



Judicial Council of California

Meeting Minutes

Judicial Council

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November 19, 2021

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Friday, October 1, 2021

9:45 AM

Videconference

CLOSED SESSION (RULE 10.6(B))—PLANNING, PERSONNEL, AND DISCUSSION PROTECTED BY THE ATTORNEY-CLIENT PRIVILEGE

Chief Justice Tani G. Cantil-Sakauye, Chair of the Judicial Council, called the closed session to order at 8:45 a.m.

OPEN SESSION (RULE 10.6(A)) — MEETING AGENDA

Attendance

Council Members

- Present:** 25 - Chief Justice Tani G. Cantil-Sakauye, Justice Carol A. Corrigan, Administrative Presiding Justice Brad R. Hill, Justice Marsha G. Slough, Presiding Judge Samuel K. Feng, Presiding Judge Theodore C. Zayner, Judge Marla O. Anderson, Judge C. Todd Bottke, Judge Stacy Boulware Eurie, Judge Kevin C. Brazile, Judge Kyle S. Brodie, Judge Jonathan B. Conklin, Judge Rupert A. Byrdsong, Judge Harold W. Hopp, Judge Dalila Corral Lyons, Judge David M. Rubin, Commissioner Glenn Mondo, Senator Thomas J. Umberg, Assembly Member Richard Bloom, Ms. Rebecca Fleming, Mr. David D. Fu, Mr. Kevin Harrigan, Mr. Shawn C. Landry, Ms. Gretchen Nelson, and Mr. Maxwell V. Pritt
- Absent:** 3 - Justice Carin T. Fujisaki, Presiding Judge Ann C. Moorman, and Ms. Rachel W. Hill

Call to Order

Chief Justice Tani G. Cantil-Sakauye, Chair of the Judicial Council, called the open session to order at 9:45 a.m. in the Judicial Council Board Room.

Swearing in of New and Reappointed Judicial Council Members

Before swearing in new and reappointed members, the Chief Justice acknowledged and expressed her gratitude to departing members for their service on the Judicial Council: Presiding Judge Joyce Hinrichs, Judge Thomas Delaney, Ms. Nancy CS

Eberhardt, and Mr. Patrick Kelly. The Chief Justice also made special remarks about Justice Harry Hull, Jr., whose service on the council ended voluntarily.

The Chief Justice administered the oath of office to new and reappointed council members. New members include:

- **Hon. Rupert A. Byrdsong**, President, California Judges Association
- **Mr. David D. Fu**, Attorney at Law, Los Angeles
- **Hon. Theodore C. Zayner**, Presiding Judge, Superior Court of Santa Clara County

Reappointed members include:

- **Hon. Kyle S. Brodie**, Judge, Superior Court of San Bernardino County
- **Hon. Jonathan B. Conklin**, Judge, Superior Court of Fresno County
- **Hon. Samuel K. Feng**, Presiding Judge, Superior Court of San Francisco County
- **Hon. Carin T. Fujisaki**, Associate Justice, Court of Appeal, First Appellate District, Division Three
- **Hon. Brad R. Hill**, Administrative Presiding Justice, Court of Appeal, Fifth Appellate District, Fresno
- **Hon. Ann C. Moorman**, Presiding Judge, Superior Court of Mendocino County

Public Comment

Comments were submitted in writing and reviewed by the Judicial Council.

Approval of Minutes

[21-123](#)

Minutes of July 9, 2021, Judicial Council Meeting

A motion to approve the minutes was made by Presiding Judge Feng and seconded by Judge Rubin. The motion was adopted.

Chief Justice's Report

Chief Justice Tani G. Cantil-Sakauye reported on her activities since the last council meeting.

Administrative Director's Report

[21-133](#)

Administrative Director's Report

Administrative Director Martin Hoshino reported on the council's activities since the last council meeting.

Judicial Council Committee Presentations

[21-118](#)

Judicial Council Internal Committee Presentations

[21-149](#)**Judicial Council Internal Committee Written Reports****CONSENT AGENDA****Approval of the Consent Agenda**

A motion to approve all of the following items on the Consent Agenda was made by Judge Conklin and seconded by Judge Brazile. The motion was adopted.

[21-138](#)**Allocations and Reimbursements to Trial Courts | Continued Distribution of Children’s Waiting Room Funds During Temporary Closure (Action Required)**

Summary: The Fiscal Planning Subcommittee of the Trial Court Budget Advisory Committee recommends approving requests from the Ventura and Alameda Superior Courts to continue receiving children’s waiting room funds during the unforeseen temporary closure of the courts’ children’s waiting rooms in response to the state of emergency related to the COVID-19 pandemic. By continuing to receive funding, these courts would have sufficient resources to provide safe and healthy waiting room settings for children when courts can safely reopen.

Recommendation: Based on the actions taken at its meetings on August 5, 2021 and September 2, 2021, the Fiscal Planning Subcommittee of the Trial Court Budget Advisory Committee recommends that the Judicial Council approve the continued distribution of children’s waiting room funds to the Ventura and Alameda Superior Courts to support the operation of their children’s waiting rooms upon reopening.

[21-145](#)**Allocations and Reimbursements to Trial Courts | Pretrial Release Funding and Allocation Methodology (Action Required)**

Summary: The Judicial Branch Budget Committee recommends approval of the Trial Court Budget Advisory Committee recommendation that the Judicial Council for allocate 2021-22 Pretrial Release funding of \$140 million General Fund for the trial courts in accordance with methodologies outlined in Senate Bill 129 and including minimum funding floors.

Recommendation: The Judicial Branch Budget Committee unanimously recommends approval of the Trial Court Budget Advisory Committee recommendation that the Judicial Council approve 2021-22 Pretrial Release Allocations of \$140 million General Fund for the trial courts in accordance with methodologies outlined in Senate Bill 129 and including minimum funding floors.

