

SUBCOMMITTEE NO. 5

Agenda

Senator Maria Elena Durazo, Chair
Senator Shannon Grove
Senator Dave Cortese
Senator Josh Newman



Tuesday, May 3, 2022
9 a.m.
1021 O Street - Room 2200

Consultant: Nora Brackbill, Ph.D.

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Public Comment

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ITEMS FOR DISCUSSION**0250 JUDICIAL COUNCIL****Issue 1: Legal Aid Proposals**

Proposal. The Senate is considering a proposal to strengthen access to legal assistance for Californians, including increasing legal aid funding for eviction and consumer debt cases and creating a loan repayment program to recruit legal aid lawyers.

Background.

According to the 2022 Justice Gap Study by LSC, 74 percent of low-income households experienced at least one civil legal problem in the past year, and low-income Americans did not get any or enough legal help for 92 percent of their substantial civil legal programs¹. In addition, 33 percent of low-income Americans had at least one civil legal problem linked to the COVID-19 pandemic in the last year, typically involving access to resources (such as unemployment) or related to housing.

California provides 104 nonprofit legal aid organizations with funding through the IOLTA (Interest on Lawyers' Trust Accounts) program and the Equal Access Fund (EAF)². These organizations provide free legal services to indigent clients, defined as having income 200 percent or less of the federal poverty threshold, being eligible for Supplemental Security Income, and/or being eligible for free services under services under the Older Americans Act or Developmentally Disabled Assistance Act. The 2021-22 budget included \$70 million for the EAF, including \$40 million ongoing and \$30 million one-time.

Eviction and Consumer Cases. According to the National Equity Atlas, over 700,000 households in California are behind on an estimated \$3.1 billion in rent³. Of the households behind on rent, 80 percent are low-income, 78 percent are people of color, and 50 percent are families with children. In addition to the EAF funding mentioned above, the 2021-22 Budget included \$80 million over three years ARPA funds to provide legal aid services for renters and homeowners.

In addition, according to the Justice Gap Study, "One-half (50%) of low-income households experienced a problem related to consumer issues. Common problems in this area include difficulties with medical debt (affecting 26% of all low-income households), having utilities disconnected (18%), dealing with harassment from creditors (16%), and falling victim to a scam (15%)." In addition, debt collection lawsuits doubled nationwide from 1993 to 2013 and have continued to grow in both number and share of civil dockets, and less than 10 percent of defendants have counsel⁴. More than 70 percent of debt collection lawsuits are resolved with default judgements for the plaintiff.

¹ <https://justicegap.lsc.gov/resource/executive-summary/>

² <https://www.calbar.ca.gov/Portals/0/documents/accessJustice/Legal-Aid-Grant-Recipients.pdf>

³ <https://nationalequityatlas.org/rent-debt>

⁴ <https://www.pewtrusts.org/en/research-and-analysis/reports/2020/05/how-debt-collectors-are-transforming-the-business-of-state-courts>

Loan Repayment Assistance Programs (LRAPs). According to the California Access to Justice Commission (ATJ), there is one legal aid attorney for every 7,000 Californians who are eligible for legal help. Legal aid attorneys are paid significantly less than other comparable jobs in government agencies or the private sector, and they face significant educational debt. Educational debt repayment is a common recruitment tool used for high-need professions, including teaching and health care. For legal aid attorneys, a typical loan payment in an income-based repayment program is \$5,000 or less annually. LRAPs can help relieve the burden of this debt and are tax-exempt up to \$5,250 per year. A \$10 million appropriation could provide 2,000 attorneys with up to \$5,000 each in loan repayment. According to ATJ, there are 1800 attorneys working at organizations funded through IOLTA and 850 immigration attorneys funded by the Department of Social Services.

Staff Recommendation. Hold Open.



Issue 2: Court Filing Fees

Proposal. The Senate is considering a proposal to increase the income threshold for automatic waivers of court filing fees. Fee waivers are currently automatically granted to individuals with incomes below 125% of the federal poverty threshold and/or on certain types of government assistance. This proposal would raise the income threshold, and base it on a percentage of the state median income to reflect California's cost of living.

Background.

