



County of Sonoma
Agenda Item
Summary Report

Clerk of the Board
575 Administration Drive
Santa Rosa, CA 95403

Agenda Item Number:
(This Section for use by Clerk of the Board Only.)

To: Board of Supervisors

Board Agenda Date: February 21, 2017

Vote Requirement: Majority

Department or Agency Name(s): County Administrator's Office

Staff Name and Phone Number:

Rebecca Wachsberg 565-3782
Sita Kuteira 565-3771

Supervisorial District(s):

Title: County Immigration Initiative Legislative Update and Timeline

Recommended Actions:

- A. Accept a report on recent immigration-related legislative and executive actions, authorize the Chair to sign a letter of support for Senate Bill 54 (De León) that also advocates for certain amendments, and direct staff to conduct legislative advocacy for SB 54 in accordance with the County's Legislative Program; and
- B. Accept an update on the County's initiative to improve the safety of and enhance access to services for undocumented residents and communities, authorize the extension of the Unaccompanied Child Deportation Defense Program, and approve the Sonoma County Immigration Initiative proposal and timeline.

Executive Summary:

This report provides a summary of recent County actions to address the growing fear and anxiety in our immigrant community and to recommend further legislative action. Previously, the Board supported SB 6 (Hueso) and AB 3 (Bonta), which would increase funding and training for legal services. This item further analyzes Senate Bill (SB) 54 (De León), which would generally prevent the use of state and local funds to aid federal deportation actions and create service provider safe zones. Staff recommends that the County actively support the legislation, while requesting key modifications, as part of its efforts to expand the rights and protections of undocumented immigrants. Additionally, at the Board's direction, staff has been working to explore expanded access to immigration legal services and recommends continuing to take a leadership role in this area as well as extending the Unaccompanied Minors Deportation Defense Pilot Program, which has been extremely successful at enforcing the rights of immigrant children against unlawful deportation.

Discussion:

LEGISLATIVE & EXECUTIVE UPDATE AND ANALYSIS

Since December, the President has signed three executive orders to accelerate deportations and prevent immigrant and refugee admission, Congress has introduced a litany of corresponding legislation,

the California legislature has introduced a series of bills to protect undocumented immigrants, California law enforcement agencies have begun implementing the TRUTH Act, and countless jurisdictions and community organizations have signed resolutions and petitions against the federal administration and in support of immigrant rights.

Recent Changes to California Law

In 2013, the California Legislature enacted the TRUST Act to limit cooperation with the United States Immigration and Customs Enforcement (ICE) in cases involving non-serious offenders. The most recent State law on immigration, the TRUTH Act, was signed by Governor Brown on September 28, 2016, and went into effect January 1, 2017. The TRUTH Act is intended to ensure greater transparency surrounding notification to ICE by local law enforcement, by requiring that individuals in local custody are informed of their rights and notified about ICE requests to “detain” them. A detainer request is distinct from a criminal warrant: it is not issued by a judge and is not based on a finding of probable cause. It is simply a request by ICE that a local law enforcement agency hold individuals up to 48 hours after their release date to allow for ICE to take them into federal custody and deport them. For that reason, courts have clarified that ICE detainers are voluntary in nature and should not be complied with absent the issuance of a judicial warrant. In Sonoma County, the Sheriff's Office has been implementing these legal changes as they arise. The Sheriff's Office adopted TRUST Act provisions in 2014, stopped honoring ICE detainers absent judicial warrants in 2014, and implemented new TRUTH Act mandates beginning in January 2017, as required by law.

Federal Actions and Legislation

Executive Order 13767 – *Border Security and Immigration Enforcement Improvements* (January 25, 2017): This Order directs executive departments and agencies to limit immigration along the nation’s southern border, including enhancing border security and constructing a wall and detention facilities, and calls for increased deportations.

Executive Order 13768 – *Enhancing Public Safety in the Interior of the United States* (January 25, 2017): This Order increases immigration enforcement and deportations and, among other things, authorizes the denial of federal grant funding to any jurisdiction determined to be a sanctuary jurisdiction. This Order is currently being challenged by state and local governments on several legal bases. Those challenges are discussed more below with regard to risks to federal funding.

Executive Order 13769 – *Protecting the Nation From Terrorist Entry Into the United States* (January 27, 2017): This Order suspends the admission of refugees, indefinitely halts the processing and admissions of refugees from Syria, places a 90 day ban on immigration from Iraq, Iran, Libya, Somalia, Syria and Yemen, and directs federal agencies to develop threat assessments and screening standards and procedures for immigration. This Order is currently being challenged in the courts on the grounds that it, among other things, violates due process and freedom of religion. A U.S. District Court in Seattle was the first to suspend the immigration ban. That ruling was recently upheld by the Ninth Circuit Court of Appeals, which will decide soon whether to reconsider that decision with an 11-judge panel.

