

Date of Hearing: April 24, 2019

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT
Cecilia Aguiar-Curry, Chair
AB 141 (Cooper) – As Amended March 25, 2019

SUBJECT: County reimbursement: Joseph James DeAngelo, Jr. costs.

SUMMARY: Establishes a reimbursement entitlement and mechanism for the County of Sacramento and other qualifying counties for costs incurred in prosecuting and defending Joseph DeAngelo. Specifically, **this bill:**

- 1) Creates the Justice Act of 2019 for the Reimbursement of County Costs Arising from the Matter of the People v. Joseph DeAngelo.
- 2) States that the County of Sacramento (Sacramento County) and any other California county that meets the requirements of 3), below, shall be entitled to reimbursement for reasonable and necessary costs incurred in connection with the prosecution and defense of Joseph DeAngelo on all charges prosecuted in Sacramento County and any related and successive prosecutions.
- 3) States that a county other than Sacramento County is entitled to reimbursement for reasonable and necessary costs incurred in connection with the prosecution and defense of Joseph DeAngelo on all charges prosecuted in Sacramento County in Case Number 18FE008017 and any related and successive prosecutions, if the county satisfies both of the following conditions:
 - a) The county has reached a memorandum of understanding (MOU) with Sacramento County regarding the allocation and organization of labor and costs between the counties; and,
 - b) Employees of the county and other persons providing services to the county pursuant to the MOU shall operate under the direction and supervision of Sacramento County's lead prosecutor or under the direction and supervision of Sacramento County's appointed lead defense counsel.
- 4) Prohibits a county from filing, and the state from reimbursing, a claim filed more than 12 months after the close of the month in which the costs were incurred.
- 5) Provides that reimbursable costs incurred by Sacramento County and any other California county that meets the requirements of this bill include all of the following:
 - a) Costs of participation in any trial or hearing of any matter specified in this bill, including costs for the preparation for the trial, pretrial hearing, actual trial or hearing, expert witness fees, costs of prejudgment appeals and petitions, and the execution of the sentence. Reimbursable costs do not include the costs of post-conviction appeals and

- petitions, except as required by specified provisions of the Penal Code that govern appeals of felony cases;
- b) Costs of the prosecuting attorney in investigating, evaluating, or prosecuting cases related to any matter specified in this bill, whether or not the prosecuting attorney decides to commence legal action;
 - c) Costs incurred by the public defender or court-appointed attorney with respect to any matter specified in this bill, including the costs of appointed co-counsel, as specified;
 - d) Any costs incurred for providing training in the investigation, prosecution, and defense associated with any matter specified in this bill; and,
 - e) Any other costs reasonably incurred by Sacramento County or any other California county that meets the requirements of this bill in connection with any matter specified in this bill.
- 6) Requires reasonable and necessary costs to be based upon all operating costs, including the cost of elected officials, while serving in line functions and including all administrative costs associated with providing the necessary services and securing reimbursement therefor. Administrative costs include a proportional allowance for overhead, determined in accordance with current accounting practices.
- 7) Requires Sacramento County and any other California county that meets the requirements of this bill to designate separate officers or agencies to prepare separate statements of costs for the prosecution and the defense that shall be reimbursed under this bill, and requires these statements of costs to be sent to the Controller for approval.
- 8) Requires the Controller to reimburse, with funds that have been appropriated by the Legislature, Sacramento County and any other California county that meets the requirements of this bill within 60 days after receipt of the statement or provide a written statement as to the reason for not making reimbursement at that time. If sufficient funds are not available, the Controller shall request the Director of Finance to include any amounts necessary to satisfy the claims in a request for a deficiency appropriation.
- 9) Requires the Controller, in reimbursing Sacramento County and any other California county that meets the requirements of this bill for defense costs, to be guided by the need to provide a complete and full defense for the defendant, as required pursuant to specified existing law.
- 10) Requires the fact that a statement of defense costs has been prepared and submitted to the Controller to be confidential, and the contents of the statement of defense costs to be confidential to the same extent that an application for funds is confidential under existing law governing reimbursements for trial costs related to indigent defendants.
- 11) Prohibits the confidentiality provided in this bill from precluding any court from providing the Attorney General with access to documents protected by this bill when the defendant raises an issue on appeal or collateral review where the recorded portion of the record created

pursuant to this bill relates to the issue raised. When the defendant raises that issue, the funding records, or relevant portions thereof, shall be provided to the Attorney General at the Attorney General's request. In this case, the documents shall remain under seal and their use shall be limited solely to the pending proceeding.

- 12) Creates the Justice Act of 2019 Fund within the State Treasury for the purposes of implementing this bill.
- 13) States a number of findings and declarations pertaining to the purpose of this bill.

EXISTING LAW allows counties to apply to the Controller for reimbursement of homicide investigation and trial costs that exceed the monetary amount that would be derived by a tax of 0.0125 of 1% of the full value of assessed property in the county.

FISCAL EFFECT: This bill is keyed fiscal.

COMMENTS:

- 1) **Author's Statement.** According to the author, "Over a span of 14 years the Golden State Killer (GSK) was suspected of committing multiple murders, rapes, kidnappings, robberies and burglaries throughout California. Last year, Joseph DeAngelo was arrested as the GSK suspect. The trial of the GSK is going to place an unexpected financial burden on the counties responsible for trying this case. AB 132 will provide some cost recovery to the district attorneys and public defenders responsible for the prosecution and defense of the GSK."
- 2) **Background.** From 1974 through 1986, the State of California was subject to a crime spree that affected eleven counties and left thirteen people murdered, more than fifty people raped, and more than one hundred homes burglarized. The monikers given to the perpetrator reflect the impact and wide range of the crimes for which he is accused: the Visalia Ransacker, the East Area Rapist, the East Bay Rapist, the Original Night Stalker, and the Golden State Killer. Last year, Joseph DeAngelo was arrested and accused of these crimes and has been formally charged with thirteen counts of murder and thirteen counts of kidnapping for robbery.