The Legislature has taken significant action through the state budget process to address fines and fees in the criminal system. However, there are also significant fees on the civil side. As discussed in the previous item, low-income Californians are likely to face civil legal issues. In civil cases, even defendants must pay a fee to file a response. The statewide civil filing fee to respond to a debt collection lawsuit is currently \$435. Thus, even if the lawsuits are groundless, the cost of simply filing a response to the suit in court is too much for many Californians to pay. As mentioned in the previous item, more than 70 percent of debt collection lawsuits are resolved with default judgements for the plaintiff⁵.

Under current law, to get the court to waive the filing fee automatically, a person must receive certain government benefits or have an income under 125 percent of the federal poverty threshold. Individuals who do not qualify automatically may petition for a fee waiver, but it is an intensive process requiring significant documentation about household expenses. For comparison, the definition of an indigent client for legal aid purposes is 200 percent of the federal poverty threshold (SB 498 (Umberg), Chapter 688, Statutes of 2021), which is \$55,500 for a family of four. Raising the income threshold for automatic fee waiver to this level would cost the state an estimated \$18 million annually. Raising the income threshold to \$72,080, which is 80 percent of the state median income, would cost the state an estimated \$32 million annually.

Staff Recommendation. Hold Open.

⁵ <https://www.pewtrusts.org/en/research-and-analysis/reports/2020/05/how-debt-collectors-are-transforming-the-business-of-state-courts>

Issue 3: Court Appointed Special Advocates

Proposal. The Senate is considering a proposal to provide additional funding to the California Court Appointed Special Advocate (CASA) Association to expand CASA services in the state. CASAs are volunteers appointed by judges to provide direct support and advocacy to youth in foster care. Currently, 13,000 foster children have CASA volunteers, representing 16 percent of the roughly 80,000 youth in foster care. The California CASA Association is requesting \$75 million over three years to expand their services to additional youth.

Background.

CASAs are volunteers appointed by judges to provide direct, one-on-one, consistent support and advocacy to children in foster care. These volunteers are trained and supervised by professional staff through a network of local programs, and typically stay with the same child throughout the entire court process. Children with a CASA tend to experience better outcomes⁶.

In California, there are 44 local programs serving 51 counties. Last year, nearly 13,000 foster children had CASA volunteers. However, that represents only 16 percent of the roughly 80,000 youth in foster care. It costs roughly \$4,000 per CASA per year, amounting to around \$50 million per year in California. The state contributes \$2.7 million annually, which provides paid staff members to oversee the local programs. CASA programs also receive Victims of Crime Act (VOCA) and philanthropic funding.

The California CASA Association is requesting \$75 million over three years to expand outreach and recruitment efforts, improve CASA training, and expand infrastructure so they can serve additional youth in foster care. The California CASA Association proposes to distribute \$60 million of the funding to local CASA programs to expand recruitment and training programs and stabilize local budgets and staffing. The remaining funding would be used statewide for volunteer recruitment initiatives, shared resources and infrastructure, development of statewide training curriculum, and other uses.

Staff Recommendation. Hold Open.

⁶ <https://nationalcasagal.org/our-impact/research-and-effectiveness/>

VARIOUS DEPARTMENTS

Issue 4: Firearm Relinquishment Improvement Program

Proposal. The Senate is considering a proposal to implement a relinquishment program to remove firearms more promptly from individuals with court-ordered prohibitions on owning firearms.

Background.

According to a 2018 survey from the Firearm Violence Research Center at UC Davis⁷, around 4.2 million people in California own a total of 20 million firearms, including 9 million handguns. Most Californian gun owners own one or two guns, but ten percent of gun owners own ten or more guns, accounting for roughly half of the guns in the state. California has a lower rate of gun ownership than the national average and has the ninth lowest state gun ownership rate⁸.

However, firearm ownership in California and the United States has increased since the beginning of the pandemic. Firearm sales in the United States surged by an estimated 64 percent between March and May of 2020⁹. Researchers at the Firearm Violence Research Center at UC Davis estimated that 110,000 new guns were purchased in California between March and July 2020. People with ready access to a firearm are almost twice as likely to be killed and three times more likely to commit suicide than those without such access¹⁰.

Increase in Number of Armed and Prohibited Persons. The state's Armed and Prohibited Persons System (APPS) identifies individuals who legally purchased or registered firearms, but subsequently became prohibited from owning or possessing them. These "armed and prohibited persons" include those convicted of felonies and some misdemeanors, found by a court to be a danger to themselves or others due to mental illness, or have a restraining order against them. From 2008 to 2021, the number of such persons more than doubled—from 10,266 to 23,598 individuals. Individuals are generally removed from this list when law enforcement reports they no longer possess their firearms (such as if a police department seized them).