[21-150](#)**Child Support | \$4.45 Million AB 1058 Reimbursement Authority Increase (Action Required)**

Summary: The Judicial Branch Budget Committee recommends approval of the Trial Court Budget Advisory Committee recommendation that the Judicial Council allocate

\$4.45 million in new funding made available in the 2021 Budget Act to the AB 1058 Child Support Commissioner and Family Law Facilitator Program's base funding allocation, and included in the Judicial Council's cooperative agreement with the California Department of Child Support Services' for fiscal year 2021-22, and ongoing.

Recommendation: The Judicial Branch Budget Committee recommends that the Judicial Council approve the following, effective July 1, 2021:

1. Approve the Trial Court Budget Advisory Committee recommendation for allocation of additional funding to the Child Support Commissioner (CSC) program for 2021-22, and a technical adjustment to a small number of courts' base allocation approved by the Judicial Council on July 9, 2021, as set forth in Attachment A. This allocation distributes 75 percent of the \$4.45 million to the CSC program. The additional funds are prorated to courts with unmet need as determined by the current workload-based funding methodology approved by the Judicial Council on January 16, 2019.
2. Approve the committee's recommendation for allocation of additional funding to the Family Law Facilitator (FLF) program for 2021-22, as set forth in Attachment B. This allocation distributes 25 percent of the \$4.45 million to the FLF program. The majority of additional funds are prorated to courts with unmet need, and the remainder is prorated to all courts as determined by the current population-based funding methodology approved by the Judicial Council on July 9, 2021.
3. Approve the committee's recommendation for 2021-22 AB 1058 program funding for the courts for the total base funding allocations derived from recommendations 1 and 2, and the application of the additional federal drawdown funding, as displayed in Attachments C1 and C2.

[21-130](#)

Collaborative Justice | Recommended Allocations of Fiscal Year 2021-22 Substance Abuse Focus Grants (Action Required)

Summary: As part of the Budget Act of 2021, the Legislature has allocated \$1,160,000 to the superior courts to maintain, expand, or enhance collaborative courts. In November 2005, the Judicial Council established a caseload-based methodology for allocation of these funds (the Substance Abuse Focus Grants) to the courts. The Collaborative Justice Courts Advisory Committee recommends that the Judicial Council allocate the fiscal year (FY) 2021-22 funds to courts using the council's methodology. Additionally, \$75,000 in federal Court Improvement Program funds have been made available for FY 2021-22 to fund the noncompetitive Dependency Drug Court Augmentation to the focus grant program. The committee recommends funding programs in 45 courts for FY 2021-22 with these annual grants and providing augmentation grants to dependency drug courts in 20 counties.

Recommendation: The Collaborative Justice Courts Advisory Committee recommends that the

Judicial Council, effective October 1, 2021, approve the distribution of grants from the Collaborative Justice Courts Substance Abuse Focus Grant Program and the Dependency Drug Court Augmentation for FY 2021-22.

[21-142](#)**Court Facilities | Membership in Tuolumne Public Power Agency for New Sonora Courthouse (Action Required)**

Summary: The Trial Court Facility Modification Advisory Committee recommends the Judicial Council of California (Judicial Council) join the Tuolumne Public Power Agency (TPPA), a joint powers authority that provides electricity to public facilities in the County of Tuolumne. The TPPA provides lower-cost electricity to various local facilities in Tuolumne County, including the City of Sonora, all K-12 public schools, the County of Tuolumne, and special districts such as utilities and fire and community service districts. If the Judicial Council joins the TPPA, the new Sonora Courthouse in Tuolumne County would be able to enjoy the benefit of lower electricity rates than those offered by PG&E. Annual energy costs of the new Sonora Courthouse project would be reduced by approximately \$102,500, related to the transition to a lower, flat-rate electricity rate structure.

Recommendation: The Trial Court Facility Modification Advisory Committee recommends that the Judicial Council, effective October 1, 2021:

1. Adopt the resolution approving the Judicial Council's membership in the Tuolumne Public Power Agency (Attachment A_1);
2. Authorize the Administrative Director to execute the Amended and Restated Tuolumne Public Power Agency Joint Powers Agreement (Attachment A_2); and
3. Delegate to the Administrative Director or the Administrative Director's designee the authority to appoint, and if necessary, reappoint, the Judicial Council's representative to the Tuolumne Public Power Agency.

[21-151](#)**Equal Access Fund | California Access to Justice Commission Grants (Action Required)**

Summary: The Budget Act of 2021 (Sen. Bill 129, Stats. 2021, ch. 69) appropriated \$70 million to the Judicial Council for the Equal Access Fund, \$5 million of which must be allocated to the California Access to Justice Commission for grants to civil legal aid nonprofits. These grants are to be used to support the infrastructure and innovation needs of legal services in civil matters for indigent persons.

Recommendation: The Advisory Committee on Providing Access and Fairness recommends that the Judicial Council, effective October 1, 2021:
Approve distribution of \$5 million to the California Access to Justice Commission for grants to civil legal aid nonprofits as required by the Budget Act of 2021.

[21-152](#)**Equal Access Fund | Distribution of Funding for Housing Issues
(Action Required)**

Summary: The Budget Act of 2021 (AB 164 Ting), chaptered July 16, 2021, includes \$40 million of federal funding from the Coronavirus Fiscal Recovery Fund of 2021 in the Equal Access Fund for distribution to legal services providers and support centers to assist with issues relating to housing matters including eviction defense or other landlord-tenant disputes, or services to prevent foreclosures for homeowners. The State Bar's Legal Services Trust Fund Commission requests approval of the distribution of \$40 million, less administrative costs, according to the formula specified in the Budget Act.

Recommendation: The Legal Services Trust Fund Commission recommends that the Judicial Council, effective, October 1, 2021 direct staff to:

1. Distribute Equal Access Housing Funds to the State Bar for distribution to legal services agencies that meet the eligibility requirements stated in the Budget Act with 75% of the funds by formula and 25% through a competitive RFP process; and
2. Report back to the Judicial Council at its March 2022 meeting on the grants made.