According to the author and news accounts, California has never experienced a case of this proportion and the scope of the prosecution and defense is expected to be unprecedented. The volume of documents, recorded interviews, photographs, and other evidence is enormous. As an example, materials received from one county include more than eighty banker boxes of material in the first phase of the discovery process alone. At trial it is expected that the prosecution and defense will call more than 200 witnesses and admit evidence and exhibits numbering in the thousands. Trial costs are expected to impose a significant financial burden on the counties in which Joseph DeAngelo is accused.

- 3) **County Prosecution and Defense Costs.** Counties are generally responsible for the costs of investigations conducted by their sheriff and district attorney offices, as well as costs related to court-ordered public defenders, pre-trial and post-trial proceedings, witness fees, and transcript preparation. In the case of high-cost homicide trials, however, the Controller is

authorized to reimburse counties for costs above a specified threshold amount, which is determined by a statutory formula based on a county's size and property tax base. The formulas have generally become more restrictive since January 1, 2005. A county is eligible for reimbursement once aggregated costs exceed a threshold of .0125 of 1% of the full assessed value of property in that county.

The Legislature adopted the policy of reimbursing counties for extraordinary costs related to homicide trials in 1961 in order to provide uniform administration of justice throughout the state, prevent homicide trials from being hampered or delayed due to lack of funds available to counties for such purposes, prevent serious impairment of county finances by homicide trials, and provide state assistance in emergency situations.

The Legislature has acted to reimburse 100% of a county's costs associated with expensive homicide trials in exceptional cases, such as the prosecution of Charles Ng in Calaveras County in the early 1990s, the prosecution of Richard Allen Davis in Sonoma County in 1996-97, and the prosecution of Scott Peterson in Stanislaus County in 2005.

- 4) **Right to Counsel.** The U.S. Supreme Court's opinion in *Gideon v. Wainwright* (1963) held that the United States Constitution's 6th Amendment guarantee of counsel is a fundamental right that applies to all state criminal prosecutions. California law requires that counsel must be provided, at public expense, to an indigent defendant charged with any felony or misdemeanor.
- 5) **Bill Summary.** This bill establishes a reimbursement entitlement and mechanism for Sacramento County and other qualifying counties for reasonable and necessary costs they incur in prosecuting and defending Joseph DeAngelo on all charges prosecuted in Sacramento County, and any related and successive prosecutions.

A county other than Sacramento County is entitled to reimbursement if the county has an MOU with Sacramento County regarding labor and costs, and if county employees and other persons providing services to the county pursuant to the MOU operate under the direction and supervision of Sacramento County's lead prosecutor or under the direction and supervision of Sacramento County's appointed lead defense counsel.

Claims for reimbursement are limited to 12 months after the close of the month in which the costs were incurred. Reimbursable costs include all of the following:

- a) Costs of participation in any trial or hearing of any matter specified in this bill, as specified;
- b) Costs of the prosecuting attorney in investigating, evaluating, or prosecuting cases related to any matter specified in this bill, as specified;
- c) Costs incurred by the public defender or court-appointed attorney with respect to any matter specified in this bill, as specified;

- d) Any costs incurred for providing training in the investigation, prosecution, and defense associated with any matter specified in this bill; and,
- e) Any other costs reasonably incurred by Sacramento County or any other California county that meets the requirements of this bill in connection with any matter specified in this bill.

All counties seeking reimbursement must designate separate officers or agencies to prepare separate statements of costs, which must be sent to the Controller for approval. The Controller must reimburse qualifying counties with funds appropriated by the Legislature within 60 days, or provide a written statement providing the reason for not making the reimbursement. If sufficient funds are not available, the Controller must request the Director of Finance to include any amounts necessary to satisfy the claims in a request for a deficiency appropriation. In making reimbursements, the Controller must be guided by the need to provide a complete and full defense for the defendant as required under existing law.

This bill includes confidentiality provisions consistent with existing law governing reimbursements for trial costs related to indigent defendants, and provides definitions for reasonable and necessary costs and administrative costs. It also creates a special fund within the State Treasury for the purposes of implementing this bill.

This bill is sponsored by Sacramento County.

- 6) **Arguments in Support.** Sacramento County writes, “The DeAngelo case is extraordinary, unprecedented, and of statewide significance. It involves conduct occurring in multiple Northern and Southern California Counties that comprise nearly a third of the state’s population. The comprehensive prosecution and defense of all of the crimes for which Mr. DeAngelo is accused will occur in Sacramento County. The magnitude of this case exceeds any other case previously prosecuted in this state. It will impose a significant financial burden on Sacramento County and jeopardize critical county services without support from the state... While staff estimates a cost of more than \$20 million, this is a rough estimate as it is difficult at this point in the process to accurately estimate all possible costs. However, we anticipate the complexities of the case, including forty years of evidence, to greatly affect the cost.”
- 7) **Arguments in Opposition.** None on file.

REGISTERED SUPPORT / OPPOSITION:

Support

Sacramento County [SPONSOR]
California State Association of Counties
Santa Barbara County
Urban Counties of California

Opposition

None on file

Analysis Prepared by: Angela Mapp / L. GOV. / (916) 319-3958