



Monterey County Board of Supervisors

168 West Alisal Street,
1st Floor
Salinas, CA 93901
831.755.5066

Board Order

Upon motion of Supervisor Salinas, seconded by Supervisor Phillips and carried by those members present, the Board of Supervisors hereby:

Approved Resolution No. 16-101 authorizing the Monterey County Sheriff's Office as the agency to collect restitution, fines and/or fees from Penal Code Section 1170(h)(1)(2)(3) offenders currently imprisoned in the Monterey County Jail pursuant to Penal Code Section 2085.5.

PASSED AND ADOPTED on this 3rd day of May 2016, by the following vote, to wit:

AYES: Supervisors Armenta, Phillips, Salinas, Parker and Potter

NOES: None

ABSENT: None

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 79 for the meeting on May 3, 2016.

Dated: May 4, 2016
File ID: 16-398

Gail T. Borkowski, Clerk of the Board of Supervisors
County of Monterey, State of California

By Denise Hancock
Deputy

**Before the Board of Supervisors in and for the
County of Monterey, State of California**

Resolution No. 16-101

Resolution of the Monterey County)
Board of Supervisors designating)
Monterey County Sheriff's office)
authority to collection restitution fines)
and orders Pursuant To Penal Code 2085.5. .)

THE MONTEREY COUNTY BOARD OF SUPERVISORS FINDS:

- a. WHEREAS, AB 109 entitled "Public Safety Realignment Act of 2011, which became effective October 1, 2011 and provided for the enactment of the "Post Release Community Supervision Act of 2011;
- b. WHEREAS, SB1210 amended code section 2085.5 of the California Penal Code by providing the Board of Supervisors may designate an agency to collect court ordered restitution fines and orders from persons incarcerated in the county jail by deducting monies from the county jail equivalent of wages and trust account deposits of a state prisoner, and from parolees and persons punished by imprisonment in a county jail pursuant to subdivision (h) (1)(2)(3) of the California Penal Code Section 1170;
- c. WHEREAS, Penal 2085.5(b)(1) states: When a prisoner is punished by imprisonment in a county jail pursuant to subdivision (h)(1)(2)(3) of Section 1170, in any case in which a prisoner owes a restitution fine imposed pursuant to subdivision (a) of Section 13967 of the Government Code, as operative prior to September 28, 1994, subdivision (b) of Section 730.6 of the Welfare and Institutions Code, or subdivision (b) of Section 1202.4, the agency designated by the Board of Supervisors in the county where the prisoner is incarcerated is authorized to deduct a minimum of 20 percent or the balance owing on the fine amount, whichever is less, up to a maximum of 50 percent from the county jail equivalent of wages and trust account deposits of a prisoner, unless prohibited by federal law, and shall transfer that amount to the California Victim Compensation and Government Claims Board for deposit in the Restitution Fund in the State Treasury. Any amount so deducted shall be credited against the amount owing on the fine. The sentencing court shall be provided a record of the payments;
- d. WHEREAS, Penal Code 2085.5(d) states: When a prisoner is punished by imprisonment in a county jail pursuant to subdivision (h)(1)(2)(3) of Section 1170, in any case in which a prisoner owes a restitution order imposed pursuant to subdivision (c) of Section 13967 of the Government Code, as operative prior to September 28, 1994, subdivision (h) of Section 730.6 of the Welfare and Institutions Code, or subdivision (b) of Section 1202.4, the agency designated by the Board of Supervisors in the county where the prisoner is incarcerated is authorized to deduct a minimum of 20 percent or the balance owing on the order amount, whichever is less, up to a maximum of 50 percent from the county jail equivalent of wages and trust account deposits of a prisoner, unless prohibited by federal law. The agency shall transfer that amount to the California Victim Compensation and Government Claims Board for direct payment to the victim, or payment shall be made to the Restitution Fund to the extent that the victim has received assistance pursuant to that program, or may pay the victim directly. The sentencing court shall be provided a record of the payments made to the victims and of the payments deposited to the Restitution Fund pursuant to this subdivision;

- e. WHEREAS, Penal Code Section 2085.5(f) states: When a prisoner is punished by imprisonment in a county jail pursuant to subdivision (h)(1)(2)(3) of Section 1170, the agency designated by the board of supervisors in the county where the prisoner is incarcerated is authorized to deduct and retain from the county jail equivalent of wages and trust account deposits of a prisoner, unless prohibited by federal law, an administrative fee that totals 10 percent of any amount transferred to the California Victim Compensation and Government Claims Board pursuant to subdivision (b) or (d). The agency is authorized to deduct and retain from any prisoner settlement or trial award, an administrative fee that totals 5 percent of any amount paid from the settlement or award to satisfy an outstanding restitution order or fine pursuant to subdivision (n), unless prohibited by federal law. The agency shall deposit the administrative fee moneys in a special deposit account for reimbursing administrative and support costs of the restitution program of the agency. The agency is authorized to retain any excess funds in the special deposit account for future reimbursement of the agency's administrative and support costs for the restitution program or may transfer all or part of the excess funds for deposit in the Restitution Fund.
- f. WHEREAS, Penal Code Section 2085.5(2) states if the Board of Supervisors designates the county sheriff as the collecting agency, the Board of Supervisors shall first obtain the concurrence of the county sheriff,
- g. WHEREAS, The Monterey County District Attorney's Office, Monterey County Sheriff's Office, Superior Court of Monterey County and the Monterey County Probation Department collectively support this recommendation, and
- h. WHEREAS, By definition, these charges are not a 'tax' and are exempt from voter approval pursuant to Article XIII C section 1(e)(5) of the California Constitution (Prop 26: fine, penalty or other monetary charge imposed on the payor by the judiciary as a result of a violation of law).

NOW, THEREFORE, BE IT RESOLVED that the Monterey County Board of Supervisors does hereby designate the Monterey County Sheriff's Office as the agency for the County of Monterey authorized to collect restitution fines and orders, as pursuant and authorized by section 2085.5 of the California Penal Code.

PASSED AND ADOPTED upon motion of Supervisor Salinas, seconded by Supervisor Phillips carried this 3rd day of May 2016, by the following vote, to wit:

AYES: Supervisors Armenta, Phillips, Salinas, Parker and Potter
 NOES: None
 ABSENT: None

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 79 for the meeting on May 3, 2016.

Dated: May 4, 2016
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Gail T. Borkowski, Clerk of the Board of Supervisors
 County of Monterey, State of California

By *Denise Hancock*
 Deputy