

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: Behavioral Health and Recovery Services

BOARD AGENDA # B-9

Urgent

Routine

AGENDA DATE August 4, 2009

CEO Concurs with Recommendation YES NO

4/5 Vote Required YES NO

(Information Attached)

SUBJECT:

Approval of the Elimination of Substance Abuse and Crime Prevention Act (Proposition 36) Services and Related Staffing Transfers within Other Funded Departmental Programs Provided by Behavioral Health and Recovery Services

STAFF RECOMMENDATIONS:

1. Approve the elimination of services under the Substance Abuse and Crime Prevention Act more commonly known as Proposition 36.
2. Amend the Salary and Position Allocation Resolution to reflect the recommended changes outlined in this agenda item, effective the first pay period following Board of Supervisors approval.
3. Authorize the Chief Executive Officer and Behavioral Health Director to fulfill the operational activities associated with the implementation of the above recommendations.

FISCAL IMPACT:

The Proposed Budget for Fiscal Year 2009-2010 for the Substance Abuse and Crime Prevention Act program is \$1,194,740. This includes \$868,137 for administration and treatment services, \$297,442 for Probation supervision activities and \$29,161 to offset Court costs. This program has been eliminated in the recently approved Fiscal Year 2009-2010 State Budget Revision. Appropriations and estimated revenue in this budget unit will be reduced during the Final Budget process.

BOARD ACTION AS FOLLOWS:

No. 2009-521

On motion of Supervisor Grover, Seconded by Supervisor Monteith

and approved by the following vote,

Ayes: Supervisors: O'Brien, Chiesa, Grover, Monteith, and Chairman DeMartini

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) Approved as recommended

2) Denied

3) Approved as amended

4) Other:

MOTION:

Christine Ferraro

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No.

DISCUSSION:

On May 19, 2009 after a public hearing, the Board of Supervisors approved the Behavioral Health and Recovery Services' department-wide restructuring plan that included service level changes in outpatient psychiatric and substance abuse services. At that public hearing, Behavioral Health and Recovery Services indicated that there may be additional changes as a result of the May 19, 2009 Special Election. One of the programs noted was the Substance Abuse and Crime Prevention Act (SACPA), more commonly known as Proposition 36.

The Substance Abuse and Crime Prevention Act was voted into legislation in November 2000. Under SACPA, first or second-time nonviolent adult drug offenders who use, possess, or transport illegal drugs for personal use could receive drug treatment rather than incarceration. Through a collaboration between the criminal justice system and behavioral health, SACPA promoted treatment as a more appropriate and effective alternative for illegal drug users. SACPA was designed to do the following:

- Preserve jail and prison cells for serious and violent offenders;
- Enhance public safety by reducing drug-related crime; and
- Improve public health by reducing drug abuse.

As the lead agency, Behavioral Health and Recovery Services has utilized SACPA to fund Court ordered and supervised drug treatment, including clinical assessment and determination of the level of alcohol and drug treatment needed; linkage to treatment and case monitoring of persons sentenced pursuant to SACPA; coordination and collaboration with Courts, Probation and treatment providers; and drug testing. Funds have also been used for ancillary services such as family counseling, literacy training and vocational counseling.

Funding was provided in the initial legislation for a start up year and four subsequent fiscal years, with a sunset date of June 30, 2006. The State opted to continue funding beyond the sunset date, but, with the exception of Fiscal Year 2006-2007, the funding has been incrementally reduced and threatened with elimination, even prior to the sunset year. The allocation provided most years has not been sufficient to support the level of offenders referred by the Courts. As a result, Behavioral Health and Recovery Services has used Federal Substance Abuse Prevention and Treatment block grant allocations to support treatment programs. Consequently, all block grant reserves have been depleted and are no longer available to sustain the current level of staffing in these programs. It should be noted that the mandate to sentence individuals convicted of a nonviolent drug possession offense to probation and require treatment for those individuals remains, regardless of a State allocation for SACPA.

Approval of the Elimination of Substance Abuse and Crime Prevention Act (Proposition 36) Services and Related Staffing Transfers within other Funded Departmental Programs Provided by Behavioral Health and Recovery Services
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In Fiscal Year 2006-2007, the State added a State General Fund contribution through the Offender Treatment Program (OTP). This funding was used to enhance services and improve engagement and completion rates. OTP also has been reduced each subsequent year.

On May 14, 2009, the Governor released two Fiscal Year 2009-2010 Budget Revisions, contingent upon passage of the fiscal initiatives in the May 19, 2009 Special Election. In his contingency proposal should the initiatives fail, SACPA and OTP were proposed to be eliminated completely. Although this has been threatened in past budget discussions, it was the belief of the County Alcohol and Drug Program Administrators Association of California that elimination of SACPA most likely would happen in Fiscal Year 2009-2010. Although the State Budget has just been adopted, program funding is eliminated effective July 1, 2009. In anticipation of no State funding for this program, Behavioral Health and Recovery Services and Probation agreed to terminate SACPA assessment services effective July 1, 2009. However, the Courts still have the option to sentence offenders to treatment. Those referred by the Courts to Behavioral Health and Recovery Services will be "mainstreamed" into available assessment and treatment services, either through Behavioral Health and Recovery Services or other local providers.

