

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. (415) 554-5184
Fax No. (415) 554-5163
TDD/TTY No. (415) 554-5227

January 18, 2022

File No. 220063

Lisa Gibson
Environmental Review Officer
Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

Dear Ms. Gibson:

The following proposed Initiative Ordinance for the June 7, 2022, Election was received and assigned to the Board of Supervisors' Rules Committee:

File No. 220063

Hearing to consider the proposed Initiative Ordinance submitted by four or more Supervisors to the voters for the June 7, 2022, Election, entitled "Ordinance amending the Administrative code to establish the Office of victim and Witness Rights, and to establish a right to counsel for domestic violence victims in civil proceedings related to limiting the economic, familial, and other harms resulting from domestic violence, and a pilot program to provide civil counsel in such domestic violence-related proceedings through legal services and pro bono attorneys.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

A handwritten signature in black ink that reads "Victor Young".

By: Victor Young, Assistant Clerk
Rules Committee

Attachment

c: Devyani Jain, Deputy Environmental Review Officer
Joy Navarrete, Environmental Planning
Don Lewis, Environmental Planning
Laura Lynch, Environmental Planning

RECEIVED
BOARD OF SUPERVISORS
COUNTY OF SAN FRANCISCO

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SAN FRANCISCO
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2022 JAN 14 P 3:28

BY 

Submittal Form
For Proposed Initiative Measure(s)
Prior to Submittal to the Department of Elections

DEPARTMENT OF ELECTIONS

by 4 or more Supervisors or the Mayor

I, hereby submit the following proposed initiative measure(s) for hearing before the Board of Supervisors' Rules Committee prior to the submittal of the proposed initiative measure to the Department of Elections (Proposition C, November 2007).

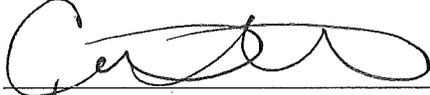
This matter is for the **June 7, 2022** Election.

Sponsor(s): Supervisor Catherine Stefani / *AHSHA SAFAI / Matt Haney / Rafael Mandelman*

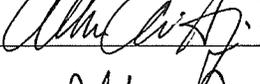
Subject: *Victims' Rights Ballot Initiative*

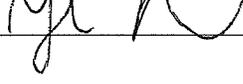
The text is listed below or attached:

See attached.

Supervisor Catherine Stefani: 

Supervisor Matt Haney: 

Supervisor Ahsha Safai: 

Supervisor Rafael Mandelman: 

(Clerk of the Board's Time Stamp)

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2022 JAN 14 P 3:30

PROPOSED INITIATIVE ORDINANCE TO BE SUBMITTED BY FOUR OR MORE
SUPERVISORS TO THE VOTERS AT THE JUNE 7, 2022 ELECTION.

[Under Charter Section 2.113(b), this measure must be submitted to the Board of Supervisors and filed with the Department of Elections no less than 45 days prior to deadline for submission of such initiatives to the Department of Elections set in Municipal Elections Code Section 300(b).]

[Initiative Ordinance - Administrative Code - Victim and Witness Rights]

Ordinance amending the Administrative Code to establish the Office of Victim and Witness Rights, and to establish a right to counsel for domestic violence victims in civil proceedings related to limiting the economic, familial, and other harms resulting from domestic violence, and a pilot program to provide civil counsel in such domestic violence-related proceedings through legal services and pro bono attorneys.

NOTE: **Unchanged Code text and uncodified text** are in plain font.
Additions to Codes are in *single-underline italics Times New Roman font*.
Deletions to Codes are in *strikethrough italics Times New Roman font*.
Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

Be it ordained by the People of the City and County of San Francisco:

Section 1. Findings.

(a) In the fourth quarter of 2020, the San Francisco Police Department reported 19,892 crimes with victims in San Francisco. During this same timeframe, 2,051 arrests across all categories of crimes were presented to the San Francisco District Attorney's Office, and the District Attorney filed 980 new cases in total.

(b) In 2020, the District Attorney's Office's Victim Services Division served 8,212 individuals.

(c) A number of categories of serious crime in San Francisco increased from 2019 to 2020; burglary by 52%, arson by 40%, motor vehicle theft by 37%, and homicide by 17%.

(d) Crime is threatening all parts of our community, but minority communities are particularly hard-hit. In 2020, people of color were 73% of aggravated assault victims, 70% of battery victims, 83% of robbery victims, 63% of burglary victims, 88% of homicide victims, and 67% of sexual assault victims.

(e) During the COVID-19 pandemic, San Francisco has seen an increase in domestic violence service needs. For example:

- The number of calls to the five San Francisco supported crisis lines was 8,647 in Fiscal Year 2019 and 11,829 in Fiscal Year 2020.
- There was a 166% increase in calls to W.O.M.A.N., Inc. Cooperative Restraining Order Clinic from April to June of 2020.
- From Fiscal Year 2019 to Fiscal Year 2020, there was a 78% decrease in cases resolved through jury trial for domestic violence, stalking, and elder abuse.