Increased Role of Firearms in Crime and in Firearm Deaths. California experienced a concerning 31 percent increase in homicides and a 9 percent increase in aggravated assaults between 2019 and 2020. In a July 2021 analysis of violent crime in large California counties, PPIC found that the share of crimes involving guns increased for homicides, aggravated assaults, and robberies. These increases mirror nationwide trends. Preliminary statistics from 2021 indicate that these may be increasing again from 2020 to 2021. However, the 2020 homicide rate is 62 percent lower than its peak in 1980, and the 2020 aggravated assault rate is 55 percent lower than its peak in 1992.

As shown below, total firearm-related deaths increased from 2,925 deaths in 2019 to 3,428 deaths in 2020—an increase of 503 deaths (or 17 percent). Of this amount, homicide firearm deaths increased from 1,246 deaths in 2019 to 1,731 deaths in 2020—an increase of 485 deaths (or

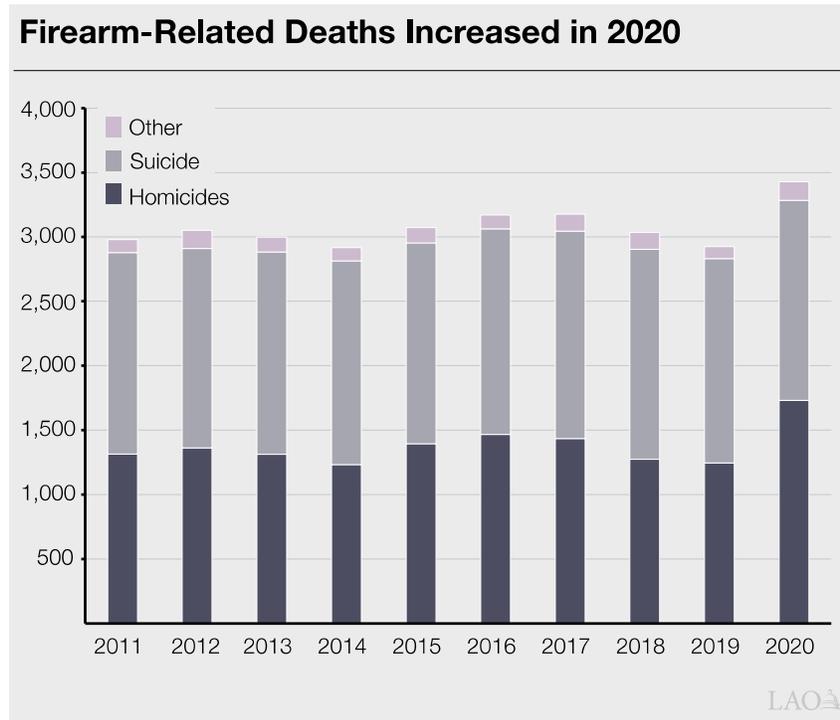
⁷ https://health.ucdavis.edu/vprp/UCFC/Fact_Sheets/CSaWSBrief_InjPrev_Kravitz-Wirtz.pdf

⁸ <https://journalistsresource.org/health/gun-buybacks-what-the-research-says/>

⁹ <https://www.medrxiv.org/content/10.1101/2020.10.03.20206367v1.full.pdf>; <https://www.latimes.com/science/story/2020-10-17/about-110-000-californians-have-bought-a-gun-since-the-coronavirus-arrived-study-says>

¹⁰ <https://www.nejm.org/doi/full/10.1056/NEJMsa1916744>; <https://www.latimes.com/science/la-sci-guns-20140121-story.html>

39 percent). In contrast, while there are slight fluctuations over the past decade, suicide firearm deaths were roughly the same in 2019 (1,586 deaths) and 2020 (1,552 deaths).



LAO Recommendations. The Governor’s Budget included \$25 million for a gun buyback program. In response, the LAO presented several alternatives for addressing firearm violence, summarized below.

