

COUNTY OF SACRAMENTO
CALIFORNIA

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For the Agenda of:
June 17, 2009

To: Board of Supervisors

From: Countywide Services Agency

Subject: **Report Back On The County Of Sacramento's Responsibility To Provide Funding For Psychiatric Evaluations In Juvenile Cases**

Contact: James W. Hunt, Acting Administrator Countywide Services Agency, 874-5886

On Monday, June 15, 2009, the Board requested further information regarding the County of Sacramento's responsibility to provide funding for psychiatric evaluations in juvenile cases. This report addresses that request.

REPORT BACK:

Psychiatric Evaluations are provided to minors in criminal juvenile cases where the juvenile has pled "insanity" or where a Judge has determined that a juvenile is in need of evaluation. The local courts ask for reimbursement for evaluations that fall under CRC 1498(a), Penal Code 288, Penal Code 1026 and 1027, Penal Code 1001.21 and 1001.22 and Welfare and Institutions Code 741.

Evidence Code 731 has been used as the basis for the County providing payment for these bills rather than the Courts. County Counsel has advised the following:

Pursuant to Evidence Code section 731(a), in all criminal actions and juvenile court proceedings, the compensation fixed under Evidence Code section 730 is a charge against the county in which such action or proceeding is pending and shall be paid out of the county's treasury on order of the court. Evidence Code section 730 provides that when it appears to the court (either before or during the trial) that expert evidence may be required by the court or by any party to the action, the court may, on its own motion or on motion of any party, appoint one or more experts to investigate, to render a report, and to testify as an expert at the trial. Evidence Code section 730 authorizes the court to fix the compensation for those services in an amount that seems reasonable to the court. Therefore, pursuant to Evidence Code section 731(a), the county is responsible for such expert witness costs in all criminal actions and juvenile court proceedings.

Penal Code section 288.1 provides that any person convicted of committing a lewd or lascivious act on a child under 14 years of age shall not have his sentence suspended until the court obtains a report from a psychiatrist/psychologist as to the mental condition of that person.

Penal Code 1001.21 states that the provisions of the chapter dealing with diversion apply whenever a case is before any court upon an accusatory pleading at any stage of the criminal

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proceedings, for any person who has been evaluated by a regional center for the developmentally disabled and who is determined to be a person with a cognitive developmental disability by the regional center, and who therefore is eligible for its services. It also applies to any offense which is charged as or reduced to a misdemeanor, except that diversion shall not be ordered when the defendant previously has been diverted within two years prior to the present criminal proceedings.

Penal Code section 1001.22 pertains to diversion of a defendant who may have a cognitive developmental disability. It provides for reports by the regional center and the prosecutor on related issues.

Penal Code section 1026 pertains to a defendant's plea of insanity and the defendant's confinement in a state hospital or other treatment facility. Penal Code section 1027 pertains to the appointment of psychiatrists/psychologists when a defendant pleads not guilty by reason of insanity. The fees allowed by the court for services by such experts shall be paid by the county where the indictment was found or in which the defendant was held for trial.

California Rule of Court 5.645 (referenced as CRC 1498(a)) allows the court to stay proceedings filed under Welfare and Institutions Code section 300, 601 or 602 if the court believes the child is mentally disabled or mentally ill and the court may order the child taken to a facility for 72-hour treatment and evaluation.

Welfare and Institutions Code section 741 provides that the juvenile court may, in a case filed pursuant to Section 650 et al. order the probation officer to obtain the services of certain experts as necessary to assist in determining the appropriate treatment of the minor and as may be required in the conduct or implementation of the treatment. Payment for the services is a charge against the county.

Respectfully submitted:

JAMES W. HUNT, Acting Administrator
Countywide Services Agency

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County Executive