In addition to the possible continuation of OTP funding, there is a proposal to transfer approximately \$50 million in federal funding to California Alcohol and Drug Programs to provide additional treatment services to those on probation with substance abuse issues. How funding will be distributed is still in discussion at the State level. However, these federal funds are one-time only stimulus funding and represent only 55% of the Fiscal Year 2008-2009 SACPA allocation. As such, the priority given to the individuals sentenced under Penal Code 1210 will no longer exist. As discussed at the public hearing on May 19, 2009, substance abuse services in Stanislaus County have been significantly reduced. SACPA eligible offenders will continue to be referred to treatment services in the community, but will most likely be placed on a waiting list to receive treatment. Previously, reimbursement for the offender's treatment services was made through the SACPA allocation. With that funding no longer available, SACPA eligible and referred offenders will be responsible for the cost of their treatment services, consistent with other individuals seeking substance abuse services. Funding under the Offender Treatment Program will continue. The Department anticipates that service requirements for this program will change as it was originally intended to enhance SACPA. Use of OTP and federal funding will be included in the Department's Alcohol and Drug system redesign once the details of the just-approved State budget are known.

Closure of SACPA is projected to impact approximately 756 clients referred for treatment services or aftercare in addition to extending time spent on waiting lists for

Approval of the Elimination of Substance Abuse and Crime Prevention Act (Proposition 36) Services and Related Staffing Transfers within other Funded Departmental Programs Provided by Behavioral Health and Recovery Services
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most substance abuse services. A letter will go out to impacted consumers after the Board of Supervisors approval of this item. Additionally, programming at Stanislaus Recovery Center will need to be restructured to accommodate the loss of revenue and staffing. This could result in a potential loss of additional residential beds and outpatient treatment slots.

Of the \$868,137 in SACPA funds budgeted for use by Behavioral Health and Recovery Services, \$522,123 was budgeted for treatment services, primarily at Stanislaus Recovery Center. Elimination of SACPA will have a significant effect on Stanislaus Recovery Center. Capacity and levels of care options at Stanislaus Recovery Center have already been reduced by earlier budget reductions authorized on May 19, 2009. The proposed loss of SACPA funding at Stanislaus Recovery Center will further reduce capacity at all levels of treatment. In addition, there will be no assessment unit for, case management of, or prioritization of referrals of individuals sentenced under Penal Code 1210.

The Probation Department receives \$297,442 of the SACPA grant funds. This funding is used to fund the activities of two Deputy Probation Officers and one Legal Clerk. The Probation Department is currently evaluating supervision levels and appropriate placement of SACPA offenders within existing caseloads. Based on the final State OTP allocation Probation will move staff as needed into vacant funded positions in other programs held in anticipation of the elimination of SACPA funding. It is not anticipated that any reduction-in-force will result from the elimination of this funding. Any recommendations to eliminate positions or reduce appropriations and estimated revenue will be included in the Probation Department's Final Budget. The remaining \$29,161 goes to the Courts to offset their costs.

POLICY ISSUE:

Approval of this action supports the Board of Supervisors' priority of the *Efficient delivery of public services* by restructuring services to avoid potential cost to the Department and County General Fund.

STAFFING IMPACT:

Currently there are four full-time allocated positions in the SACPA budget. This report includes the recommendation to transfer all four to other Behavioral Health Services budgets as noted on Attachment A, and redirect their activities to other funded programs.

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Although the Stanislaus Recovery Center budget will be impacted by the loss of revenue, the Department recommends that no positions be eliminated until the California Department of Alcohol and Drug Programs issues final program requirements. Anticipating further cuts, the Department has not filled funded vacancies at Stanislaus Recovery Center. Adjustments to the Stanislaus Recovery Center budget and positions are anticipated as part of the Final Budget process.

The staffing attachment (Attachment A) reflects the details of the positions recommended for transfer as part of this item, to be effective the first pay period following Board of Supervisors approval.

Behavioral Health Recovery Services
Proposed Reduction-in-Force
Attachment A

Fund	Position	Allocated Classification	Vacant/Filled	Filled Classification	Recommendation
1506	10009	Behavioral Health Spec II	Filled		Transfer to 1502-funded
1506	10007	Behavioral Health Spec II	Filled		Transfer to 1502-funded
1506	10010	Accountant III	Filled		Transfer to 1501-funded
1506	2897	Administrative Clerk III	Filled		Transfer to 1501-funded

Behavioral Health & Recovery Services

Approval of the Elimination of Substance Abuse and Crime Prevention Act (Proposition 36) Services & Related Actions

**Stanislaus County Board of Supervisors
August 4, 2009**



Behavioral Health and Recovery Services
A Mental Health, Alcohol and Drug Service Organization

BACKGROUND

- **May 19, 2009 BOS Public Hearing**
- **Reductions in Behavioral Health & Recovery Services (BHRS) budget and programming**
- **State Budget finalized last week, eliminating some programs retroactive to July 1, 2009**



Behavioral Health and Recovery Services
A Mental Health, Alcohol and Drug Service Organization

