

MOTION BY SUPERVISOR MICHAEL D. ANTONOVICH

November 9, 2016

AMENDMENT TO PROPOSITION 47 ITEM

On October 7, 2016, the District Attorney issued a report in response to the Board’s motion of April 12 seeking information concerning victims of Proposition 47.

Specifically, the motion requested the District Attorney to: 1) identify the number of victims impacted by Proposition 47; 2) ensure that victims receive advance notification about upcoming resentencing matters/hearings in order to preserve their right to be heard; and, 3) identify any barriers that prevent victims from exercising their rights as well as potential services or support to alleviate those barriers.

The detailed report by the District Attorney estimates that there are over 335,000 cases and over 627,000 charges where victims may have suffered losses requiring restitution. This data was produced by utilizing the same list of data that was used for the Proposition 47 outreach campaign excluding drug possession charges. The District Attorney has implemented policies and procedures to ensure that victims’ right to be notified of post-conviction hearings and case dispositions is preserved using various means available to locate them, including using DMV records, Lexis, social media and other local, state or federal databases.

The report goes on to identify a critical obstacle for victims which is collection of court ordered restitution in misdemeanor cases. Marsy’s Law, which includes the constitutional right to court ordered restitution for victims of crime, does not distinguish felony from misdemeanor. Thus, *all* victims, regardless of level of crime, are eligible for court-ordered restitution. This obstacle impacts more victims post-Proposition 47 because certain property crimes are no longer felonies. It is, therefore, recommended that the Board consider expanding the mandate of the county’s Restitution Taskforce to

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include collection of restitution from misdemeanants. It is also recommended that: 1) victims receive the same expense reimbursements, such as mileage and parking costs, similar to witnesses pursuant to Penal Code 1329; 2) non-English speaking victims have access to interpreters similar to witnesses and defendants in order to meaningfully understand and participate in the proceedings; and 3) assist victims who end up having to collect restitution civilly through non-profit legal aid or community based organizations.

I, THEREFORE, MOVE that the Board of Supervisors direct the county's Restitution Taskforce (under the auspices of the CCJCC and chaired by the District Attorney's Office) to take the following actions:

1. Analyze and assess the feasibility of incorporating court-ordered restitution collection from misdemeanants into the county's existing restitution collection program;
2. Review the District Attorney's recommendations relevant to access to interpreters as well as reimbursable expenses for victims similar to what is already available to witnesses and defendants;
3. Review all options the county can use to assist victims in their civil enforcement of restitution, including, but not limited to, exploring inclusion of this service in the county's future Request for Proposal for a contract with a non-profit legal aid provider (currently Neighborhood Legal Services) as well as the options contained in the District Attorney's report; and,
4. Provide a report and any additional recommendations to the Board in 60 days.

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