



# JUDICIAL COUNCIL OF CALIFORNIA

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## REPORT TO THE JUDICIAL COUNCIL

*Item No.: 20-216*

For business meeting on November 13, 2020

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**Title**

Judicial Branch Technology: Court  
Modernization Funding

**Agenda Item Type**

Consent

**Effective Date**

November 13, 2020

**Rules, Forms, Standards, or Statutes Affected**

N/A

**Date of Report**

October 7, 2020

**Recommended by**

Technology Committee  
Hon. Kyle S. Brodie, Chair

**Contact**

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### Executive Summary

At its meeting on September 25, 2020, the Judicial Council approved 13 program categories to be funded with the \$25 million for the modernization of court operations through the use of technology that was included in the Budget Act of 2020 for fiscal year 2020–21. The council also delegated to the Technology Committee the task of making the individual allocations and reporting back to the council. The Technology Committee recommends adding clarifying language to the scope of one of the programs to give courts increased flexibility in improving access to justice through modernization and the use of technology.

### Recommendation

The Technology Committee recommends that the Judicial Council, effective November 13, 2020, approve clarifying the description of the Trial Court Digital Services program to include the physical as well as virtual courtroom, to give courts increased flexibility in improving access to justice through modernization and the use of technology.

The clarified program description is described in the Analysis/Rationale section.

## Relevant Previous Council Action

At the July 24, 2020, Judicial Council meeting, the Chief Justice directed the Technology Committee to recommend a proposal for allocating a \$25 million budget appropriation in the Budget Act of 2020 designated for modernizing court operations through the use of technology.<sup>1</sup> At the September 25, 2020, Judicial Council meeting, the council approved the \$25 million allocation and the 13 programs to be included, granted the Technology Committee the authority to make the individual allocations, and directed the committee to report back on each program's progress.

The Judicial Council has adopted three documents—the *Technology Governance and Funding Model*,<sup>2</sup> the *Strategic Plan for Technology*,<sup>3</sup> and the *Tactical Plan for Technology*<sup>4</sup>—that collectively establish a road map for modernizing court technology. Those documents establish a set of priorities that should be considered as new technologies are implemented. The Technology Committee's recommendations were guided by, and are consistent with, those priorities.

In addition to those plans, the Judicial Council adopted emergency rule 3, Use of technology for remote appearances, on April 6, 2020. That rule supports the adoption of remote appearances during the state of emergency related to the COVID-19 pandemic. The importance of adopting new technologies was also recognized by the Chief Justice's emergency order of March 30, 2020, allowing courts "to conduct judicial proceedings and court operations remotely, suspend any rule in the California Rules of Court to the extent such rule would prevent a court from using technology to conduct judicial proceedings and court operations remotely, in order to protect the health and safety of the public, court personnel, judicial officers, litigants, and witnesses."<sup>5</sup> The courts' immediate need for technology has become one of the central drivers in providing courts with the technology resources they need to maintain access to justice.

## Analysis/Rationale

Because of the reduced time frame for budget expenditures in fiscal year 2020–21, the Technology Committee needed to prioritize trial court modernization programs that could be started quickly or were already operational but could be expanded more broadly with additional resources. Following the September council meeting, the Technology Committee sought additional input from the trial courts to ensure that the approved categories continued to reflect their modernization priorities, which was confirmed. The courts requested clarifying language to

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<sup>1</sup> The budget bill language explicitly limits the use of the funding to modernizing trial courts (see section 1, provision 6), [https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201920200AB89](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB89).

<sup>2</sup> Available at [www.courts.ca.gov/documents/jctc-Court-Technology-Governance-Funding-Model.pdf](http://www.courts.ca.gov/documents/jctc-Court-Technology-Governance-Funding-Model.pdf).

<sup>3</sup> Available at [www.courts.ca.gov/documents/jctc-Court-Technology-Strategic-Plan.pdf](http://www.courts.ca.gov/documents/jctc-Court-Technology-Strategic-Plan.pdf).

<sup>4</sup> Available at [www.courts.ca.gov/documents/jctc-Court-Technology-Tactical-Plan.pdf](http://www.courts.ca.gov/documents/jctc-Court-Technology-Tactical-Plan.pdf).

<sup>5</sup> March 30 emergency order, <https://newsroom.courts.ca.gov/covid-19-and-courts/court-emergency-orders>.

confirm that certain programs would be included within the scope of the approved categories. That clarification would give courts additional flexibility in improving access to justice through modernization and the use of technology.

To provide the courts with more flexibility, it is recommended that the Trial Court Digital Services program be clarified to include the physical as well as virtual courtroom. Components of the physical and virtual courtroom include but are not limited to websites, branchwide online programs, courtroom technology for public access, jury selection, electronic recording (where permitted by law), electronic streaming of voice and video, electronic calendar, and other programs that would support the digital court. The original and proposed revised program descriptions are below.

***Original program description:***

**Trial Court Digital Services:** Deploy mobile-friendly and customizable trial court website templates with integration to statewide digital services, such as intelligent chat.

***Proposed revised program description:***

**Trial Court Digital Services:** Provide digital services for the virtual and physical courthouse that would include projects including but not limited to improved websites, branchwide online programs, courtroom technology for public access, jury selection, electronic recording (where permitted by law), and digital calendars/communications.

**Policy implications**

Clarifying court modernization to include both the physical and virtual court would allow the courts flexibility to deploy the programs that best meet their specific modernization needs. Modernizing the courts is a long-standing policy, and each of the recommended programs advances that goal.

**Comments**

As a follow-up to the council's September action, the Technology Committee reached out to the Information Technology Advisory Committee and the Court Information Technology Managers Forum for input. There was feedback requesting that the program language be clarified to allow the courts more flexibility in their modernization efforts.

The initial proposal was not circulated for public comment because the August 25, 2020, Technology Committee meeting considering the proposal was open to the public. No public comments were received when the recommendation was considered.

The Technology Committee met on October 9, 2020, to review and discuss the proposed funding models, allocation methodology, and program requirements, as well as the process for submitting an application for receiving a portion of the funding for the modernization of court operations included in the State Budget for fiscal year 2020–21. Materials were posted for this meeting, which was open to the public, and no comments were received.

Following this meeting, the Technology Committee conducted an action by email and including an extended public comment period. No public comments were received when the recommendation was considered.

### **Alternatives considered**

The Technology Committee chair and vice-chair worked with Judicial Council Information Technology staff to evaluate alternative methods for selecting potential programs. Following the council's approval of the programs, meetings with trial courts and the Information Technology Advisory Committee provided the input that broadening the identified program categories would allow the trial courts the flexibility needed to best modernize their operations and improve access to justice through the use of technology. Alternatively, leaving the language as-is would unnecessarily restrict courts from using allocated funding for immediate modernization efforts that would otherwise improve access to justice and align with the branch strategic goals for technology.

### **Fiscal and Operational Impacts**

Clarification of the Trial Court Digital Services program does not create any new fiscal impacts but may affect additional operational areas depending on the specific technologies that courts decide to deploy based on the clarified scope.

### **Attachments and Links**

None.