



Judicial Council of California

Meeting Agenda

Judicial Council

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meeting agenda

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Tuesday, May 10, 2022

Action by E-mail: Circulating Order

Approval of Minutes

[22-108](#) Minutes of March 11, 2022, Judicial Council Meeting

CONSENT AGENDA

[22-101](#) **Child Support | AB 1058 Child Support Commissioner and Family Law Facilitator Program Funding for 2022-23 (Action Required)**

Summary: The Trial Court Budget Advisory Committee recommends approval that the Judicial Council allocate funding for the AB 1058 Child Support Commissioner and Family Law Facilitator Program for 2022-23. The funds are provided through a cooperative agreement between the California Department of Child Support Services and the Judicial Council. The agreement requires the council to annually approve the funding allocation for each court for the child support commissioners and family law facilitators.

[22-026](#) **Collections | Updates to Performance Measures and Benchmarks for Collections Program (Action Required)**

Summary: The Judicial Branch Budget Committee recommends that the Judicial Council approve updates to existing performance metrics for use by the court and county collection programs in compliance with Penal Code section 1463.010 and Government Codes section 68514. Penal Code section 1463.010(c) requires the Judicial Council to develop performance measures and benchmarks “to review the effectiveness of the cooperative superior court and county collections program.”

[22-114](#) **Judicial Branch Administration | Judicial Branch Workers' Compensation Program (Action Required)**

Summary: The Judicial Branch Workers' Compensation Program Advisory Committee recommends approval of the workers' compensation cost allocation for fiscal year 2022-23 in the amount of \$17.80 million for the trial courts and \$1.34 million for the

state judiciary, based on a 70 percent funding confidence level.

[22-032](#)**Jury Instructions | Civil Jury Instructions (Release 41) (Action Required)****Summary:**

The Advisory Committee on Civil Jury Instructions recommends approval of new and revised civil jury instructions prepared by the committee. These changes bring the instructions up to date with developments in the law over the previous six months. Upon Judicial Council approval, the instructions will be published in the official May supplement to the 2022 edition of the *Judicial Council of California Civil Jury Instruction*.

[22-102](#)**Report to the Legislature | Review of the Statewide Uniform Child Support Guideline 2021 (Action Required)****Summary:**

The Legislation Committee and the Family and Juvenile Law Advisory Committee recommend that the Judicial Council receive and accept the report entitled *Review of Statewide Uniform Child Support Guideline 2021* and direct staff to forward them to the Legislature. The review of California's statewide uniform child support guideline is legislatively mandated by state and federal law. Family Code section 4054 states that any recommendations for revision to the guideline must be made to ensure that the guideline results in appropriate child support orders, limits deviations from the guideline, or otherwise helps to ensure that the guideline is in compliance with federal law. The review provides a basis for the Legislature to periodically reassess California's child support guideline and evaluate its impact on children and families.

[22-095](#)**Rules and Forms | Criminal Procedure: Mental Competency Proceedings (Action Required)****Summary:**

The Criminal Law Advisory Committee recommends amendments to California Rules of Court, rule 4.130, to reflect statutory changes to Penal Code section 1370 and new Welfare and Institutions Code section 4335.2 authorizing the Department of State Hospitals to conduct a reevaluation of a defendant found to be incompetent to stand trial in specified circumstances, and statutory changes to Penal Code section 1370.01 regarding defendants found incompetent to stand trial in a misdemeanor criminal proceeding.

[22-100](#)**Rules and Forms | Form Revision Implementing Assembly Bill 1580 (Action Required)****Summary:**

The Civil and Small Claims Advisory Committee recommends revising *Application and Order for Appearance and Examination* (form AT-138/EJ-125) to implement statutory changes in Assembly Bill 1580 (Stats. 2021, ch. 30). The statutory amendment requires additional information for organizations on orders to appear for examination. The proposal incorporates the new required statements and suggestions from commenters on the council's existing form.

[22-002](#)**Rules and Forms | Family Law: Changes to Child Custody Evaluation Rule and Forms (Action Required)****Summary:**

The Family and Juvenile Law Advisory Committee recommends amending one rule and revising four forms relating to child custody evaluations and reports. The revisions are needed to clarify the differences in the statutory requirements for child custody evaluations that are conducted under Family Code section 3111 and Family Code section 3118. The committee recommends other technical changes to make the language in the rule and forms consistent with each other.

[22-105](#)**Rules and Forms | Juvenile Law: Nonminor Dependents (Action Required)****Summary:**

The Family and Juvenile Law Advisory Committee recommends amending three rules and adopting two forms to implement recent statutory changes that authorize placing agencies to petition the court on behalf of nonminor dependents who were ineligible for federal funding as children to terminate the nonminors from juvenile dependency or transitional jurisdiction, and immediately reenter them to allow a new federal eligibility determination to be undertaken so that federal matching funds can be accessed to cover the costs of their cases.

[22-035](#)**Rules and Forms | Miscellaneous Technical Changes (Action Required)****Summary:**

Judicial Council staff have noted a minor error in *Memorandum of Garnishee* (form AT-167/EJ-152), in which a party is misidentified in item 2. Judicial Council staff recommends making a correction to that form to avoid causing confusion for court users, clerks, and judicial officers.

[22-099](#)**Rules and Forms | Protective Orders: Civil Harassment Form Adoptions and Revisions, and Rule Amendment****Summary:**

The Civil and Small Claims Advisory Committee recommends amending rule 3.1160 of the California Rules of Court, the adoption, approval, and revision of 11 forms, and the revocation of one form to implement statutory changes in Assembly Bill 1143 (Stats. 2021, ch. 27). The statutory amendment permits courts to allow an alternative method of service for civil harassment restraining order petitions, temporary restraining orders, and notices of hearing upon a showing that the petitioner has been unable to accomplish personal service after a diligent effort, and that there is reason to believe the respondent is evading service or cannot be located. The proposal incorporates this potential alternative service and the required showing into the council's forms and rules of court, and makes other minor changes to civil harassment forms.