[21-153](#)**Equal Access Fund | Distribution of Funds for Partnership Grants
and IOLTA-Formula Grants (Action Required)**

Summary: The Budget Act of 2021 (Stats. 2021, ch. 21) includes over \$65 million in the Equal Access Fund for general distribution to legal services providers and support centers. The funds are to be distributed primarily in two parts: IOLTA (Interest on Lawyers' Trust Accounts)-formula grants and partnership grants (with a small amount also distributed for administration). The Legal Services Trust Fund Commission of the State Bar recommends approving distribution of \$58,147,302 in IOLTA-formula grants for fiscal year (FY) 2021-22, according to the statutory formula in the state Budget Act, and \$6,460,811 in partnership grants. The commission further requests approval of its findings that the proposed budget for each individual grant complies with statutory and other relevant guidelines.

Recommendation: The Legal Services Trust Fund Commission recommends that the Judicial Council, effective October 1, 2021, approve:

1. The distribution of \$58,147,302 in IOLTA-formula grants for FY 2021-22 according to the terms of the state Budget Act;
2. The commission's determination that the proposed budget of each individual grant complies with statutory and other guidelines;
3. The distribution of \$2,580,574 in Equal Access Fund partnership grants commencing January 1, 2022, to legal services agencies for programs conducted jointly with courts to provide legal assistance to self-represented litigants as set forth on pages 11-13 of Attachment A; and
4. The distribution of an additional \$3,880,237 for partnership grants to be awarded

based on the application process set forth on pages 14-16 of Attachment A.

[21-129](#)**Judicial Branch Administration | Revisions to *Judicial Branch Contracting Manual* (Action Required)**

Summary: The Advisory Committee on Audits and Financial Accountability for the Judicial Branch recommends that the Judicial Council adopt proposed revisions to the *Judicial Branch Contracting Manual*. The proposed revisions include edits regarding waivers of the Disabled Veteran Business Enterprise (DVBE) incentive, as well as edits regarding judicial branch entities' reporting requirements, to reflect amendments to Public Contract Code section 19209.

Recommendation: The Advisory Committee on Audits and Financial Accountability for the Judicial Branch recommends that the Judicial Council, effective October 15, 2021, adopt proposed revisions to the *Judicial Branch Contracting Manual*.

[21-109](#)**Jury Instructions | Revisions and Additions to Criminal Jury Instructions (Action Required)**

Summary: The Advisory Committee on Criminal Jury Instructions recommends approving for publication the revised criminal jury instructions prepared by the committee under rule 2.1050 of the California Rules of Court. These changes will keep the instructions current with statutory and case authority. Once approved, the revised instructions will be published in the 2021 supplement of the *Judicial Council of California Criminal Jury Instructions*.

Recommendation: The Advisory Committee on Criminal Jury Instructions recommends that the Judicial Council, effective October 1, 2021, approve the following changes to the criminal jury instructions prepared by the committee:

1. Revisions to CALCRIM Nos. 336, 417, 582, 625, 775, 840, 852A, 1001, 1015, 1016, 1030, 1031, 1045, 1046, 1201, 1215, 1243, 1244, 1807, 1930, 2100, 2200, 2656, 3411, 3451; and
2. Adoption of new CALCRIM Nos. 2045 and 3185.

[21-154](#)**Juvenile Law | Fiscal Year 2021-22 Allocation of Augmented Local Assistance Funding for Court Appointed Special Advocates of Los Angeles (Action Required)**

Summary: The Family and Juvenile Law Advisory Committee recommends approving augmented grant funding allocation for fiscal year 2021-22 to the Court Appointed Special Advocates of Los Angeles (CASA-LA). Primary allocations of the \$2.713 million budget for Judicial Council CASA grants were made at the July 9, 2021 Judicial Council meeting.

Recommendation: The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective October 1, 2021:
Allocate \$200,000 to Court Appointed Special Advocates of Los Angeles (CASA-LA) to serve youth in the child welfare system and address caseload waitlists impacted by the COVID-19 pandemic.

[21-144](#)**Report to the Legislature | California Community Corrections Performance Incentives Act of 2009 (Action Required)**

Summary: The Criminal Justice Services office recommends that the Judicial Council receive the 2021 *Report on the California Community Corrections Performance Incentives Act of 2009: Findings from the SB 678 Program* and direct the Administrative Director to submit this annual report to the California Legislature and Governor, as mandated by Penal Code section 1232. Under the statute, the Judicial Council is required to submit a comprehensive report on the implementation of the program—including information on the effectiveness of the act and specific recommendations regarding resource allocations and additional collaboration--no later than 18 months after the initial receipt of funding under the act and annually thereafter.

Recommendation: The staff of the Criminal Justice Services office of the Judicial Council recommend that the Judicial Council, effective September 30, 2021:

1. Receive the attached 2021 Report on the California Community Corrections Performance Incentives Act of 2009: Findings from the SB 678 Program documenting program history, findings, and recommendations related to the California Community Corrections Performance Incentives Act of 2009 (Sen. Bill 678; Stats. 2009, ch. 608); and
2. Direct the Administrative Director to submit this report to the California Legislature and Governor by October 8, 2021, including information on the effectiveness of the program and policy recommendations regarding resource allocation for improvements to the SB 678 program, to comply with Penal Code section 1232.

[21-143](#)**Rules and Forms | Collaborative Justice: Collaborative Justice Courts Advisory Committee's Area of Focus and Duties (Action Required)**

Summary: The Collaborative Justice Courts Advisory Committee recommends amending rule 10.56 of the California Rules of Court to update the committee's areas of focus and duties by incorporating diversion and other collaborative justice-related programs. This recommendation would allow the advisory committee to better address judicial leadership and the court processes of collaborative justice courts and similar programs that affect individuals who are moving through the court system and have mental illnesses, substance use disorders, or co-occurring disorders.

