statutes of 2009, repealed the sunset date, making Alameda's and Berkeley's programs effective indefinitely.

- 8) **Arguments in Support.** The Sacramento County Board of Supervisors and the Sacramento County District Attorney, sponsors of this measure, write, "Research done by the Family Justice Center Alliance found that 'survivors...benefitted from a comprehensive service approach that considered the context of a safe and supportive environment, in an all-in-one service approach that included the therapeutic and legal needs of survivors, and individualized services that emphasized emotional support and survivors getting the help they need.'

"The service model contemplated in Sacramento County would serve victims of not only domestic violence, but also family violence including child abuse victims as well as survivors of human trafficking. This comprehensive approach to service delivery is vital to producing more positive outcomes and making the receipt of services easier for victims.

"The family justice center model has seen significant successes across the state. Since adopting this model, Alameda County has had a 20 percent reduction in domestic violence case dismissals; improved inter-agency collaboration; a dramatic reduction in domestic violence homicides (from 31 in 2001 to 3 in 2007); and, provided over 20,000 coordinated client services since opening. Sacramento County wishes to be counted among these successes."

- 9) **Arguments in Opposition.** The Howard Jarvis Taxpayers Association, in opposition, states, "While the purpose of this tax – to provide a source of funding for domestic violence programs – is laudable, the means to that end is flatly illegal and will only engender expensive and protracted litigation. AB 1127, simply stated, violates Proposition 26...(which) lists a series of five regulatory fee exemptions that allow levies to not be termed tax increases. Of these, only one is really even debatable. Article XIII C, section 1(e)(3)

exempts 'A charge imposed for the reasonable regulatory costs to a local government for issuing licenses and permits, performing investigations, inspections, and audits, ... and the administrative enforcement and adjudication thereof.'

"This exemption is also inapplicable because the revenue from the AB 1127 fee is not being used to regulate the payers of the fee. There is no proof that marriage, for example (much less birth or death) leads to domestic violence. In fact, the opposite is true. Empirical studies show that married couples are less likely candidates for domestic violence than persons in unmarried relationships. Therefore, most payers will never be covered by the funded programs.

"Moreover, local governments simply do not regulate marriages. They do not conduct regulatory inspections or audits to enforce rules on married households. The exemption was obviously intended by voters to refer to regulated business activities, not marriages. In sum, because of the lack of an appropriate regulatory nexus, AB 1127 purports to authorize a special tax without the requisite two-thirds vote."

10) **Double-Referral.** This bill is double-referred to the Judiciary Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

Sacramento County Board of Supervisors [CO-SPONSOR]

Sacramento County District Attorney [CO-SPONSOR]

A Community for Peace

California District Attorneys Association

My Sister's House

WEAVE

Opposition

CalTax

Howard Jarvis Taxpayers Association

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