



# County of San Mateo

## Inter-Departmental Correspondence

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**Department:** COUNTY ATTORNEY

**File #:** 25-353

Board Meeting Date: 5/6/2025

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**Special Notice / Hearing:** None  
**Vote Required:** Majority

**To:** Honorable Board of Supervisors

**From:** John D. Nibbelin, County Attorney

**Subject:** Adoption of Procedures for Removal of a Sheriff Pursuant to Charter Amendment

**RECOMMENDATION:**

Adopt a resolution approving procedures for conducting a removal proceeding pursuant to Section 412.5 of the San Mateo County Charter.

**BACKGROUND:**

On March 4, 2025, the County held a Special Election on Countywide Measure A, to amend the San Mateo County Charter to grant the Board of Supervisors authority, until December 31, 2028, to remove an elected sheriff for certain enumerated causes ("Charter Amendment").

The full text of the Charter Amendment is as follows:

***412.5. Removal of Elected Sheriff for Cause***

- a. The Board of Supervisors may remove a Sheriff from office for cause, by a four-fifths vote, after a Sheriff has been:
  - (1) Served with a written statement of alleged grounds for removal; and
  - (2) Provided a reasonable opportunity to be heard regarding any explanation or defense.
  
- b. For the purposes of this Section 412.5, "cause" shall mean any of the following:
  - (1) Violation of any law related to the performance of a Sheriff's duties; or
  - (2) Flagrant or repeated neglect of a Sheriff's duties as defined by law; or
  - (3) Misappropriation of public funds or property as defined in California law; or

- (4) Willful falsification of a relevant official statement or document; or
  - (5) Obstruction, as defined in federal, State, or local law applicable to a Sheriff, of any investigation into the conduct of a Sheriff and/or the San Mateo County Sheriff's Office by any government agency (including the County of San Mateo), office, or commission with jurisdiction to conduct such investigation.
- c. The Board of Supervisors may provide for procedures by which a removal proceeding pursuant to this Section 412.5 shall be conducted.
  - d. This Section 412.5 shall not be applied to interfere with the independent and constitutionally and statutorily designated investigative function of a Sheriff.
  - e. This Section 412.5 shall sunset and be of no further force and effect as of December 31, 2028 unless extended by voters of San Mateo County.

Measure A passed overwhelmingly, with approximately 84% of the votes cast in favor of the Measure.

The results of the election on the Charter Amendment were certified by the County's Chief Elections Officer on April 3, 2025, and the Board confirmed the results on April 8, 2025. Thus, pursuant to Elections Code Section 9122, the Charter Amendment took effect on April 18, 2025, which is 10 days after the Board acted to confirm the Measure A election results.

Section 412.5.c. of the San Mateo County Charter states that the Board "may provide for procedures by which a removal proceeding pursuant to this Section 412.5 shall be conducted." Staff retained the Hanson Bridgett LLP law firm to advise and assist in developing such procedures, a draft of which was presented to the Board on April 8, 2025.

#### **DISCUSSION:**

We have considered comments and suggested revisions to the draft procedures received from the Board and members of the public during the April 8<sup>th</sup> meeting, as well as input from Kecker, Van Nest & Peters LLP, the law firm retained by the County to handle a potential removal proceeding. (A copy of the correspondence received from Kecker, Van Nest & Peters is included in **Attachment A.**)

Also, on April 16, 2025, we met with attorneys from the Murphy Pearson Bradley & Feeney law firm (Murphy Pearson), which has been retained to represent the Sheriff as to specific matters pursuant to Government Code Section 31000.6. The stated purpose of that meeting was to discuss the draft procedures. During the meeting the only feedback they provided was that the Board should reconsider having the Assistant County Executive or Chief of Probation preside over the Pre-Removal Conference, and they indicated an intent to provide additional feedback in writing.

The Murphy Pearson attorneys were informed that any additional comments or suggested revisions needed to be provided by early in the week of April 21<sup>st</sup> to ensure sufficient time to consider them in advance of the May 6, 2025 Board meeting. They eventually provided the attached correspondence (also included in Attachment A) after business hours on April 29<sup>th</sup>. We are evaluating their feedback and will be prepared to discuss it at the Board meeting.

A copy of the revised procedures is included as **Attachment B**. While a number of changes have been made to the proposed procedures since the April 8<sup>th</sup> Board meeting, the vast majority of the changes are editorial in nature and/or for clarity and do not change the substance of the draft procedures.

The substantive changes to the procedures include the following: (1) changing the Pre-Removal Conference Officer to the Chief Probation Officer and providing for alternate Pre-Removal Conference Officers; (2) allowing for optional pre-hearing and post-hearing legal briefing; and (3) providing the Hearing Officer authority to issue protective orders as necessary to protect the privacy of those participating in any hearing that takes place. Most of the clarifying changes relate to how the discovery process would occur.

An attorney from the Hanson Bridgett firm will be available at the May 6<sup>th</sup> Board meeting to answer questions about the proposed revisions to the procedures.

**COMMUNITY IMPACT:**

Development of procedures governing the Board's potential removal of an elected sheriff for cause, pursuant to Measure A, which was approved by San Mateo County voters, is consistent with the County's dedication to responsive, equitable, responsible, and accountable government.

**FISCAL IMPACT:**

There is no direct fiscal impact associated with adoption of procedures by which a removal proceeding shall be conducted pursuant to Section 412.5 of the San Mateo County Charter.