Options to Expand Existing Programs. The Legislature could consider expanding certain existing programs targeted at crime, particularly those programs with subject matter and/or operational expertise that could be leveraged to address problems more effectively and quickly than establishing a new program. Using an existing program can avoid duplication of effort as well as start-up challenges (such as taking time to identify and develop stakeholder relationships or to create new operational processes) that would face a new program. Potential programs that the Legislature could expand include:

- *Gun Violence Reduction Program to Reduce Number of Armed and Prohibited Persons.* As previously discussed, APPS identified nearly 23,600 armed and prohibited persons as of January 2021. The 2021-22 budget provided \$10 million one-time General Fund to DOJ’s Gun Violence Reduction Program for competitive grants to county sheriff’s departments to reduce the number of armed and prohibited persons by seizing firearms and ammunition from them. To the extent the Legislature would like to further reduce the number of armed and prohibited persons, it could provide additional funding to the Gun Violence Reduction Program and make other law enforcement agencies (such as city police) eligible for grants.

- *Firearm Removal From Individuals Immediately When They Become Prohibited.* Beginning in 2018, courts have been required to inform individuals upon conviction of a felony or certain misdemeanors that they must (1) turn over their firearms to local law enforcement, (2) sell the firearms to a licensed firearm dealer, or (3) give the firearms to a licensed firearm dealer for storage. Courts are also required to assign probation officers to report on what offenders have done with their firearms. Probation officers are required to report to DOJ if any firearms are relinquished to ensure the APPS armed and prohibited persons list is updated. To the extent the Legislature would like to limit growth in the number of armed and prohibited persons, providing funding to local law enforcement agencies and probation departments to ensure this process is followed can be effective as firearms would be surrendered at the time of conviction.

In addition, there is no consistent, statewide process for collecting weapons from people with court-ordered firearm prohibitions unrelated to a criminal conviction, such as domestic violence protection orders or gun violence restraining orders. The Senate is considering a proposal to create a standard process to ensure that individuals who become prohibited from possessing firearms pursuant to court orders promptly relinquish their firearms. This will require the courts and law enforcement to coordinate on identifying individuals who have firearms and become subject to relinquishment orders. The proposal includes \$15 million over three years to fund dedicated staff positions to oversee this coordination for each court.

Staff Recommendation. Hold Open.

Issue 5: Victim Services

Proposal. The Senate is considering proposals to expand services to victims of crimes. The current process for victim compensation is reimbursement-based and has significant limits on eligibility, acceptable evidence, and compensation amounts. The proposals being considered include an immediate financial assistance program, various changes to eligibility and compensation limits, additional support for the Restitution Fund, and funding to expand trauma recovery centers.

Background. Victim services are currently spread across four state departments, with most grants and programs residing in the Victim Compensation Board (CalVCB) and the Office of Emergency Services (OES). The other two entities are the California Department of Corrections and Rehabilitation (which handles restitution collection and notification) and the Department of Justice (victim assistance and information services). OES combines federal and state funding to support more than 1,200 projects providing victim services throughout the state, and in 2018-19, OES administered \$486.5 million in grant funds. Likewise, VCB also combines federal and state funding—from fines and restitution orders paid by offenders convicted of traffic infractions, misdemeanors, or felonies—to offer compensation directly to, or on behalf of, victims and survivors who are injured or threatened with injury.

CalVCB is a three-member board comprised of the Secretary of the Government Operations Agency, the State Controller, and a public member appointed by the Governor. Board members set policy for the organization and make decisions on matters, including appeals for victim compensation and claims of persons erroneously convicted of felonies. CalVCB administers the Victim Compensation Program which utilizes a reimbursement model for certain expenses to victims who have suffered physical, or the threat of physical injury, related to violent crime. Over the last three years, CalVCB has processed an average of 49,180 applications per year and provided \$57.7 million in compensation to victims annually.

Funding for the Victim Compensation Program (in millions)

Fund Source	2018-19	2019-20	2020-21	2021-22	2022-23
Restitution Fund	85.764	88.727	54.996	56.334	51.655
General Fund	0.134	0.138	23.636	40.94	47.175
Safe Neighborhoods and Schools Fund (Proposition 47)	6.413	7.596	10.15	11.583	14.696
Federal Funds	17.599	17.283	17.783	24.82	31.804
Reimbursements	0	0.543	0.951	0	0
Total	109.91	114.287	107.516	133.677	145.33

Source: LAO

Process for Application. Applicants may apply online, use a paper application, or seek assistance at a County Victim Witness Assistance Center. CalVCB's website also indicates that advocates are available to help applicants to complete an application, find emergency shelter, file a temporary restraining order, and find other resources.