(f) From Fiscal Year 2015 to Fiscal Year 2020, police arrests in response to reported incidents of domestic violence in San Francisco have remained steady at a rate of between 53%-57%. In FY 2020, only 28% of cases presented were prosecuted by the District Attorney's Office.

(g) Domestic violence survivors with legal representation in child custody cases generally receive more favorable outcomes than those who are not represented.

(h) As of August 2016, the state of California had approximately 40,000,000 inhabitants, including almost 260,000 lawyers. Of those, only 960 were funded by IOLTA (Interest on Lawyer Trust Accounts) to represent people who cannot afford to pay for legal representation.

Section 2. The Administrative Code is hereby amended by adding Article XXVII in Chapter 2A, consisting of Section 2A.430, to read as follows:

ARTICLE XXVII: OFFICE OF VICTIM AND WITNESS RIGHTS

SEC. 2A.430. OFFICE OF VICTIM AND WITNESS RIGHTS.

(a) **Establishment.** There shall be an Office of Victim and Witness Rights (the "Office") to coordinate services provided by the City to victims and witnesses of all types of crime. The Office shall be a department of the City, and shall include such officers and employees as are authorized pursuant to the budgetary and fiscal provisions of the Charter. The Mayor shall appoint a Director of the Office (the "Director"). The Director shall be a department head, and shall have the powers and duties given to a department head under the Charter and Municipal Code.

(b) **Duties and functions.** Except as otherwise provided in the Charter, and in addition to any other duties assigned by ordinance or pursuant to Charter Section 4.132, the Office shall have the following duties:

(1) **Services to Victims and Witnesses.** The Office shall itself provide, or shall monitor and coordinate the provision of, comprehensive services to victims and witnesses (referred to, collectively, as "clients") of all types of crimes. Such comprehensive services shall include but not be limited to translation services for non-English-speaking victims and witnesses and interpretation services for the deaf or hard of hearing; follow-up contact to determine whether a client received necessary assistance; field visits to a client's home, place of business, or other location, whenever necessary to provide services; facilitation of volunteer participation in the provision of client services to encourage community involvement; and services for elderly clients, as appropriate to their particular needs.

(2) **Consultation and coordination with public safety agencies.** The Office shall consult and coordinate with all relevant City agencies, including but not limited to the Police

Department, District Attorney's Office, Sheriff's Office, Adult Probation Department, Department of Public Health, Human Rights Commission, and Department on the Status of Women, as needed to provide effective services in the areas listed in Section 2A.430(b)(1) above.

(3) **Survey.** On at least an annual basis, the Office shall survey clients served by the Office for feedback regarding the quality, adequacy, and scope of services to clients provided, monitored, or coordinated by the Office. In conducting this survey, the Office shall seek input from community groups in evaluating whether the services to clients have been culturally competent and tailored to meet the priorities of marginalized groups. No later than March 1 of each year, starting in 2023, the Office shall present to the Board of Supervisors a report summarizing the results of the survey covering the prior calendar year and the Office's plan for adapting its operations to meet the needs identified in the survey, including the priorities expressed by members of marginalized groups. At the time it submits the report, the Office shall make available to the Board of Supervisors the raw survey results used to compile the report. Such data shall be presented in deidentified form and may, at the discretion of the Office, be presented in aggregate form.

(4) **City service evaluation.** The Office shall, in coordination with other City departments, analyze survey results and other data reflecting the needs of clients and the degree to which specific categories of needs are being met by current City services, and shall recommend to the Board of Supervisors policies for addressing identified unmet needs. The Office's evaluation and reporting procedures shall comply with the standards set forth in Part 4, Title 6, Chapter 4, Article 2 of the California Penal Code, as may be amended from time to time.

(5) **Consolidation plan.** No later than one year after appointment of a Director of the Office, the Office shall introduce at the Board of Supervisors an ordinance that describes a proposed plan for consolidating all City services for victims and witnesses under the Office.

(6) **Other duties.** The Board of Supervisors may modify the duties of the Office set forth in subsections (b)(1) through (b)(5), and may add to those duties or transfer any of those duties to other City departments, by ordinance approved by a majority of the Board.

Section 3. The Administrative Code is hereby amended by adding Chapter 58A, consisting of Sections 58A.1, 58A.2, 58A.3, and 58A.4, to read as follows:

CHAPTER 58A:

RIGHT TO CIVIL COUNSEL FOR VICTIMS OF DOMESTIC VIOLENCE.

SEC. 58A.1. DEFINITIONS.

For purposes of this Chapter 58A, the following definitions apply:

“Domestic Violence” has the meaning set forth in Section 6211 of the California Family Code, as may be amended from time to time.

“Domestic Violence Victim” means a person against whom an act of Domestic Violence has been perpetrated.

SEC. 58A.2. RECOMMENDATIONS REGARDING RIGHT TO DOMESTIC VIOLENCE CIVIL COUNSEL PILOT PROGRAM.

No later than three months after the Director of the Office of Victim and Witness Services (the “Director” of the “Office”) is appointed, or by January 1, 2023, whichever is sooner, the Office shall introduce at the Board of Supervisors an ordinance setting forth recommendations regarding the creation of a San Francisco Right to Domestic Violence Civil Counsel Pilot Program (“Pilot Program”) to be administered by the Office and to take place for one year in Fiscal Year 2023-2024.