Recommendation: The Collaborative Justice Courts Advisory Committee recommends that the Judicial Council amend rule 10.56 of the California Rules of Court, effective January 1, 2022, to:

1. Include within the scope of the advisory committee's area of focus programs that incorporate judicial supervision, court monitoring, collaboration among justice system partners, or rehabilitative services aimed at improving outcomes for individuals with mental health issues, substance use disorders, or co-occurring disorders;

2. Eliminate the obsolete list of specific types of collaborative justice courts;
3. Establish a focus on education and training opportunities for judicial officers, court staff, and justice system partners; and
4. Specify the nature of recommendations that can be made to the Judicial Council about funding and outreach activities that can benefit collaborative justice courts and similar collaborative programs focused on individuals with mental health issues, substance use disorders, or co-occurring disorders.

[21-164](#)**Rules and Forms | Appellate Procedure: Electronic Signatures (Action Required)**

Summary: The Appellate Advisory Committee recommends amending two rules of court governing electronic filing in the appellate courts to permit the use of electronic signatures and make other updates. The trial court electronic filing rules have been amended several times recently, including to allow electronic signatures. Several similar amendments for the parallel appellate rules are now being proposed to foster modern e-business practices, promote consistency in the rules and efficiency among stipulating parties, and reduce unnecessary transmission of paper documents. The rules would be amended to authorize the use of electronic signatures on electronic documents filed with the court, add new definitions, update several existing definitions, improve clarity, and eliminate redundancies.

Recommendation: The Appellate Advisory Committee recommends that the Judicial Council, effective January 1, 2022:

1. Amend rule 8.70 of the California Rules of Court to clarify several definitions, add two new definitions, and add advisory committee comments for further clarification.
2. Amend rule 8.75 to add provisions for using electronic signatures on documents filed with the court and add advisory committee comments for clarification.

[21-155](#)**Rules and Forms | Appellate Procedure: Notice of Appeal After Plea or Admission of Probation Violation (Action Required)**

Summary: The Appellate Advisory Committee recommends amending the rule that governs initiating an appeal in a felony case after a plea of guilty or nolo contendere or after an admission of a probation violation. The amendments would reorganize the rule, simplify procedures, and eliminate the onus on the clerk to make a legal decision regarding whether the notice of appeal should be filed.

Recommendation: The Appellate Advisory Committee recommends that the Judicial Council, effective January 1, 2022, amend rule 8.304 of the California Rules of Court to:

1. Distinguish between appeals that require a certificate of probable cause and those that do not;
2. Provide that if a notice of appeal is filed without a request for a certificate of probable cause or the trial court denies the request, the appeal may proceed on noncertificate issues;
3. Add the district appellate projects to the list of persons and entities that receive

- notification of the filing of a notice of appeal, and include in the notification information regarding whether the appeal is limited to noncertificate issues and whether the defendant requested a certificate of probable cause; and
4. Update the advisory committee comment to reflect the changes to the rule and to include references to Supreme Court cases analyzing circumstances in which no certificate of probable cause for an appeal is required.

[21-162](#)

Rules and Forms | Civil Practice and Procedure: Remote Depositions (Action Required)

Summary: The Civil and Small Claims Advisory Committee recommends amending rule 3.1010 of the California Rules of Court governing remote depositions. The proposed amendments reflect recent statutory changes enacted in Senate Bill 1146 (Stats. 2020, ch. 112, § 3) that (1) removed the requirement that deponents appear in the physical presence of the deposition officer, and (2) eliminated the different treatment for party and nonparty deponents. The revised law also permits any party or attorney of record to be physically present with the deponent during the deposition, and the proposed rule amendment requires notice for a party or attorney to make such an appearance at a remote deposition.

Recommendation: The Civil and Small Claims Advisory Committee recommends that the Judicial Council amend California Rules of Court, rule 3.1010, effective January 1, 2022.

[21-052](#)

Rules and Forms | Commitment Orders for Sexually Violent Predators (Action Required)

Summary: The Criminal Law Advisory Committee recommends revising Order for Commitment (form CR-173) and revoking Order for Extended Commitment (form CR-174) to incorporate changes to the statutes governing sexually violent predator proceedings (Welf. & Inst. Code, § 6600 et seq.), replace gender-specific pronouns, and incorporate revisions for procedural efficiency, accuracy, and clarity.

Recommendation: The Criminal Law Advisory Committee recommends that the Judicial Council, effective January 1, 2022:

1. Revise *Order for Commitment* (form CR-173) to:
 - a. Update the findings section to require one or more convictions of a qualifying offense to reflect Welfare and Institutions Code section 6600;
 - b. Modify the reference to sexually violent predatory criminal behavior to exclude the term “predatory,” to reflect the statutory language of Welfare and Institutions Code section 6600;
 - c. Replace references to the California Department of Mental Health with the California Department of State Hospitals, to reflect the transfer of duties regarding sexually violent predators made by Assembly Bill 1470 (Stats. 2012, ch. 24);
 - d. Replace references to the two-year custody limit with an indeterminate term, and eliminate references to extended commitment requirements, to reflect statutory changes to custody terms made by Senate Bill 1128

(Stats. 2006, ch. 337) and the Sexual Predator Punishment and Control Act (Proposition 83);

- e. Replace gender-specific pronouns;
 - f. Identify the county of domicile for purposes of discharge under Welfare and Institutions Code section 6608.5, to promote court efficiencies by having the identification occur at an earlier stage of the proceedings;
 - g. Eliminate references to confinement at a specific state hospital, to reflect that some respondents may be released to community treatment under the custody of the Department of State Hospitals; and
 - h. Order a specific entity to transport the respondent, to provide clarity about the agency responsible for transportation; and
2. Revoke *Order for Extended Commitment* (form CR-174) to reflect statutory changes to custody terms made by Senate Bill 1128 and Proposition 83.

[21-156](#)

Rules and Forms | Domestic Violence: Forms That Implement New Laws (Action Required)

Summary: The Family and Juvenile Law Advisory Committee recommends revising a collection of Domestic Violence forms to implement changes to the Domestic Violence Prevention Act. Senate Bill 1141 (Stats. 2020, ch. 248) elaborates on the definition of “disturbing the peace,” and Assembly Bill 2517 (Stats. 2020, ch. 245) allows the court to make a finding that certain debts were incurred as a result of domestic violence and made without the petitioner’s consent. In addition to the revisions needed to implement these new laws, the committee recommends a number of changes to the forms to make them easier to understand and complete.

