

RESOLUTION NO. 24-125

RESOLUTION OF THE MENDOCINO COUNTY BOARD OF SUPERVISORS AUTHORIZING THE DESTRUCTION OF CERTAIN RECORDS OF THE MENDOCINO COUNTY PUBLIC DEFENDER

WHEREAS, Government Code Section 26202 provides that the Board of Supervisors may authorize the destruction or disposition of any record, paper, or document which is more than two (2) years and which was prepared or received in any manner other than pursuant to a state statute or county charter, and further provides that the Board of Supervisors may authorize the destruction or disposition of any record, paper, or document which is more than two (2) years old, which was prepared or received pursuant to state statute or county charter, and which is not expressly required by law to be filed and preserved if the Board determines by four-fifths (4/5) vote that the retention of any such record, paper, or document is no longer necessary or required for County purposes; such records, papers, or documents are not required to be photographed, reproduced, or microfilmed prior to destruction and no copy thereof need be retained; and

WHEREAS, Mendocino County Board of Supervisors Resolution Number 09-202 established a records retention schedule for the County of Mendocino's General Services Agency, which schedule guides the retention of certain similar records of the Public Defender; and

WHEREAS, Government Code Section 26205.8 provides that, notwithstanding any other provision of law relating to the destruction of attorney-client information or county records, the Board of Supervisors may authorize the destruction of nonfelony public defender records eight (8) years after the final disposition of a case; and

WHEREAS, Government Code Section 26201 provides that the Board of Supervisors may authorize at any time the destruction or disposition of any duplicate record, paper, or document, the original or a permanent photographic reproduction of which is in the files of any officer or department of the county; and

WHEREAS, Government Code Section 26205.1, subdivision (a), provides that the County officer having custody of nonjudicial public records, documents, instruments, books, and papers may cause such to be destroyed (1) if the Board of Supervisors has adopted a resolution authorizing the destruction, which may impose conditions that the Board of Supervisors determines are appropriate, (2) the County officer who so destroys said records shall maintain for the use of the public a photographic or microphotographic film, electronically recorded video production, a record contained in the electronic data processing system, a record recorded on optical disk, a records recorded by any other medium that does not permit additions, deletions, or changes to the original document, or other duplicate of the record, document, instrument, book, or paper destroyed, and (3) the record, paper, or document is photographed, microphotographed, reproduced by electronically recorded video images on magnetic surfaces, recorded in the electronic data processing system, recorded on optical disk or reproduced on film, or any other medium that is a trusted system and that does not permit additions, deletions, or changes to the original document and is produced in compliance with Section 12168.7 for recording of permanent records or nonpermanent records; and

WHEREAS, subdivision (b) of Government Code Section 26205.1 further provides that the reproduction requirements of paragraphs (2) and (3) of Government Code Section 26205.1(a) do not apply to records prepared or received other than pursuant to a state statute or county charter, or records that are expressly required by law to be filed and preserved; and

WHEREAS, the Public Defender is not requesting the destruction of any records that would require the reproduction requirements of paragraphs (2) and (3) of Government Code Section 26205.1(a) to apply; and

WHEREAS, the Public Defender has identified in Schedule A, attached and incorporated by reference herewith, records that are recommended for destruction, in accordance with the provision of the referenced resolution and statutes herein.

NOW, THEREFORE, BE IT RESOLVED by the Mendocino County Board of Supervisors, based on all of the evidence in the record before it, as follows:

1. Pursuant to Government Code Section 26202, all of the records listed in Schedule A that are more than two years old, not expressly required by law to be filed and preserved, and the Board hereby determines, by a four-fifths (4/5) vote that retention of said records is no longer necessary or required for County purposes. Such records, papers, or documents need not be photographed, reproduced, or microfilmed prior to destruction and no copy thereof need be retained. The Public Defender is authorized to destroy such records, so long as all laws related to attorney-client information allow for such destruction.
2. Pursuant to Government Code Section 26201, the Public Defender may, as identified in Schedule A, destroy any duplicate record, paper, or document, the original or permanent photographic reproduction of which is in the files within the Public Defender's possession.
3. Pursuant to Government Code Section 26205.1 and based on the assurances of the Public Defender all records being requested to be destroyed would not require the reproduction requirements of paragraphs (2) and (3) of Government Code Section 26205.1(a), the Board of Supervisors grants the Public Defender the authority to destroy the records as identified in Schedule A, so long as all laws related to attorney-client information allow for such destruction.
4. Pursuant to Government Code Section 26205.8 the Board of Supervisors grants the Public Defender the authority to destroy nonfelony records eight (8) years after the final disposition of a case, so long as all laws related to attorney-client information allow for such destruction.

The foregoing Resolution introduced by Supervisor Williams, seconded by Supervisor Haschak, and carried this 10th day of September, 2024, by the following vote:

AYES: Supervisors McGourty, Mulheren, Haschak, Gjerde and Williams
NOES: None
ABSENT: None

WHEREUPON, the Chair declared said Resolution adopted and SO ORDERED.

ATTEST: DARCIE ANTLE
Clerk of the Board

MAUREEN MULHEREN, Chair
Mendocino County Board of Supervisors

Deputy

I hereby certify that according to the provisions of Government Code Section 25103, delivery of this document has been made.

APPROVED AS TO FORM:
CHARLOTTE E. SCOTT
County Counsel

BY: DARCIE ANTLE
Clerk of the Board

Deputy