BACKGROUND

- **The Substance Abuse and Crime Prevention Act (SACPA, or Proposition 36) funding was eliminated retroactive to July 1, 2009**
- **In existence since November, 2000, Prop. 36 programming has been controversial since the beginning**



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BACKGROUND

- **A collaboration between the criminal justice system and behavioral health, Prop. 36 promoted treatment for first or second-time nonviolent adult drug offenders who use, possess, or transport illegal drugs for personal use**



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BACKGROUND

The ballot initiative and program was designed to do the following:

4. Preserve jail and prison cells for serious and violent offenders;
5. Enhance public safety by reducing drug-related crime; and
6. Improve public health by reducing drug abuse



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BACKGROUND

- **BHRS as the lead agency, pursuant to a locally-developed plan, utilized Prop. 36 funding for Court ordered and supervised drug treatment, including assessment of needed services, linkage to those services, case monitoring, coordination and collaboration with the Courts and Probation, and drug testing**



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BACKGROUND

- **This funding has been incrementally reduced and threatened with elimination for several years**
- **Allocations have not been adequate to support the number of offenders referred by the Courts**
- **BHRS has used Federal Substance Abuse Prevention & Treatment block grant allocations to support the program (depleted)**



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BACKGROUND

- **The mandate to sentence individuals convicted of a nonviolent drug possession offense to probation and require treatment remains, regardless of a State budget allocation for Prop. 36**



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OFFENDER TREATMENT PROGRAM (OTP)

- **In FY 2006-2007, the State added a State General Fund contribution through the Offender Treatment Program (OTP) – also reduced each subsequent year**
- **OTP funding was used to enhance services and improve engagement and completion rates**



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LOCAL PLANNING

- **In the Governor's 2009-2010 Budget Revision, Prop 36 and OTP funding were slated to be eliminated completely**
- **Probation, the Courts, and BHRS met and BHRS agreed to stop Prop 36 assessment services effective July 1, 2009, but any individuals referred were “mainstreamed” into other existing services for assessment, treatment, and supervision**



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OTHER FUNDING?

- **OTP funding will continue at some level; uncertain requirements**
- **Proposal to transfer \$45M in federal funding to CA Alcohol & Drug Programs for those on probation with substance abuse issues**
- **One-time stimulus funding; smaller amount; uncertain procedures and requirements; uncertain timing**



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OTHER FUNDING?

- **Once funding amounts and requirements are made clear, use of OTP and federal funding will be included in the Department's Alcohol and Drug system redesign in coming months.**



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INDIVIDUALS SENTENCED UNDER PROP 36

- **Priority for treatment services no longer exists**
- **All BHRS substance abuse services significantly reduced in May 19, 2009 Public Hearing**
- **While referrals will still take place, sentenced individuals will be waiting to access treatment in the community along with all others**



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INDIVIDUALS SENTENCED UNDER PROP 36

- **Since no funding is available to defray treatment costs, those sentenced will be responsible for the cost of their treatment, consistent with how others are charged**



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IMPACTS

- **Annually, closure of Prop. 36 programming will affect approximately 756 clients referred for treatment services or aftercare**
- **Waiting list time will increase for most substance abuse services**
- **A letter will be sent to impacted consumers after today's BOS action**



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BHRS PROGRAM IMPACTS

- **Programming at Stanislaus Recovery Center will be restructured to accommodate the further loss of revenue and staffing (residential and outpatient services) subsequent to previous reductions for this fiscal year**
- **Elimination of the assessment unit, case management, and prioritization of referrals of those sentenced under Penal Code 1210**



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BHRS STAFFING IMPACTS

- **Four full-time allocated positions in this budget unit**
- **Recommending to transfer all four to other BHRS budget units (Alcohol & Drug and Mental Health) and redirect their activities to other funded programs pending further budget clarification by the State**



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BHRS STAFFING IMPACTS

- **Although Stanislaus Recovery Center budget will be significantly impacted by this reduction, no positions are recommended to be eliminated at this time and the Department is able to manage this reduction by maintaining unfilled funded vacancies**
- **Adjustments to the SRC budget and positions are anticipated as part of Final Budget**



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PROBATION DEPARTMENT IMPACTS

- **Currently evaluating impacts to offenders as the result of the elimination of Prop. 36**
- **Evaluating other funding options**
- **Will move staff as necessary to other programs with vacant and funded positions**



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FISCAL IMPACTS

- **SACPA/Prop. 36 Proposed Budget for Fiscal Year 2009-2010 is \$1,194,740:**
\$868,137 for administration and treatment services;
\$297,442 for Probation supervision activities; and
\$29,161 to offset Court costs



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RECOMMENDATIONS

- 2. Approve the elimination of services under the Substance Abuse and Crime Prevention Act (Prop. 36);**
- 3. Amend the Salary and Position Allocation Resolution to reflect the recommended changes outlined in this agenda item effective the first pay period following BOS approval; and**



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RECOMMENDATIONS

- 3. Authorize the Chief Executive Officer and Behavioral Health Director to fulfill the operational activities associated with the implementation of the above recommendations**



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