Recommendation: The Family and Juvenile Law Advisory Committee recommends that the Judicial Council revise the following forms, effective January 1, 2022:

- *Request for Domestic Violence Restraining Order* (form DV-100)
- *Request for Child Custody and Visitation Orders* (form DV-105)
- *Temporary Restraining Order (CLETS-TRO)* (form DV-110)
- *Response to Request for Domestic Violence Restraining Order* (form DV-120)
- *Restraining Order After Hearing (CLETS-OAH) (Order of Protection)* (form DV-130)
- *Can a Domestic Violence Restraining Order Help Me?* (form DV-500-INFO)

[21-158](#)

Rules and Forms | Family Law: Reenactment of Family Code section 4007.5 (Action Required)

Summary: The Family and Juvenile Law Advisory Committee proposes revising several forms to provide court users and the public with information regarding relief available to incarcerated or involuntarily institutionalized child support obligors. The proposed revisions are needed to reflect new law under recently reenacted Family Code section

4007.5.

Recommendation: The Family and Juvenile Law Advisory Committee recommends that the Judicial Council revise the following forms, effective January 1, 2022, to provide court users and the public with information regarding relief available to incarcerated or involuntarily institutionalized child support obligors:

- *Notice of Rights and Responsibilities (Health-Care Costs and Reimbursement Procedures) and Information Sheet on Changing a Child Support Order* (form FL-192);
- *Stipulation to Establish or Modify Child Support and Order* (form FL-350);
- *Application to Determine Arrears* (form FL-490);
- *Request for Determination of Support Arrears* (form FL-676);
- *Information Sheet: Request for Determination of Support Arrears* (form FL-676-INFO); and
- *Short Form Order After Hearing* (form FL-688).

[21-053](#)

Rules and Forms | Incarcerated Individual Hand Crew Conviction Relief (Action Required)

Summary: The Criminal Law Advisory Committee recommends four new optional forms to implement the provisions of Assembly Bill 2147 (Stats. 2020, ch. 60), which authorizes conviction relief for a petitioner who successfully participated as an incarcerated individual hand crew member in a fire camp program operated by a county or the California Department of Corrections and Rehabilitation, and has been released from custody.

Recommendation: The Criminal Law Advisory Committee recommends that the Judicial Council, effective January 1, 2022, approve:

1. *Petition for Dismissal-Incarcerated Individual Hand Crew* (form CR-430), for use by individuals who have been criminally convicted and are no longer in custody to petition the court to (1) withdraw the plea of guilty or nolo contendere or set aside the verdict of guilty, and (2) dismiss the case in the interest of justice, based on the petitioner's successful participation as an incarcerated individual hand crew member in a fire camp program operated by a county or the California Department of Corrections and Rehabilitation (CDCR).
2. *Information on Filing a Petition for Dismissal-Incarcerated Individual Hand Crew* (form CR-430-INFO), for use by individuals seeking directions for filling out the petition form and additional information regarding the petition process.
3. *Court Cover Letter and Agency Certification-Incarcerated Individual Hand Crew* (form CR-431), for use by courts to (1) provide a copy of the petition to the appropriate county authority or the CDCR, and (2) request certification of the petitioner's successful participation as an incarcerated individual hand crew member in a fire camp program.
4. *Order on Petition-Incarcerated Individual Hand Crew* (form CR-432), for use by courts to grant or deny the petition in the interest of justice, based on the

petitioner's successful participation as an incarcerated individual hand crew member in a fire camp program operated by a county or the CDCR.

[21-159](#)

Rules and Forms | Indian Child Welfare Act: Implementation of Assembly Bill 3176 in Probate Guardianships and Conservatorships (Action Required)

Summary: The Probate and Mental Health Advisory Committee and the Tribal Court-State Court Forum recommend amending four rules of court and revising two forms to clarify the procedures required in probate guardianship and specified conservatorship proceedings involving Indian children. The proposed amendments and revisions update the rules and forms to conform to the requirements of the 2016 federal Indian Child Welfare Act regulations and guidelines, California statutory changes, and recent amendments to the California Rules of Court governing all proceedings in which a court is asked to order the removal of an Indian child from the custody of the child's parent or Indian custodian and placement of the child in the custody of a nonparent or to the termination of parental rights. Additional proposed form revisions clarify the information to be provided to the court, promote conformity with existing law, and make technical changes.

Recommendation: The Probate and Mental Health Advisory Committee (committee) and the Tribal Court-State Court Forum (forum) recommend that the Judicial Council, effective January 1, 2022:

1. Amend California Rules of Court, rules 7.51, 7.1003, and 7.1013 to clarify and confirm the rights of an Indian child's tribe and Indian custodian, if any, to receive notices of hearings and other activity and obtain access to status reports in a covered proceeding;
2. Amend California Rules of Court, rule 7.1015 to conform to recent changes in the federal Indian Child Welfare Act regulations, California statutory law, and California Rules of Court, rules 5.480-5.488, including legal issues raised by practitioners, related to implementing the Indian Child Welfare Act;
3. Revise *Guardianship Petition-Child Information Attachment* (form GC-210(CA)) to:
 - Conform to the amendments to rule 7.1015 by modifying item 1c and deleting item 8 to reflect that form ICWA-010(A) must henceforth be used to document the Indian child inquiry;
 - Combine item 3, information about the proposed guardian, and item 6, suitability of the proposed guardian, into a single item 3;
 - Add a new item 4 for the petitioner to explain why appointing a guardian would be in the child's best interest;
 - Add new subitems to item 6 for the petitioner to inform the court whether the child's parents or Indian custodian, if any, agree that the court needs to appoint a guardian for the child and that the proposed guardian is suitable;
 - Modify items 1h, 2, and 6 to add references to tribe and Indian custodian

in cases involving Indian children; and

- Make technical changes; and
4. Revise *Information Sheet on Indian Child Inquiry Attachments and Notice of Child Custody Proceeding for Indian Child* (form ICWA-005-INFO) to reflect that form GC-210(CA) may no longer be used for the Indian child inquiry in probate guardianship proceedings, and to make technical changes.