SEC. 58A.3. RIGHT TO DOMESTIC VIOLENCE CIVIL COUNSEL PILOT PROGRAM FUNDING, ADMINISTRATION, AND EVALUATION.

(a) It shall be City policy that, consistent with the legislative, budgetary, and fiscal provisions of the Charter, in Fiscal Year 2023-2024, the City’s fiscal commitment to the Pilot Program shall be

limited to the cost of staff support for program coordination among the City, the Superior Court, non-profit organizations, and others involved in the Pilot Program. The legal services provided under the Pilot Program shall be provided by pro bono and legal services attorneys, under the direction of the Office.

(b) Prior to the commencement of the Pilot Program, the Director shall develop a work plan and a process for independent evaluation of the Pilot Program, and shall coordinate among all parties involved in the Pilot Program to ensure that all such parties participate in the evaluation. The Director shall submit this evaluation to the Board of Supervisors within four months of completion of the Pilot Program. The evaluation shall include the following: (a) analysis of data collected regarding the impact of the Pilot Program on demand for City services; (b) feedback from Domestic Violence Victims; (c) assessment of the effectiveness of the Pilot Program in improving outcomes for Domestic Violence Victims, and assessment of whether there is a continued need for the Pilot Program; and (d) strategies and recommendations for maximizing the benefit of civil legal services for Domestic Violence Victims in the future. If the evaluation finds that the Pilot Program is generally successful, the Office shall, within six months of completion of the Pilot Program, introduce an ordinance at the Board of Supervisors to request that the Board consider extending, expanding, and/or making permanent the work of the Pilot Program.

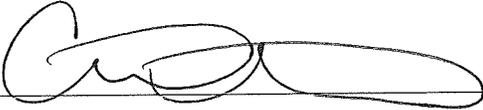
SEC. 58A.4. PROVISION OF CIVIL LEGAL REPRESENTATION FOR VICTIMS OF DOMESTIC VIOLENCE:

(a) **Provision of legal representation.** Consistent with the legislative, budgetary, and fiscal provisions of the Charter, the City shall establish and operate a program, under the direction of the Office, to provide Domestic Violence Victims with legal representation in civil legal matters addressing the impacts of Domestic Violence at no direct cost to the Domestic Violence Victims. This free legal representation shall be available to any Domestic Violence Victim (1) who resides in the City regardless of the location of the Domestic Violence incident, or (2) is the victim of a Domestic Violence

assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury.

Section 5. Severability. If any section, subsection, sentence, clause, phrase, or word of this ordinance, or any application thereof to any person or circumstance, is held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions or applications of the ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each and every section, subsection, sentence, clause, phrase, and word not declared invalid or unconstitutional without regard to whether any other portion of this ordinance or application thereof would be subsequently declared invalid or unconstitutional.

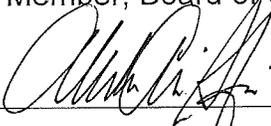
SUBMITTED.

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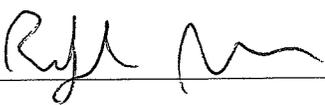
Member, Board of Supervisors

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Member, Board of Supervisors

incident in the City regardless of whether the Domestic Violence Victim resides in the City, provided that the victim has filed a report of Domestic Violence with the San Francisco Police Department or other law enforcement authority with jurisdiction, and at least until such time as the report or complaint is withdrawn, the prosecuting authority has made a determination not to pursue criminal charges, or the prosecuting authority has concluded its prosecution of the matter. This free legal representation shall also be available to any person who resides in the City and has either sought a restraining order based on fear of Domestic Violence within the prior year, or has obtained a restraining order based on fear of Domestic Violence that has been in effect within the prior year.

(b) **Implementation.** The Office shall promptly take all necessary steps to fully implement the provisions of this Section as soon as practicable, but not later than January 1, 2025. The City shall have no obligation to provide legal representation under this Section where a state or federal program already provides civil legal representation to a Domestic Violence Victim with respect to the particular Domestic Violence-related matter or matters for which the victim is seeking representation.

(c) For the purposes of this Chapter 58A, the term “legal representation” shall mean civil legal representation provided to a Domestic Violence Victim by an organization or attorney as needed to protect the Domestic Violence Victim, the victim’s minor children, and the victim’s assets and/or property from the perpetrator of a Domestic Violence incident or incidents reported as set forth in Section 58A.4(a) above, in civil legal proceedings including but not limited to securing and enforcing restraining orders against the perpetrator(s) of the reported incident(s), child custody and visitation, child support, marital dissolution, immigration, housing, and consumer rights. The Office may limit the scope and duration of legal representation provided under this Section 58A.4 as reasonably necessary based on the Office’s assessment of available resources and areas of most urgent need.

Section 4. Undertaking for the General Welfare. In enacting and implementing this ordinance, the City is assuming an undertaking only to promote the general welfare. It is not