[ms-0398.027.001.004]

ATTACHMENT

(afa71)

COUNTY OF SACRAMENTO - INTERDEPARTMENT CORRESPONDENCE

Date: 29 JAN. 1990

TO: Administration and Finance Agency

BILL NO. CRIME VICTIM'S JUSTICE REFORM ACT

From: Public Defender's Office

AUTHOR _____

Subject: PENDING STATE LEGISLATION - INTERNAL COORDINATION

AMENDMENT DATE: _____

The attached initiative has qualified for the June 1990 ballot. We have reviewed its provisions to determine the impact the initiative might have on Sacramento County, as it relates to the Public Defender's office. If you have any questions, need additional copies of the initiative, require information, please call Extension 06063.

Even if you determine that the bill has no significant effect, **please complete the form and return it to the County Executive's Office no later than:** _____

BILL ALSO REFERRED TO: _____

To what extent does this bill affect your operation (or the County's)?

☑ Significantly ☐ Slightly ☐ No Impact ☐ May Affect _____ dept(s)

If the bill is significant, please provide the following information in the format shown below, adding any supplementary information you think is necessary.

EXISTING LAW AND DEPARTMENTAL PRACTICE: The Public Defender's office now accepts many more cases than could be heard within the present statutory time limits for trials and other hearings. The office is able to accept these appointment because most cases are resolved by pleas. On infrequent occasion, two or more cases set for hearing or trial on the same day, or within a day or two of one another, do not settle. When this happens, the attorney is compelled to request a continuance in one matter because of his or her obligation to proceed in the other case.

PROPOSED LAW AND EFFECT ON DEPARTMENTAL PRACTICE: Under the initiative, the conflicting demands of multiple cases is not good cause for a continuance. The proposed law directs the court not to consider counsel's convenience, calendar conflicts, or other business when evaluating whether the attorney can prepare a case within the statutory time limits (See proposed Penal Code section 987.05 in Attachment 2).

Upon accepting an appointment, the initiative requires counsel to represent that the case will be heard within these time limits. An attorney's failure to meet this obligation is punishable by contempt, and the court has the power to order the attorney's salary withheld, or to impose a fine or jail sentence. The result of these provisions is a significant decrease in the number of appointments the Public Defender's office can accept. Each case must be treated as though it is the only case. Legislation proposing similar changes has been previously opposed by Sacramento County (Attachment 3).

There are many other provisions of this complex proposal. Some of them eliminate procedures that encourage the early resolution of cases. The impact of these provisions can only be to further reduce the caseload that can be assigned to individual attorneys, leading to the need for even more lawyers. The initiative applicability to juvenile proceedings is unclear.

FISCAL IMPACT: A conservative estimate is that compliance with the requirements of the initiative will require doubling the number of attorneys assigned to handle felony trials. Based on current salaries and benefits, this would cost from $3,420,000 to $3,765,000. The details of this estimate are contained in the attached memo (Attachment 1).

RECOMMENDATION:

☐ SUPPORT ☑ OPPOSE ☐ NEUTRAL

Janis Salamy

Signature of Department Head or Authorized Signature

ATTACHMENT 1

COUNTY OF SACRAMENTO

Inter-Department Correspondence

DATE: January 25, 1990

TO : Farris Salamy

FROM : Doug Welch

SUBJECT : Impact of Crime Victim's Initiative

If enacted, the "Crime Victim's Justice Reform Act" will require each assigned counsel to represent that he or she will be ready for preliminary hearing or trial within statutory time limits. These limits may not be exceeded unless the court finds that counsel could not be prepared if counsel did nothing other than prepare for the assigned case from the time of appointment to the date of the hearing. In deciding whether counsel can be expected to comply with the time requirements and still adequately prepare the case, the court "shall not consider counsel's convenience, counsel's calendar conflicts, or counsel's other business." (see proposed Penal Code section 987.05, in Attachment 2). This requires appointed counsel to treat each case as though it were his or her only case, and to disregard the reality that many cases settle before trial. The net result is to substantially reduce the availability of public defenders to accept new appointments.

When a similar statutory change was proposed in 1988, the Legislative Advocate for Sacramento County opposed the legislation. The reasoning expressed in the statement of opposition was that requiring public defenders to avoid potential calendar conflicts meant that public defenders could not use their time to maximum efficiency (see Attachment 3). They would be required to plan for the "worst case" in which every defendant demands a trial, knowing that this will not happen.

The language of the initiative establishes a policy that cases not be continued because the defense attorney is unavailable. In evaluating the impact of this policy our office can only assume that the law will be enforced as it is written.

To assist in estimating the impact of the initiative, the trial attorneys in this office were asked to estimate the number of trial days for each case currently set for trial. Based on these estimates, we have concluded that in order to avoid overlapping trial dates, each attorney's trial caseload would have to be reduced by one half. This, of course, means that the number of attorneys would have to be doubled to handle the same caseload.

This does not reflect the potential impact of other provisions of the initiative. For example, the requirement that defense lawyers

be ready for every hearing appears to apply to preliminary hearings as well as trials. If that is strictly enforced, then public defenders would not be able to schedule preliminary hearings during those times when they anticipate being in trial. This too would further decrease the number of cases that could be assigned to each attorney.

It also does not consider the potential increase in the number of cases in which a trial is actually conducted. Less than 2% of all felony filings in Sacramento county now culminate in a trial. There is a possibility that some other provisions of the initiative, such as the limitations on discovery and the elimination of meaningful preliminary hearings, will increase the number of trials.

There are some uncertainties as to which of our office functions will be affected by the initiative. For example, the provisions discussed above may also apply to juvenile cases. Many of the initiatives provisions apply to all felony cases. Many delinquent cases involve alleged violations of felony statutes. If juvenile hall attorneys are required to avoid all potential calendar conflicts, a substantial increase in the staff will be required. The Secretary of State's letter notifying county clerks that the initiative has qualified for the June ballot says that it applies to juvenile cases (Attachment 4).

The fiscal impact of doubling the trial attorney staff is noted below. This impact analysis does not include many budget items which increase as staff is added. For example, mileage reimbursement, copy machines, word processor services, education and training allowances, telephone and other utility expenses, and expert witness fees have not been added. Also, the need for additional legal research assistants, investigators and secretarial staff have not been included in this impact report.

Additions to Budget
(using 1989 salaries and benefits)

FELONY TRIAL TEAM (35)

Attorney III
(24 @ $65,000-$75,000/atty.) = $1,560,000 - $1,800,000

Attorney IV
(11 @ $75,000-$85,000/atty.) = $825,000-$900,000

Supervisors
(5 @ $86,000/supv.) = $430,000

MAJOR CRIMES TEAM (6)

Attorney IV
(4 @ $75,000-$82,000/atty.) = $300,000-$328,000

Supervisors

(2 @ $86,000/supv.)	=	$172,000
FACILITY SPACE (41 attorneys) (based on 200 sq. ft. X no. of personnel X $1.35/sq. ft./mo.)	=	$133,000
		$3,420,000-$3,765,000