[21-146](#)

Rules and Forms | Judicial Branch Technology: Electronic Filing and Electronic Service in Criminal Cases (Action Required)

Summary: The Information Technology Advisory Committee recommends the Judicial Council amend rules 2.251, 2.252, 2.253, 2.255, 2.258, and 2.259 of the California Rules of Court, effective January 1, 2022. The purpose of the amendments is to meet Penal Code section 690.5's requirement that the Judicial Council adopt rules for the electronic filing and service of documents in criminal cases in the trial courts.

Recommendation: The Information Technology Advisory Committee (ITAC) recommends the Judicial Council amend rules 2.251, 2.252, 2.253, 2.255, 2.258, and 2.259 of the California Rules of Court effective January 1, 2022.

[21-160](#)

Rules and Forms | Juvenile Law: Sealing of Records (Action Required)

Summary: The Family and Juvenile Law Advisory Committee recommends amending a rule of court, revising three forms, and approving three new optional forms to implement recent legislative changes concerning the sealing of juvenile records. The legislative changes allow access to sealed records for two additional purposes, and expand sealing of records for youth diverted from the juvenile courts.

Recommendation: The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective January 1, 2022:

1. Amend California Rules of Court, rule 5.850 concerning the sealing of records for probation diversion cases to conform to recent legislative changes on timing and notice;
2. Approve two new optional forms *Law Enforcement Notice on Sealing of Records* (form JV-581) and *Petition to Seal Juvenile Police Records* (form JV-582), for law enforcement use when sealing the records of youth diverted by those agencies and their partners;
3. Approve one new optional form *Acknowledgment of Juvenile Diversion Record Sealed* (form JV-589) for use in sealing probation diversion records;
4. Revise optional form *Probation Department Notice on Sealing of Records After Diversion Program* (form JV-597) to provide for the sealing of arrest records by law enforcement; and
5. Revise two mandatory information forms *How to Ask the Court to Seal Your Records* (form JV-595-INFO) and *Sealing of Records for Satisfactory Completion of Probation* (form JV-596-INFO) to incorporate information on

recent legislative changes allowing for access to sealed records.

[21-161](#)**Rules and Forms | Juvenile Law: Short-Term Residential Therapeutic Program Placement (Action Required)**

Summary: To coincide with the effective date of recently passed legislation, the Family and Juvenile Law Advisory Committee proposes that the Judicial Council adopt a new rule of court, amend a rule, adopt or approve 5 new Judicial Council forms, and revise 19 Judicial Council forms, effective October 1, 2021. Assembly Bill 153 (Stats. 2021, ch. 86) implements part IV of the federal Family First Prevention Services Act, with an effective date of October 1, 2021. For short-term residential therapeutic programs to be eligible for federal funding, states will need to implement part IV of the act, which California has done through AB 153. The bill creates a new court hearing in which the juvenile court will be required to approve or disapprove any new placement of a child or nonminor dependent in a short-term residential therapeutic program. The bill also requires that the Judicial Council amend or adopt rules of court and develop or amend appropriate forms, as necessary.

Recommendation: The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective October 1, 2021:

1. Adopt rule 5.618 of the California Rules of Court to create a uniform procedure for juvenile courts to approve or disapprove a placement in a short-term residential therapeutic program.
2. Amend rule 5.697 of the California Rules of Court regarding the disposition hearing for a nonminor to conform the rule to requirements related to Assembly Bill 153.
3. Adopt four Judicial Council forms to create a consistent and more predictable process for courts addressing a new type of hearing to approve or disapprove a placement in a short-term residential therapeutic program:
 - *Placing Agency's Request for Review of Placement in Short-Term Residential Therapeutic Program* (form JV-235)
 - *Input on Placement in Short-Term Residential Therapeutic Program* (form JV-236)
 - *Proof of Service-Short-Term Residential Therapeutic Program Placement* (form JV-237)
 - *Order on Placement in Short-Term Residential Therapeutic Program* (form JV-239)
4. Approve *Notice of Hearing on Placement in Short-Term Residential Therapeutic Program* (form JV-238)
5. Revise 19 Judicial Council forms to conform them to requirements related to Assembly Bill 153 and the court's review of a placement in a short-term residential therapeutic program:
 - *Orders Under Welfare and Institutions Code Sections 366.24, 366.26, 727.3, 727.31* (form JV-320)
 - *Findings and Orders After Detention Hearing* (form JV-410)

- *Dispositional Attachment: Removal From Custodial Parent-Placement With Nonparent* (form JV-421)
- *Six-Month Permanency Attachment: Reunification Services Continued* (Welf. & Inst. Code, § 366.21(e)) (form JV-432)
- *Six-Month Permanency Attachment: Reunification Services Terminated* (Welf. & Inst. Code, § 366.21(e)) (form JV-433)
- *Twelve-Month Permanency Attachment: Reunification Services Continued* (Welf. & Inst. Code, § 366.21(f)) (form JV-437)
- *Twelve-Month Permanency Attachment: Reunification Services Terminated* (Welf. & Inst. Code, § 366.21(f)) (form JV-438)
- *Eighteen-Month Permanency Attachment: Reunification Services Terminated* (Welf. & Inst. Code, § 366.22) (form JV-442)
- *Eighteen-Month Permanency Attachment: Reunification Services Continued* (Welf. & Inst. Code, § 366.22) (form JV-443)
- *Findings and Orders After Postpermanency Hearing-Parental Rights Terminated; Permanent Plan of Adoption* (form JV-445)
- *Findings and Orders After Postpermanency Hearing-Permanent Plan Other Than Adoption* (form JV-446)
- *Twenty-four-Month Permanency Attachment: Reunification Services Terminated* (Welf. & Inst. Code, § 366.25) (form JV-457)
- *Dispositional Attachment: Nonminor Dependent* (form JV-461(A))
- *Findings and Orders After Nonminor Dependent Status Review Hearing* (form JV-462)
- *Initial Appearance Hearing-Juvenile Delinquency* (form JV-642)
- *Custodial and Out-of-Home Placement Disposition Attachment* (form JV-667)
- *Findings and Orders After Six-Month Prepermanency Hearing-Delinquency* (form JV-672)
- *Findings and Orders After Permanency Hearing-Delinquency* (form JV-674)
- *Findings and Orders After Postpermanency Hearing-Delinquency* (form JV-678)