[22-111](#)**Rules and Forms | Traffic: Remote Video Proceedings (Action Required)****Summary:**

The Traffic Advisory Committee recommends repealing California Rules of Court, rule 4.220, and revoking the forms based on that rule, effective immediately. Penal Code section 1428.5, which as urgency legislation became effective on signing on July 16, 2021, authorizes remote proceedings for all infraction cases and authorizes the council to adopt rules regarding such proceedings. Rule 4.220, adopted before the new Penal Code section, is more restrictive than permitted under the new statute and is inconsistent with how courts have conducted remote proceedings for infractions under emergency rules 3 and 5. Because those rules will sunset on June 30, 2022, if current rule 4.220 is not repealed before that date, it may restrict remote proceedings of infractions by requiring witnesses to testify at a designated public location only, with the result that access to justice will be severely limited. Because Judicial Council forms TR-500-INFO, TR-505, and TR-510 are based on rule 4.220, the advisory committee recommends revoking them as well.

[22-083](#)**Trial Court Budget | Court Interpreter Employee Incentive Grant Award Recommendations (Action Required)****Summary:**

The Trial Court Budget Advisory Committee recommends grant awards to nine superior courts that applied for grants to implement Senate Bill 170, which amended the Budget Act of 2021 and provides \$30 million in one-time General Fund through the establishment of the Court Interpreter Employee Incentive Grant. This grant provides funding for one year of salary and training costs to establish new, full-time court interpreter employee positions. The committee also recommends that a future grant application cycle take place for fiscal year 2022-23, since remaining grant funding is available until June 30, 2024.

[22-027](#)**Trial Court Budget | Funds Held on Behalf of the Trial Courts Reporting Frequency (Action Required)****Summary:**

The Trial Court Budget Advisory Committee recommends adopting a revision to the current *Judicial Council-Approved Process, Criteria, and Required Information for Trial Court Trust Fund Balance Held on Behalf of the Courts* policy which requires courts to, on completion of an approved project or planned expenditure, report to the Trial Court Budget Advisory Committee within 90 days on the project or planned expenditure and how the funds were expended.

[22-033](#)**Trial Court Budget | Minimum Operating and Emergency Fund Balance Policy (Action Required)****Summary:**

The Judicial Council's suspension of the minimum operating and emergency fund balance policy expires as of June 30, 2022. The minimum operating and emergency fund balance policy, established by the Judicial Council in October 2006, requires trial courts to set aside a percentage of funds for use in emergency situations or when revenue shortages or budgetary imbalances may exist. This policy has been suspended by the Judicial Council since August 31, 2012 due to changes in statute and to provide for the opportunity to seek further statutory amendments. The Trial Court Budget Advisory Committee recommends that the Judicial Council approve an extension of the suspension of the minimum operating and emergency fund balance policy.

[22-029](#)**Trial Courts | Trial Court Financial Policies and Procedures Manual (12th ed.) (Action Required)****Summary:**

Judicial Council staff recommends adoption of the *Trial Court Financial Policies and Procedures Manual* (TCFPPM), twelfth edition. The manual was last updated in 2020. The TCFPPM requires both substantive and nonsubstantive revisions to maintain clarity and update and improve the existing system of internal fiscal controls in accordance with California Rules of Court, rule 10.804.

INFORMATION ONLY ITEMS (NO ACTION REQUIRED)[22-103](#)**Child Support | Midyear Funding Reallocation for 2021-22****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. This 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 AB 1058 Child Support Commissioner and Family Law Facilitator Program for 2021-22.

[22-098](#)**Court Facilities | Trial Court Facility Modifications Report for Quarter 3 of Fiscal Year 2021-22****Summary:**

This informational report to the Judicial Council outlines the allocations of facility modification funding made to improve trial court facilities in the third quarter (January through March) of fiscal year 2021-22. 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*.

[22-112](#)**Judicial Branch Administration | Release of Demographic Data on California Justices and Judge****Summary:**

This informational report to the Judicial Council is of aggregate demographic information concerning the gender, race/ethnicity, sexual orientation, gender identity, and veteran and disability status of California's justices and judges by specific jurisdiction, which council staff is required by statute to collect and release annually. In general, findings indicate that the California bench has become more diverse over time.

[22-106](#)**Report to the Legislature | Allocation of Funding in 2021-22 for Federally Funded Dependency Representation Program Shortfall****Summary:**

On or before April 1, 2022, staff for the Judicial Council's Center for Families, Children & the Courts submitted to the Legislature *Report on Allocation of Funding in 2021-22 for Federally Funded Dependency Representation Program Shortfall*, in accordance with the requirement in the Budget Act of 2021.

[22-097](#)**Report to the Legislature | Court Realignment Data (Calendar Year 2021)****Summary:**

Penal Code section 13155 requires Judicial Council staff, commencing January 1, 2013, to collect information from trial courts regarding the implementation of the 2011 Criminal Justice Realignment Legislation and make the data available annually to the California Department of Finance (DOF), Board of State and Community Corrections (BSCC), and Joint Legislative Budget Committee (JLBC) by September 1. This is the 10th annual court realignment data report. It will be distributed to the DOF, BSCC, and JLBC. The report, *Court Realignment Data (Calendar Year 2021)*, is included as Attachment A to this report.