California Legislation

In December 2016, California legislators introduced a series of bills, including SB 6 (Hueso), AB 3 (Bonta) and SB 54 (De León), in response to comments by the incoming President regarding plans to deport up

to 3 million undocumented immigrants. The County has already taken positions of support on the original versions of SB 6, which would expand State-funded legal services to undocumented adults, and AB 3, which would make grants available for nonprofits and public defenders' offices to competently serve undocumented clients.

SB 54 seeks to support citizens and undocumented immigrants alike through several key provisions:

1. Preventing ICE Notifications and Detainers

Existing law allows state and local law enforcement to respond to requests for notification from Immigration and Customs Enforcement (ICE) prior to release. The arrestees may then be held by ICE and transferred to a detention center. This bill would generally preclude notification and detainers, but would not prevent state and local government agencies from complying with a warrant to transfer offenders into federal custody for immigration enforcement purposes.

2. Prohibiting Use of Funds for Immigration Enforcement or Registrations

The bill would prohibit the use of State and local funds to investigate, interrogate, detain or arrest people for the purposes of immigration enforcement. It also prohibits law enforcement agencies or schools from creating any kind of database or registry regarding individuals' immigration status.

3. Creating "Safe Zones" for Essential Services

SB 54 seeks to ensure that all residents, regardless of immigration status, are able to use essential services provided by the State and local governments. The bill requires state agencies to review and amend confidentiality policies, and encourages service providers such as schools, universities, health care facilities and political subdivisions such as courthouses to adopt model policies that limit immigration enforcement to the greatest extent possible.

Requested Amendment

While supporting SB 54, staff also recommends requesting an amendment to the bill to assist law enforcement in ensuring the safety of our communities. In its current form, SB 54 would prevent notifications to ICE regardless of the criminal history of the arrestee. The County would request an exception to the restriction on notification in the case of serious or violent crimes (which may include felonies and certain misdemeanors, such as sex offenses). In these limited instances coordination with other law enforcement agencies is necessary to keep our communities safe.

Impacts to Undocumented Immigrants and Families

Threatening statements against immigrants throughout the presidential campaign, recent executive orders, and ongoing deportations have created fear in our immigrant communities. It has been reported that this fear causes both citizens and immigrants to stop cooperating with law enforcement, discontinue accessing critical services, hold children out of school, and otherwise seriously impacts the safety and wellbeing of our communities. Immigrant communities often exhibit significant underreporting of crimes. By prohibiting the use of state and local funds for federal immigration enforcement, immigrant community members feel safe to call on local law enforcement. Creating "safe zones" will encourage immigrant communities to continue accessing essential services, and ensure that the use of services does not jeopardize their safety in this country. Without these protections, for example, undocumented parents may be encouraged to disenroll their citizen children from critical

services such as Medi-Cal and nutrition programs. Lastly, placing limitations on ICE notifications and detainers extends important due process rights to all residents, decreases detrimental family separations, and increases the sense of security for our residents.

Risks to Local Funding

The federal government has in the past and again recently made threats to block certain federal funding to state and local governments that do not comply with federal laws. This tactic has been challenged in the courts and recent threats are again being challenged. At this stage, it is unclear what the federal government's authority is to make funding contingent on state and local action or policy. While the risk is uncertain, it is important to note that these threats are not without challenge. More information on those funding threats related to immigration enforcement and related challenges is provided below.

Executive Order 13768 declares that it is the policy of the federal administration to ensure that "sanctuary jurisdictions" (which are not defined in the Order) are not eligible to receive Federal grants, except for those that are necessary for law enforcement purposes. State and local jurisdictions have brought legal challenges against this Order, arguing that the Order is unconstitutionally overbroad by claiming spending power for the President that even Congress lacks. Even if the Order were an Act of Congress, or authorized by one, local governments argue that it is unconstitutional, as Congress' power to place conditions on the receipt of federal funds is limited. The County of Santa Clara recently filed a Complaint for Declaratory Relief, stating that once federal funds are provided to a local government, and the money is accepted, Congress is barred from imposing new conditions on that money. Similarly, they argue that Congress cannot impose conditions on federal money that are unrelated to the federal interest furthered by the appropriated funds. Finally, courts have ruled that Congress cannot impose a condition so coercive that it amounts to "a gun to the head" of a local government, leaving it no other option but to comply with the demand of the federal government. Additionally, those legal challenges identify that the Order improperly commandeers local officials and contravenes constitutional law establishing the separation of powers of the legislative and executive branches of government. Courts in multiple jurisdictions are currently considering these challenges.