[21-139](#)**Rules and Forms | Miscellaneous Technical Changes (Action Required)**

Summary: Various members of the judicial branch, members of the public, and Judicial Council staff have identified errors in the California Rules of Court and Judicial Council forms resulting from typographical errors and changes resulting from legislation, and previous rule amendments and form revisions. Judicial Council staff recommend making the necessary corrections to avoid causing confusion for court users, clerks, and judicial officers.

Recommendation: Judicial Council staff recommend that the council:

1. Amend the comments to rules 2.1032 and 2.1033 of the California Rules of Court to update the citations to the 2021 edition of the *Bench Handbook: Jury Management*, effective October 1, 2021;
2. Revise form EJ-156, *Current Dollar Amounts of Exemptions from Enforcement of Judgments*, to reflect increases in the minimum basic standard of care for a family of four, effective October 1, 2021; and
3. Revise form SUM-130, *Summons-Unlawful Detainer-Eviction*, item 3, to correct an internal reference, effective January 1, 2022.

[21-163](#)**Rules and Forms | Unlawful Detainer, Small Claims, and Pleading Forms to Implement New Laws (Action Required)**

Summary: The Civil and Small Claims Advisory Committee proposes the adoption, approval, and revision of 13 forms to implement statutory changes in Senate Bill 91 (Stats. 2021, ch. 2), enacted January 29, 2021, and Assembly Bill 832 (Stats. 2021, ch. 27), enacted June 28, 2021. Assembly Bill 832 establishes new procedures for bringing unlawful detainer actions based on nonpayment of rent, and for judgments in such cases, effective October 1, 2021. Provisions in SB 91, as amended by AB 832, allow parties, effective November 1, 2021, to litigate claims for nonpayment of COVID-19 rental debt in small claims court regardless of the amount demanded, and mandates new pleading requirements for such actions whether filed in small claims court or in general civil court. In addition, AB 832 requires the council to develop forms for parties to use in actions to recover COVID-19 rental debt. The proposed forms address these statutory changes.

Recommendation: The Civil and Small Claims Advisory Committee recommends that the Judicial Council:

1. Adopt *Application to Prevent Forfeiture Due to COVID-19 Rental Debt* (form UD-125), effective October 1, 2021;
2. Adopt the following forms, effective November 1, 2021:
 - *Complaint-Recovery of COVID-19 Rental Debt* (form PLD-C-500);
 - *Answer-Recovery of COVID-19 Rental Debt* (form PLD-C-505);
 - *Verification by Plaintiff Regarding Rental Assistance-Recovery of COVID-19 Rental Debt* (form PLD-C-520);
 - *Plaintiff's Claim and ORDER to Go to Small Claims Court (COVID-19 Rental Debt)* (form SC-500); and
 - *Other Plaintiffs or Defendants (COVID-19 Rental Debt)* (form SC-500A);
3. Approve *COVID-19 Rental Debt in Small Claims Court* (form SC-500-INFO), effective October 15, 2021;
4. Revise the following forms, effective October 1, 2021:
 - *Plaintiff's Mandatory Cover Sheet and Supplemental Allegations-Unlawful Detainer* (form UD-101);
 - *Answer-Unlawful Detainer* (form UD-105); and
 - *Verification by Landlord Regarding Rental Assistance-Unlawful*

Detainer (form UD-120); and

5. Revise the following forms, effective November 1, 2021:
 - *Plaintiff's Claim and ORDER to Go to Small Claims Court* (form SC-100);
 - *Fictitious Business Name* (form SC-103); and
 - *What is "Proof of Service"?* (form-104B).

DISCUSSION AGENDA

[21-108](#)

Judicial Branch Technology | Court Modernization Funding, Fiscal Year 2020-21, and Fiscal Year 2021-22 (Action Required)

Summary: The Budget Act of 2020 (Stats. 2020, ch.7) and Budget Act of 2021 (Stats. 2021, ch. 69) each appropriated \$25 million for the continued modernization of trial court operations for a total of \$50 million over two fiscal years. The Judicial Council directed the Technology Committee to recommend allocations of funding and provide regular updates on approved allocations. The Technology recommends that the Judicial Council approve the allocations for fiscal year 2021-22, itemized in the attached summary.

Recommendation: The Technology Committee recommends that, effective October 1, 2021, the Judicial Council approve the allocations as itemized in the attached Court Technology Modernization Funding: Proposed Allocations for FY 2021-22.

A motion to approve the recommendation was made by Presiding Judge Zayner and seconded by Judge Brazile. The motion was adopted.

[21-134](#)

Trial Court Budget | \$60 Million One-Time COVID-Driven Caseload Backlog Funding (Action Required)

Summary: The Judicial Branch Budget Committee recommends approval of two separate allocations from the \$60 million one-time COVID-driven caseload backlog funding included in the 2021 Budget Act based on the most recent filings and disposition data available for identifying backlog. This funding is for trial courts to specifically address backlogs and workload delays resulting from the COVID-19 pandemic, with the funding available for expenditure or encumbrance through the 2022-23 fiscal year.