Eligible applicants are:

- CA residents, even if the crime occurred out of state

- Non-residents who are victimized in California
- Specific members of the victim’s family or person in close relationship to the victim
- Any individual who assumes the obligation of paying a deceased victim’s medical, burial, or crime scene clean up expenses

Applications must be filed within seven years of the crime, seven years after the direct victim turns 18, or seven years from when the crime could have been discovered, whichever is later. If the application is based on specified crimes involving sex with a minor, the applicant may file at any time prior to their 28th birthday. Application extensions may be granted under certain circumstances if a “late filing consideration” form is submitted with their application. These circumstances are; (1) the prosecutor recommends the extension based on the applicant’s cooperation with law enforcement and the prosecutor to catch and prosecute the accused; (2) the victim or derivative victim experiences additional pecuniary loss during the prosecution or in the punishment of the accused; or, (3) a delay in reporting due to the nature of the crime. Recommendations to approve or deny a claim is generally made within 90 days of receiving the application.

The types of expenses that applicants may apply for are:

- Crime scene clean up
- Funeral and burial expenses
- Home or vehicle modifications for victims who became disabled
- Income loss
- Medical and dental treatment
- Mental health services
- Relocation
- Residential Security

Currently, CalVCB provides materials in 13 languages as required by state law. They have in-house Spanish speakers and have contracts with interpretation and translation service providers. CalVCB’s website is also integrated with Google Translate so that each page can be automatically translated.

During the COVID-19 pandemic, CalVCB worked to improve its digital outreach, updated and translated publications that are mailed to organizations that assist victims/survivors. In May of 2021, CalVCB overhauled its website to create an easier interface that is also accessible on mobile devices. They also worked with law enforcement agencies and victim witness centers to provide resources to victims/survivors. CalVCB assesses the efficacy of these efforts based on the number of contacts made and the resulting application trends. At this time, CalVCB has not used any user surveys to collect feedback from applicants who utilize the website and other services provided by the board.

Compensation Claims from 2018-2021. This table provide historical data on application claims processed by the CalVCB.

	2018	2019	2020	2021
Claims Received	53,400	54,491	43,337	39,718
Total Payments	\$61,570,330.34	\$61,814,544.52	\$55,138,750.74	\$47,226,240.02
Claims Allowed	51,881	47,097	42,393	32,649
Claims Denied	5,046	4,208	5,857	5,180

Source: Cal VCB. All claims are paid from the Restitution Fund.

Of the claims that were denied, the following table indicates the reasons for denial.

	2018	2019	2020	2021
Total Claims Denied	5,046	4,208	5,857	5,180
Claims Denied, By Reason (Claims may be denied for multiple reasons)				
Not a Covered Crime	2,021	1,761	2,107	1,736
Lack of Preponderance of Evidence	2,843	2,379	3,429	3,196
Involvement	934	735	745	713
Lack of Cooperation with Board	443	376	444	294
Lack of Cooperation with Law Enforcement	905	662	579	461
Doesn't Meet Residency Requirements	64	81	71	42
Late Application	216	166	133	120

Source: CalVCB

It can take weeks or months for CalVCB to approve and process a claim. In 2021, it took 32 days on average to approve a claim. The time it takes CalVCB to then process the claim depends on the category of the claim, with the slowest being 62 days on average to process is income/support loss claims.

Compensation Limits. There are statutory limits on the amount of total compensation, as well as compensation for specific expenses such as crime scene cleanup and relocation. Those benefit limits have not been adjusted since they were established approximately 20 years ago. The funeral/burial and relocation limits are frequently cited by advocates as insufficient to meet the needs of victims. Correspondingly, the Governor's Budget included a proposal to raise the caps for three categories: crime scene cleanup costs, funeral/burial costs, and relocation claims. The following table summarizes the unmet need due to these statutory limitations and the overall \$70,000 lifetime benefit maximum across all benefit types.

