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Approved as to Form and Legality



City Attorney's Office

# OAKLAND CITY COUNCIL

RESOLUTION NO. 86784 C.M.S.

INTRODUCED BY COUNCILMEMBER DAN KALB

**RESOLUTION IN SUPPORT OF CALIFORNIA SENATE BILL (SB) 355 (SENATORS MITCHELL AND LARA), WHICH WOULD LIMIT THE COURT'S ABILITY TO ORDER PEOPLE WHO ARE PROVIDED COURT-APPOINTED DEFENSE COUNSEL TO SUBSEQUENTLY REIMBURSE THE COUNTY FOR THE COSTS OF SUCH COUNSEL EXCEPT WHEN THEY ARE CONVICTED OF A FELONY OR MISDEMEANOR**

**WHEREAS**, existing law requires a court to assign counsel to a defendant who desires the assistance of defense counsel when the court determines a defendant cannot afford to pay for it; but, upon conclusion of the proceedings or withdrawal of court-appointed counsel, existing law allows the court to again assess a defendant's ability to pay all or a portion of his or her defense costs, and to order the defendant to reimburse the county for that portion he or she has been determined to be able to pay; and

**WHEREAS**, the courts may order such reimbursement of court-appointed defense counsel fees regardless of whether the defendant has been convicted or acquitted of the crime charged; and

**WHEREAS**, people who have been wrongly arrested, prosecuted, imprisoned, and ultimately exonerated, may still be ordered to reimburse the county for thousands of dollars in court appointed defense costs for daring to assert their constitutional rights to a trial and defense attorney; and

**WHEREAS**, according to the SB 355 fact sheet issued by Senators Mitchell and Lara, courts have been known to use the threat of being ordered to pay court-appointed defense counsel fees to induce defendants to plead guilty to time-served offers in exchange for an agreement to waive such fees, which induces innocent people, who should not be convicted, to enter into plea bargains to avoid such costs; and

**WHEREAS**, existing law imposes an insuperable burden on the innocent poor and is fundamentally unfair, as it increases the chances that they will be burdened by significant defense costs or unwarranted criminal pleas and, as a result, be unable to meet family and other societal obligations; and

**WHEREAS**, SB 355 is supported by the Alliance for Boys and Men of Color, California Attorneys for Criminal Justice, Friends Committee on Legislation, Reentry Solutions Group, Courage Campaign, National Employment Law Center and the Conference of California Bar Associations; now therefore, be it

**RESOLVED:** That the Oakland City Council supports Senate Bill (SB) 355 (Senators Mitchell and Lara), which would limit the court's ability to order people who are provided court-appointed defense counsel to subsequently reimburse the county for the costs of such counsel except when they are convicted of a felony or misdemeanor; and be it

**FURTHER RESOLVED:** That the City Administrator is directed to forward a copy of this approved Resolution to state legislative elected officials representing Oakland, Governor Jerry Brown, to the authors of SB 355, and to the lobbyist for the City of Oakland to advocate for passage of SB 355.

IN COUNCIL, OAKLAND, CALIFORNIA, JUN 20 2017

PASSED BY THE FOLLOWING VOTE:

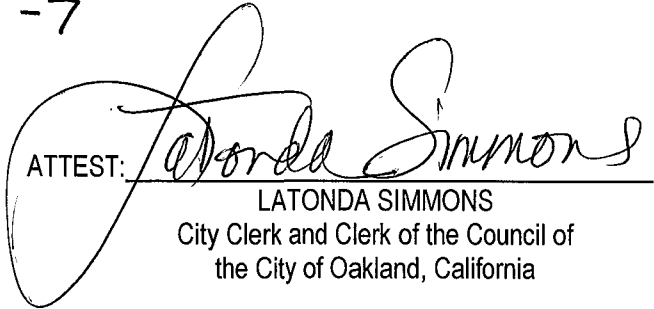
AYES - ~~XXXXXX~~, CAMPBELL WASHINGTON, GALLO, GIBSON MCELHANEY, GUILLÉN, KALB, KAPLAN AND PRESIDENT REID - 7

NOES - 0

ABSENT - 0

ABSTENTION - 0

Excused - Brooks - 1

ATTEST:   
LATONDA SIMMONS  
City Clerk and Clerk of the Council of  
the City of Oakland, California