COUNTY IMMIGRATION INITIATIVE

Immigrant Rights Legal Services

On February 10, 2017, County Counsel convened a meeting of about 20 local immigration attorneys and advocates to discuss how to best serve the legal needs of the County's undocumented residents in light of the recent Executive Orders and broad policy statements of the new administration regarding deportation. Work groups have been formed to design both information materials and a program that might include Know Your Rights workshops, pro bono attorney recruitment/training, and expansion of nonprofit legal service representation. Current plans include distributing the materials through County service departments and using the County website as a central information point for community trainings and information.

Unaccompanied Child Deportation Defense Project

On September 23, 2014, the Board approved a two year pilot program to allow County employees to work together to represent children, primarily from Central America, who had fled violent conditions in their home countries and had been detained at the U.S. border and placed in deportation proceedings. Based on the School of Hope model, where the Board allowed employees to tutor

disadvantaged 1st-3rd graders during work time, the Defense Project similarly used volunteers from a number of departments including County Counsel, the Permit and Resource Management Department, and the Public Defender's Office. National statistics showed that while a majority of these children likely had a legal basis to stay in the U.S., without an attorney 90% were deported to face abuse and possible death in their country of origin. Donated training for the program was provided by the Immigrant Legal Resource Center and volunteer mentor immigration attorneys were recruited from the community.

To date 7 Sonoma County children have been served, 4 have been granted legal status, 2 found private counsel through a parent, and 1 is in process. The Project has been honored with awards from the National Association of Counties (NACo) and the California State Association of Counties (CSAC) and has served as the model for similar programs in Santa Clara County and the Los Angeles Unified School District. County Counsel has taken the lead in administering the program and requests that the Board authorize the program for an additional two years.

Initiative Proposal and Timeline

On February 7, the Board directed staff to undertake a series of work efforts to address the safety of immigrant communities and access to services that may be impacted by the immigration status of residents or their family members. The following lays out a timeline and proposed objectives for the initiative. Over the next several months significant work would be conducted within the departments, with the community, and in coordination with each Board member. Staff would then return with a report for the full Board at the conclusion of that process with an analysis and additional proposed actions in mid-summer.

- February and March: Assessing County and Community Programs – Staff will work on a multi-department team to review County programs that are available to residents regardless of immigration status and identify where there may be barriers to accessing essential County services. Staff has already begun working across departments. Project 301 is a collaborative initiative that seeks to provide resources, wrap-around services and case management across Sonoma County departments for at least 301 of the most at-risk residents/families. That team of departments has starting coordinating on this issue to assess ways in which their clients may be better served regardless of immigration status. Staff will also work with community members and community-based organizations to generate a comprehensive list of services that are available through outside entities.
- March: Information Hub – The County will serve as a central information source for the community and distribute information to clients on immigrant rights, family preparedness, and services. The County will also establish a web page in English and Spanish letting the community know about available trainings, programs and developments in this area, as well as a dedicated email address and other methods of receiving and disseminating information.
- May and June: Community Workshops – Staff is proposing that with leadership from each Supervisor a community workshop be coordinated in each supervisorial district in collaboration with local community-based organizations that serve the area. The workshops would provide residents an opportunity to identify barriers to access and potential solutions specific to each community. These meetings will also serve as a venue for community-based organizations to connect with the public and other organizations to improve cooperation and service delivery.
- July and August: Gap Analysis and Proposal – Based on the information gleaned through the research of County and community programs and community feedback and direction, staff will

prepare a gap analysis and present proposals to the Board of Supervisors to take action to address access to services and improving immigrant rights within the communities.

Prior Board Actions:

February 7, 2017: The Board adopted a Minute Order directing staff to work on immigration-related issues and adopted a Resolution in support of equal rights for all residents regardless of immigration status.

January 10, 2017: The Board adopted the 2017-2018 State and Federal Legislative Platform which authorizes legislative advocacy efforts.

Strategic Plan Alignment Goal 1: Safe, Healthy, and Caring Community

Supporting SB 54 and broader immigration reform protects the safety and wellbeing of the undocumented residents of Sonoma County and their families by ensuring they feel secure in their communities and have safe access to essential services.

