

File No. 240565

Committee Item No. _____

Board Item No. 47

COMMITTEE/BOARD OF SUPERVISORS

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Date: _____

Board of Supervisors Meeting

Date: June 4, 2024

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Prepared by: Jocelyn Wong

Date: May 31, 2024

Prepared by: _____

Date: _____

1 [Supporting California State Assembly Bill No. 2913 (Gipson) - California Homicide Victims'
2 Families' Rights Act]

3 **Resolution supporting California State Assembly Bill No. 2913, introduced by**
4 **Assembly Member Mike Gipson, to require a law enforcement agency to review, upon**
5 **request, any unsolved murder investigation case file to determine if reinvestigation of**
6 **the case would result in probative investigative leads.**

7
8 WHEREAS, California Law does not contain uniform rights for families of homicide
9 victims to request review of unsolved homicide cases, instead leaving discretion over when
10 and how to investigate open cases to local Law Enforcement Agencies (LEA); and

11 WHEREAS, While the California Public Records Act grants public access to public
12 records, members of the public are not entitled to access investigative files and information
13 unless the investigation is closed; and

14 WHEREAS, Assemblymember Gibson's proposed Assembly Bill No. 2913 would
15 require LEA's to, upon the request of a designated person, review an open unsolved homicide
16 case file that is more than a year old since January 1990 to determine if a reinvestigation
17 would result in probative investigative leads; and

18 WHEREAS, The LEA's homicide case review would include an analysis of investigative
19 steps that may have been missed in the initial investigation, an assessment if witnesses
20 should be interviewed or re-interviewed, and an examination of physical evidence; and

21 WHEREAS, The person performing the case review may not be a person that
22 previously investigated the murder so the investigating person can provide "fresh eyes" over
23 the review and mandate communication with the requesting party, including confirming the
24 receipt of their request, providing notice of their rights, providing notice if the LEA's deadline is

25

1 extended, and providing the requesting party with periodic updates during the case file review
2 and reinvestigation; and

3 WHEREAS, The LEA must conduct a reinvestigation of the case if LEA's review of a
4 case file indicates that reinvestigation would result in probative investigative leads, with the
5 stipulation that only one reinvestigation can be undertaken at any one time with respect to the
6 same victim; and

7 WHEREAS, If a case file review is completed and a conclusion is reached to not
8 conduct a reinvestigation, no additional case file review shall be undertaken for a period of
9 five years, unless there is newly discovered, materially significant evidence; and

10 WHEREAS, The California Homicide Victim's Families' Rights Act represents a critical
11 step towards justice for families affected by homicide, enhancing public safety, and providing
12 solace to grieving families through proactive reexaminations of cold cases; now, therefore, be
13 it

14 RESOLVED, That the San Francisco Board of Supervisors supports Assembly Bill
15 No.2913 and urges its swift passage and implementation as a necessary step towards
16 reducing the number of open unsolved homicide cases and allowing families to advocate for
17 their loved ones murdered in California; and, be it

18 FURTHER RESOLVED, That the Clerk of the Board send a copy of this Resolution to
19 Governor Gavin Newsom, President pro-Tempore Mike McGuire, Speaker of the State
20 Assembly Robert Rivas, State Senator Scott Wiener, Assembly Member Phil Ting, Assembly
21 Member Matt Haney, and Assembly Member Lisa Gipson.

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AB-2913 Open unsolved murder: review and reinvestigation. (2023-2024)

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Date Published: 02/15/2024 09:00 PM

CALIFORNIA LEGISLATURE— 2023–2024 REGULAR SESSION

ASSEMBLY BILL

NO. 2913**Introduced by Assembly Member Gipson****February 15, 2024**

An act to add Chapter 4 (commencing with Section 11483) to Title 1 of Part 4 of the Penal Code, relating to crimes.

LEGISLATIVE COUNSEL'S DIGEST

AB 2913, as introduced, Gipson. Open unsolved murder: review and reinvestigation.

Existing law defines murder as the unlawful killing of a human being, or a fetus, with malice aforethought. Various law enforcement agencies and district attorney offices throughout California have established cold case units to investigate unsolved murders.

This bill would require an applicable law enforcement agency to review the casefile regarding an open unsolved murder upon written application by a designated person to determine if a reinvestigation would result in probative investigative leads, as specified. The bill would define an open unsolved murder as a murder committed more than one year prior to the date of the application for case review, that was investigated by a law enforcement agency, was committed after January 1, 1990, where all probative investigative leads have been exhausted, and for which no suspect has been identified. If the review determines a reinvestigation would result in probative investigative leads, this bill would require a reinvestigation, as specified. The bill would prohibit a reinvestigation from being conducted by a person who previously investigated the homicide at issue, as specified, and would allow only one reinvestigation from being undertaken at any one time with respect to the same victim.

By imposing new duties on local law enforcement agencies, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted

above.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Chapter 4 (commencing with Section 11483) is added to Title 1 of Part 4 of the Penal Code, to read:

CHAPTER 4. California Homicide Victims' Families' Rights Act

11483. This act shall be known, and may be cited, as the California Homicide Victims' Families' Rights Act.

11484. As used in this chapter, the following definitions apply:

- (a) "Agency" means a law enforcement entity in California.
- (b) "Applicable agency" means a law enforcement agency that is investigating or has investigated the murder of the victim.
- (c) "Designated person" means an immediate family member or a similarly situated person, or their designated legal representative who is a member in good standing with the State Bar of California.
- (d) "Immediate family member" means a parent, parent-in-law, legal guardian, grandparent, grandparent-in-law, sibling, spouse, child, or stepchild of a murder victim or any person who exercised in loco parentis control over a victim under 18 years of age.
- (e) "Murder" has the same meaning as in Section 187.
- (f) "Open unsolved murder" means a murder that meets all of the following requirements:
 - (1) The murder was committed more than one year prior to the date of the application for a case review by a designated person under subdivision (d).
 - (2) The murder was previously investigated by an agency.
 - (3) All probative investigative leads have been exhausted.
 - (4) No suspect has been identified.
 - (5) The murder was committed after January 1, 1990.
- (g) "Victim" means the person against whom an open unsolved murder was committed.

