

SUPREME COURT COPY

XAVIER BECERRA
Attorney General of California
GERALD A. ENGLER
Chief Assistant Attorney General
JULIE L. GARLAND
Senior Assistant Attorney General
MEREDITH S. WHITE
Deputy Attorney General
STEVE OETTING
Supervising Deputy Attorney General
State Bar No. 142868
600 West Broadway, Suite 1800
San Diego, CA 92101
P.O. Box 85266
San Diego, CA 92186-5266
Telephone: (619) 738-9207
Fax: (619) 645-2012
Email: Steve.Oetting@doj.ca.gov
Attorneys for Plaintiff and Respondent

SUPREME COURT
FILED

MAY 29 2019

Jorge Navarrete Clerk

Deputy

In the Supreme Court of the State of California

**THE PEOPLE OF THE STATE OF
CALIFORNIA,**

Plaintiff and Respondent,

v.

ERIC J. FRAHS,

Defendant and Appellant.

Case No. S252220

Appellate District
Division Three, Case
No. G054674

Orange County
Superior Court, Case
No. 16CF0837

RESPONSE TO APPELLANT'S REQUEST FOR JUDICIAL NOTICE

Appellant has requested that this Court take judicial notice of the floor analysis of Senate Bill 215, as amended on August 23, 2028. He maintains this analysis regarding the amendments to the mental health diversion law is relevant because the author of the bill stated the belief that community-

based treatment of the mentally ill costs roughly \$20,000, whereas the costs of incarceration are \$75,000 and include greater risks of recidivism.

According to appellant, this legislative history is relevant because it tends to establish that “the more defendants who can be diverted, the greater the cost savings.” (Appellant’s Request for Judicial Notice at p. 3.)

Respondent disagrees with appellant’s conclusion that this statement in the floor analysis demonstrates that the Legislature believed that the more defendants who are diverted, the greater the cost savings. Ultimately, the amendments under Senate Bill 215 were designed to *restrict* the number of persons who could qualify for diversion by limiting the eligible crimes. (See Pen. Code, § 1001.36, subd. (b)(2), as amended.) The Legislature demonstrated its belief that the anticipated cost savings from mental health diversion would occur based on “early court-assisted interventions.” As the floor analysis states, “[b]y granting courts the ability to divert those suffering from mental illness into treatment at an *early stage in the proceedings*, AB 1810 seeks to reduce recidivism rates for mentally ill defendants, and to avoid unnecessary and unproductive costs of trial and incarceration.” (Sen. Rules Com., Off of Sen. Floor Analyses, Analysis of Sen. Bill No. 215, as amended August 23, 2018, p. 2, italics added.)

The report thus anticipates that the cost savings would occur only if unproductive costs such as those required for trial could be eliminated, and that the key to such savings is “*early court-assisted interventions*,” which are “far more likely to lead to longer, cheaper, more stable solutions for the community, and for the person suffering from mental illness.” (*Ibid.*, italics added.)

Respondent does not oppose appellant's request for judicial notice of the floor analysis. Contrary to his assertions, however, the analysis does not support a legislative intent for diversion to apply after the early stages of the proceedings—that is, after trial and adjudication.

Dated: May 16, 2019

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
GERALD A. ENGLER
Chief Assistant Attorney General
JULIE L. GARLAND
Senior Assistant Attorney General
MEREDITH S. WHITE
Deputy Attorney General
STEVE OETTING
Supervising Deputy Attorney General

/s/ Steve Oetting

STEVE OETTING
Supervising Deputy Attorney General
Attorneys for Plaintiff and Respondent

SO:ebw
SD2019700002
82181138.doc

CERTIFICATE OF COMPLIANCE

I certify that the attached **Response to Appellant's Request for Judicial Notice** uses a 13 point Times New Roman font and contains 370 words.

Dated: May 16, 2019

XAVIER BECERRA
Attorney General of California

/s/ Steve Oetting

STEVE OETTING
Supervising Deputy Attorney General
Attorneys for Plaintiff and Respondent

DECLARATION OF ELECTRONIC SERVICE AND SERVICE BY U.S. MAIL

Case Name: **People v. Frahs**

No.: **S252220**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collecting and processing electronic and physical correspondence. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business. Correspondence that is submitted electronically is transmitted using the TrueFiling electronic filing system. Participants who are registered with TrueFiling will be served electronically. Participants in this case who are not registered with TrueFiling will receive hard copies of said correspondence through the mail via the United States Postal Service or a commercial carrier.

On May 17, 2019, I electronically served the attached **RESPONSE TO APPELLANT'S REQUEST FOR JUDICIAL NOTICE** by transmitting a true copy via this Court's TrueFiling system. Because one or more of the participants in this case have not registered with the Court's TrueFiling system or are unable to receive electronic correspondence, on May 17, 2019, I placed a true copy thereof enclosed in a sealed envelope in the internal mail collection system at the Office of the Attorney General at 600 West Broadway, Suite 1800, P.O. Box 85266, San Diego, CA 92186-5266, addressed as follows:

Via U.S. Mail

Susan L. Ferguson
Law Offices of Susan L. Ferguson
4816 Arcola Avenue
North Hollywood, CA 91601
(2 copies)

Via U.S. Mail

Arthur Martin
Appellate Defenders, Inc.
555 W. Beech Street, Suite 300
San Diego, CA 92101-2939

Via U.S. Mail

Office of the District Attorney
330 West Broadway, Suite 860
San Diego, CA 92101

Via TrueFiling

Orange County District Attorney's Office

Via TrueFiling

San Bernardino District Attorney's Office

Via U.S. Mail

Orange County Superior Court
700 Civic Center Drive West
Santa Ana, CA 92701

Via U.S. Mail

California Court of Appeal
Fourth Appellate- Division Three
601 W. Santa Ana Blvd.
Santa Ana, CA 92701

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on May 17, 2019, at San Diego, California.

E. Blanco-Wilkins

Declarant

/s/ E. Blanco-Wilkins

Signature

SD2019700002
82194509.docx