Total Unmet Needs Due to Benefit Caps, By Category				
	2018	2019	2020	2021
Crime Scene Cleanup	\$99,420.66	\$25,779.45	\$91,660.12	\$47,645.77
Dental	\$0.00	\$0.00	\$94,456.00	\$103,611.75
Funeral/Burial	\$2,981,932.68	\$2,940,356.44	\$4,134,788.14	\$6,582,997.55
Home Modification	\$0.00	\$0.00	\$0.00	\$80,000.00
Medical	\$214,801.41	\$1,128,654.10	\$833,425.57	\$1,531,422.39
Mental Health	\$344,249.50	\$860,537.78	\$1,199,048.91	\$988,868.98
Rehabilitation	\$0.00	\$0.00	\$0.00	\$0.00
Relocation	\$2,591,083.69	\$3,243,571.62	\$3,775,319.82	\$5,250,386.70
Residential Security	\$191,237.86	\$265,188.77	\$372,177.69	\$397,916.85
Vehicle Purchase/Mod	\$134,764.40	\$217,892.78	\$347,610.19	\$194,388.38
Total Unmet Needs	\$6,557,490.20	\$8,681,980.94	\$10,848,486.44	\$15,177,238.37

Source: CalVCB

There are several challenges that victims face while trying to receive assistance. These include:

- It often takes weeks or months to get a claim approved, and then additional time to get reimbursed. This leaves victims with significant financial burdens in the immediate aftermath of the crime.
- California is one of only eight states that denies victim compensation to people based on past conviction or their status on probation or parole.
- Claims typically require the victims to cooperate with law enforcement and file police reports. California allows alternatives to police reports for certain victims/survivors (typically human trafficking, domestic violence, sexual assault) but not all victims/survivors. The federal VOCA Fix Act, which passed in July of 2021, clarified that states are not required under federal rules to deny victims/survivors compensation for noncooperation with law enforcement, providing the opportunity for states to change their policies. Some states, like Hawaii and Vermont have already removed their cooperation requirement. Illinois changed its policy such that if a victim/survivor seeks medical care, this alone qualifies as cooperation.

The Senate is considering the following proposals to expand services to victims of crimes:

- *Immediate Assistance for Survivors of Violence.* \$100 million one-time to create a pilot grant program to community-based organizations to provide immediate cash assistance to victims.
- *Various Changes to Victims Compensation.* \$50 million to make changes to the victims compensation process, including further increasing compensation limits and the total award amount, and streamlining the application process to provide responses to victims more quickly and ease the documentation burdens.
- *Stabilization of the Restitution Fund.* \$115 million ongoing General Fund to stabilize the Restitution Fund in the face of ongoing declines in fine and fee revenue.
- *Expanded funding for Trauma Recovery Centers (TRCs).* \$15 million to increase the funding distributed by CalVCB to fund TRCs throughout the state. TRCs are comprehensive centers that provide a variety of services to survivors, such as mental health treatment and legal advocacy. CalVCB funds TRCs through a competitive grant process, which provides roughly \$16 million annually in funding for 18 TRCs.

Related Legislation. SB 993 (Skinner) includes some of the proposals being considered. The purpose of the bill is to: 1) establish the Flexible Assistance for Survivors of Violence Pilot Grant Program; 2) make various changes to the California Victim Compensation Program; and 3) expand wrongful conviction compensation to include compensation for each day served on parole or supervised release and reasonable attorney fees.

Staff Recommendation. Hold Open.

Issue 6: Regional Public Safety Collaboratives

Proposal. The Senate is considering a proposal to expand a pilot Regional Public Safety Collaborative program. The state currently funds the North Orange County Collaborative, which includes law enforcement agencies and community-based organizations to address issues including housing, youth violence, and post-incarceration reentry.

Background.

The North Orange County Collaborative is a cooperative effort between local law enforcement and community-based organizations to address complex issues related to homelessness, youth violence, and the challenges associated with post-incarceration reentry. It was originally established through the 2017-18 state budget act with an appropriation of \$20 million across its first four years. The Collaborative, which initially included six cities, was subsequently expanded to include eleven cities in Northern Orange County, after receiving an additional \$7.8 million allocation in last year's budget to fund its operation through the end of the current fiscal year.

Under the design of the collaborative model, of the overall funding provided by the state, 40 percent is allocated for use by law enforcement to improve and enhance their homeless and community liaison efforts, with the remaining 60 percent of funds distributed among community-based organizations on a grant basis to fund specific programs deemed effective or promising at addressing the needs of a particular population. The funding for the Collaborative has been used to conduct a homeless census report, help 3,962 people secure housing, and fund 33 programs for youth, among other efforts.

This proposal would provide \$8 million ongoing to continue to fund the collaborative, and additional funding to assist other regions in establishing similar programs in their regions.

Staff Recommendation. Hold Open.