Fiscal Summary

Expenditures	FY 16-17 Adopted	FY 17-18 Projected	FY 18-19 Projected
Budgeted Expenses	\$44,926	\$56,102	\$49,352
Additional Appropriation Requested			
Total Expenditures	\$44,926	\$56,102	\$49,352

Funding Sources

General Fund/WA GF	\$44,926	\$56,102	\$49,352
State/Federal			
Fees/Other			
Use of Fund Balance			
Contingencies			
Total Sources	\$44,926	\$56,102	\$49,352

Narrative Explanation of Fiscal Impacts:

Funding for legislative advocacy efforts is already included in the CAO's budget and work plan.

Staff estimates that the County Immigration Initiative as proposed would take about 200 staff hours across multiple departments, 150 hours in FY 16-17 totaling approximately \$20,250 and 50 hours in FY 17-18 totaling approximately \$6,750. This effort will be coordinated by the County Administrator's Office and the workload will be shared throughout the multi-departmental team which includes primarily Health and Human Services, Justice Services and County Counsel. While this workload can be absorbed within the departments' current capacity, it will have an impact on staff's ability to respond to new requests or proactively address existing projects. For the Community and Government Affairs team this may include work in areas such as tribal relations and communications.

The Unaccompanied Child Deportation Defense Project would continue using the School of Hope model whereby volunteer County attorneys and other staff use existing County and department resources and work time to provide legal representation to selected minors. These legal services hours would be diverted from other current or potential Board priorities. To date, County Counsel has donated 485.75 hours to the project, an average of 194.3 hours per year. We anticipate this level to continue, and thus the cost to the County would be approximately \$49,352 annually.

Staffing Impacts

Position Title (Payroll Classification)	Monthly Salary Range (A – I Step)	Additions (Number)	Deletions (Number)

Narrative Explanation of Staffing Impacts (If Required):

Attachments:

SB 54 Letter of Support to Author and Delegation

Related Items “On File” with the Clerk of the Board:

COUNTY OF SONOMA
BOARD OF SUPERVISORS

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MEMBERS OF THE BOARD

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DAVID RABBITT

LYNDA HOPKINS

February 21, 2017

The Honorable Kevin De Leon
Senate President Pro Tempore
State Capitol, Room 205
Sacramento, CA 95814

RE: SB 54 - Support

Dear Senator De Leon,

On behalf of the Sonoma County Board of Supervisors, thank you for introducing SB 54, the California Values Act. This bill would ensure that state and local resources are not used to support deportations and safeguard access to essential services for all residents, regardless of immigration status.

Approximately 8% of Sonoma County residents are undocumented immigrants. These residents are an important part of our community and the local economy. Unfortunately, threatening statements made throughout the presidential campaign supporting mass deportations, followed by the President's recent executive orders, have caused our community to stand in fear. We have received reports that this has resulted in reduced cooperation with law enforcement, holding children out of school, and dropping out of important family support programs. Additionally, the fear created by government statements and actions spurs a distrust that creates an additional barrier to accessing services or receiving protection from law enforcement. In light of the prospect of changes to immigration laws and enforcement at the federal level, additional legal protections for immigrants and access to services are even more critical.

SB 54 would put in place critical protections for immigrants and immigrant communities by: preventing notifications to the Immigration and Customs Enforcement (ICE) agency and detainers without a judicial warrant; prohibiting the use of state and local funds for immigration enforcement or the development of a database or registry; and ensuring access to essential services by directing state agencies to review and amend confidentiality policies and encouraging schools, health care facilities, and courthouses to adopt policies that limit immigration enforcement to the greatest extent possible.

The County strongly supports the objectives of SB 54 and the values it espouses, and believes it takes a major step toward increasing protections and access to services for immigrant communities. With our support, we also advocate for minor changes to assist our law enforcement partners in ensuring the safety of our communities. Specifically, the County requests an exception to the restriction on notification in the case of serious or violent crimes (which may include felonies and certain misdemeanors, such as sex offenses). In these limited instances coordination with other law enforcement agencies is necessary to keep our communities safe.

It is a priority of Sonoma County's Legislative Platform to support legislation that enhances legal protections for undocumented immigrants and increases access to services. SB 54 supports the County's mission to support safety, wellbeing, and due process rights of our immigrant residents and communities.

Thank you for your authorship of this bill. The County of Sonoma sincerely appreciates your efforts on this issue.

Sincerely,

SHIRLEE ZANE, Chair
Sonoma County Board of Supervisors

CC: Sonoma County Board of Supervisors
The Honorable Mike McGuire, California State Senate
The Honorable Bill Dodd, California State Senate
The Honorable Jim Wood, California State Assembly
The Honorable Marc Levine, California State Assembly
The Honorable Cecilia Aguiar-Curry, California State Senate
Paul Yoder & Karen Lange, Shaw/Yoder/Antwih, Inc.