Recommendation: The Judicial Branch Budget Committee recommends that the Judicial Council:

1. Approve the updated data-driven methodology that utilizes both filings and dispositions by case type to calculate a clearance rate. This clearance rate is used to identify court backlogs for allocating the \$60 million one-time COVID-driven caseload backlog funding.
2. Allocate half of the funding, \$30 million, in October 2021 based on the most updated filings and clearance data available through March 2021.
3. Allocate the second half of the funding, \$30 million, in January 2022 based on the most recent filings and clearance data available at that time.
4. In the event there is future funding for COVID-driven caseload backlog, adopt the Trial Court Budget Committee recommendation to include complex case

types (e.g., asbestos and complex) in the data used for the allocation methodology.

A motion to approve the recommendation was made by Judge Brodie and seconded by Administrative Presiding Justice Hill. The motion was adopted.

[21-141](#)

Report to the Legislature | Final Report on the Court Innovations Grant Program (No Action Required)

Summary: The Budget Act of 2016 (Stats. 2016, ch. 318) allocated \$25 million to the judicial branch to promote court innovations and efficiencies through the Court Innovations Grant Program. The act directs the Judicial Council to report to the Legislature on the progress of that program and its grant projects no later than September 30 each year. The Budget Act of 2020 (Stats. 2020, ch. 7) authorized encumbrances or expenditures until December 31, 2020, extending the timeline from the program's original sunset date of June 30, 2020. The Court Innovations Grant Program provided not only an opportunity for trial and appellate courts to innovate, but for the branch to establish a framework for encouraging, supporting, and replicating innovations across the California courts. This final report to the Legislature, included as Attachment A to this report, discusses the implemented innovations, the project teams' learning experiences, and how these projects are informing branchwide opportunities.

INFORMATION ONLY ITEMS (NO ACTION REQUIRED)

[21-148](#)

Child Support | Midyear Funding Reallocation for Fiscal Year 2020-21

Summary: Effective January 17, 2020, the Judicial Council approved the Family and Juvenile Law Advisory Committee's recommendation to combine the previous two Assembly Bill 1058 midyear funding reallocation processes into one administrative process to maximize program efficiencies. The new administrative process for midyear reallocation delegates ongoing authority to the Administrative Director on an annual basis. This report details the midyear reallocation of funding for the Child Support Commissioner and Family Law Facilitator Program for fiscal year 2020-21.

[21-013](#)

Court Facilities | Trial Court Facility Modifications Report for Quarter 4 and Annual Summary for Fiscal Year 2020-21

Summary: This informational report to the Judicial Council outlines (1) allocations of facility modification funding made to improve trial court facilities in the fourth quarter (April through June) of fiscal year 2020-21, and (2) a summary of all funding allocations during the fiscal year. To determine allocations, the Trial Court Facility Modification Advisory Committee reviews and approves facility modification requests from across the state in accordance with the council's *Trial Court Facility Modifications Policy*.

[21-165](#) **Court Security | Trial Court Screening Equipment Replacement for Fiscal Year 2020-21**

Summary: Each year, the Administrative Director approves the list of entrance screening equipment to be funded that year through the Screening Equipment Replacement Program. This funding is provided from the Trial Court Trust Fund to replace outdated or malfunctioning screening equipment in the trial courts. This report updates the council on the equipment that was replaced in fiscal year (FY) 2020-21 using that funding.

[21-051](#) **Report to the Legislature | 2020-21 Trial Court Trust Fund Backfill Report, Quarter 4**

Summary: Pursuant to the Budget Act of 2020, Item 0250-113-0001, Provision 3, the Judicial Council is required to submit quarterly reports to the Joint Legislative Budget Committee on the estimated amount of General Fund required to backfill the Trial Court Trust Fund due to shortfalls in revenue to support trial court operations. This report is for the reporting period of April through June 2021. On or before July 30, 2021, the Judicial Council's Budget Services staff submitted the *2020-21 Trial Court Trust Fund Backfill Report, Quarter 4*.

[21-049](#) **Report to the Legislature | Cash Flow Loans Made to Courts in 2020-21**

Summary: Pursuant to Government Code section 68502.6(d), the Judicial Council is required to report to the Legislature annually on all cash flow loans made to the courts. On August 30, 2021, Judicial Council staff submitted the report *Cash Flow Loans Made to Courts in 2020-21*.

[21-137](#) **Report to the Legislature | Standards of Timely Disposition published in the 2021 Court Statistics Report**

Summary: Government Code section 68604 requires the Judicial Council to report biennially regarding the standards of timely disposition for the processing and disposition of civil and criminal actions that were adopted pursuant to section 68603. On October 1, 2021, Judicial Council staff will submit to the Legislature the already published 2021 Court Statistics Report, which contains case processing and time-to-disposition statistics that meet the reporting requirements of Government Code section 68604.

[21-050](#) **Trial Courts | Annual Investment Report for Fiscal Year 2020-21**

Summary: This Trial Courts Annual Investment Report for Fiscal Year 2020-21 covers the period of July 1, 2020, through June 30, 2021, and provides the financial results for the funds invested by the Judicial Council on behalf of the trial courts as part of the judicial branch treasury program. The report is submitted under agenda item 10, Resolutions Regarding Investment Activities for the Trial Courts, approved by the Judicial Council on February 27, 2004.

[21-140](#)**Trial Courts | Public Notice by Courts of Closures or Reduced Clerks' Office Hours**

Summary: Government Code section 68106 directs (1) trial courts to notify the public and the Judicial Council before closing courtrooms or clerks' offices, or reducing clerks' regular office hours; and (2) the council to post all such notices on its website and relay them to the Legislature. This report lists the latest court notices received by the council under this statutory requirement. Since the previous report, three superior courts--the Superior Courts of Colusa, Mariposa, and El Dorado Counties--have issued new notices.

Appointment Orders[21-169](#)**Appointment Orders since the last business meeting.****Adjournment**

With the meeting's business completed, the Chief Justice adjourned the meeting at approximately 11:45 a.m.

Respectfully submitted by Chief Deputy Director Millicent Tidwell on behalf of Administrative Director Martin Hoshino, Secretary to the Judicial Council, on October 1, 2021.