11485. (a) An applicable agency shall review the case file regarding an open unsolved murder upon written application by a designated person to determine if a reinvestigation would result in probative investigative leads.

(b) The case file review shall include, but is not limited to:

- (1) An analysis of the investigative steps or follow-up steps that may have been missed in the initial investigation.
 - (2) An assessment of whether witnesses should be interviewed or reinterviewed.
 - (3) An examination of physical evidence to see if all appropriate forensic testing and analysis was performed in the first instance or if additional testing might produce information relevant to the investigation.
 - (4) An update of the case file to bring it up to current investigative standards to the extent doing so would help develop probative leads.
- (c) The person or persons performing the case file review required by this section shall not have previously investigated the murder.
- (d) The applicable agency shall confirm receipt of a request made under subdivision (a) in writing and provide notice of the applicant's rights under this act.

(e) Only one case file review shall be undertaken at any one time with respect to the same open unsolved murder victim. If there is more than one investigative agency, each investigative agency shall coordinate its case file review such that there is only one case file review occurring at a time.

(f) No later than 90 days after the receipt of the written application submitted pursuant to subdivision (a), the applicable agency shall conclude its case file review and reach a conclusion whether a reinvestigation under Section 11487 is warranted.

(g) The agency may extend the time limit in subdivision (f) for a period not to exceed 45 days if the agency makes a finding that the number of case files to be reviewed makes it impracticable to comply with said limit without unreasonably taking resources from other law enforcement activities. For cases for which the time limit in subdivision (f) is extended, the agency shall provide notice and an explanation of its reasoning to the designated person who filed the written application.

11486. (a) Each agency shall develop a written application for designated persons to request a case file review.

(b) Each agency shall assign an individual or department responsible for receiving and processing applications for case file reviews and ensuring that the agency meets all deadlines and obligations within this act generated by the application receipt.

11487. (a) The agency shall conduct a reinvestigation of the open unsolved murder at issue if the review of the case file required by Section 11485 determines a reinvestigation of the open unsolved murder would result in probative investigative leads.

(b) A reinvestigation shall include analyzing all evidence regarding the open unsolved murder at issue for the purpose of developing probative investigative leads as to the suspect or suspects.

(c) The person or persons performing the reinvestigation required by subdivision (a) shall not have previously investigated the murder, except for the case file review.

(d) If there is more than one investigative agency, each investigative agency shall coordinate its reinvestigation such that there is only one reinvestigation occurring at a time.

11488. (a) The applicable agency shall consult with the designated person who filed the written application and provide them with periodic updates during the case file review and reinvestigation.

(b) The agency shall meet with the designated person and discuss the evidence to explain to the designated person who filed the written application the agency's decision on whether or not to engage in a reinvestigation at the conclusion of the case file review.

11489. (a) If a case file review is completed and a conclusion is reached not to conduct a reinvestigation, no additional case file review shall be undertaken for a period of five years, unless there is newly discovered, materially significant evidence. An agency may continue an investigation absent a designated person's application for a new case file review.

(b) If a reinvestigation is done and a suspect is not identified at its conclusion, no additional case file review or reinvestigation needs to be conducted for a period of five years, unless there is newly discovered, materially significant new evidence.

11490. Nothing in this act shall require an agency to provide information that would endanger the safety of any person, unreasonably impede an ongoing investigation, violate a court order, or violate a legal obligation regarding privacy.

SEC. 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

From: [Rosas, Lorenzo \(BOS\)](#)
To: [BOS Legislation, \(BOS\)](#)
Cc: [Stefani, Catherine \(BOS\)](#); [Logan, Sam \(BOS\)](#)
Subject: Introduction of Resolution in Support of AB 2913
Date: Monday, May 20, 2024 10:19:28 AM
Attachments: [AB 2913 Support Resolution Draft.pdf](#)
[Bill Text - AB-2913 Open unsolved murder _review and reinvestigation_.pdf](#)
[SCS Introduction Form - Resolution - AB 2913 Support.pdf](#)
[AB 2913 Support Resolution Draft.doc](#)

Hello,

Please see attached for the introduction documents (introduction form, resolution draft, and bill text) for a resolution in support of Assembly Bill 2913 (Gipson). I have also attached the bill text and a word document copy of the resolution if format cleanup is necessary.

The California State Association of Counties and the League of California Cities have **not** taken a position on the bill.

Please let me know if there are any questions about this resolution introduction! Thank you!

Best,

Lorenzo Rosas | Legislative Aide
Office of Supervisor Catherine Stefani
San Francisco Board of Supervisors, District 2
City Hall, Room 273
(415) 554-7752
www.sfbos.org/Stefani

Introduction Form

By a Member of the Board of Supervisors or Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning : "Supervisor inquiries"
- 5. City Attorney Request.
- 6. Call File No. from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No.
- 9. Reactivate File No.
- 10. Topic submitted for Mayoral Appearance before the BOS on

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use the Imperative Form.

Sponsor(s):

Subject:

The text is listed:

Signature of Sponsoring Supervisor:

For Clerk's Use Only