



Judicial Council of California

22 West Broadway
Room 363 A and B
San Diego, California
92101

Meeting Minutes

Judicial Council

*Open to the Public Unless Indicated as Closed
(Cal. Rules of Court, rule 10.6(a))*

Thursday, October 27, 2016

1:30 PM

San Diego

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 1:30 p.m.

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

Attendance

Council Members

- Present:** 27 - Chief Justice Tani G. Cantil-Sakauye, Justice Ming W. Chin, Justice Harry E. Hull Jr., Justice James M. Humes, Justice Douglas P. Miller, Justice Marsha G. Slough, Presiding Judge Jeffrey B. Barton, Judge Marla O. Anderson, Judge Brian J. Back, Judge C. Todd Bottke, Judge Kyle S. Brodie, Judge Stacy Boulware Eurie, Judge Daniel J. Buckley, Judge Samuel K. Feng, Judge Scott M. Gordon, Judge Gary Nadler, Judge Dalila Corral Lyons, Judge David M. Rubin, Judge Kenneth K. So, Judge Dean T. Stout, Commissioner David E. Gunn, Mr. Jake Chatters, Mr. Patrick M. Kelly, Mr. Richard D. Feldstein, Ms. Kimberly Flener, Ms. Audra Ibarra, and Ms. Donna D. Melby
- Absent:** 3 - Senator Hannah-Beth Jackson, Assembly Member Richard Bloom, and Ms. Debra Elaine Pole

Others Present

Judge Lorna A. Alksne, Ms. Terri Brewton, Ms. Kris Nesthus, Mr. Michael M. Roddy, Ms. Celeste Schwartz, and Mr. Steve Travers

Call to Order

Chief Justice Tani G. Cantil-Sakauye, chair of the Judicial Council, called the open session to order at 1:40 p.m. in Room 363 A and B of the Central Courthouse of the Superior Court of San Diego County.

Opening Remarks

The Chief Justice opened the first day of a two-day special outreach Judicial Council meeting by expressing appreciation to the Superior Court of San Diego County's Presiding Judge Jeffrey B. Barton, Court Executive Officer Michael M. Roddy, and

staff for their support in accommodating the council meeting in San Diego. She explained that the rules, policies, and programs that are approved by the council are implemented in courthouses like San Diego's every day throughout the state of California. Equal access to justice is provided in the courtrooms, clerk's offices, and self-help centers. In this way, she added, the rule of law becomes a reality in courthouses for the majority of Californians. The Chief noted that under the leadership of Justice Douglas P. Miller, the Executive and Planning Committee has sought to expand the council's efforts to be more transparent and accessible to the public through expanded public comment, live webcasts, and liaison reports about individual superior courts throughout the state. All of these actions are designed to enable the public to better understand the role of the council as part of the judicial branch--an independent, coequal branch of government; the challenges council members face; and the innovations they support. She added that these special outreach meetings provide further opportunity for members to connect with local constituents in the most diverse state--racially, geographically, socially, and economically--in the union. The Chief explained that these meetings also help council members better understand the shared and unique challenges that exist in courts throughout California and allow them to experience firsthand the innovation, dedication, and public service values that judges and court staff make real on a daily basis in courthouses for justice users. She again thanked Justice Miller and the Superior Court of San Diego County for hosting the meeting.

Swearing in of New and Reappointed Judicial Council Members

The Chief Justice stated that the Judicial Council is 90 years young. During nine decades of improving the administration of justice in California, 504 judges, court administrators, legislators, and attorneys have served on the council itself. Many more have served on the council's internal committees, advisory committees, task forces, and other working groups. In recent years, she noted that more than 400 dedicated professionals volunteer their time annually to serve on the advisory bodies that inform the Judicial Council. They serve the public, not a particular constituency, in order to share their knowledge, skills, expertise, and experience to enrich fact-finding and decisionmaking processes. The Judicial Council is not a tribunal and can neither intervene on behalf of a party in a pending case nor offer legal advice. The Chief Justice reminded attendees that the Judicial Council of California is about policy and governance of the judicial branch and the statewide administration of justice. It is about identifying issues, responding to the concerns of stakeholders, advocating for change when necessary, and creating effective and efficient solutions to problems and challenges. It is about the rule of law and protecting and fostering equal access to justice for all Californians.

The Chief Justice proceeded by administering the oath of office to new and reappointed council members. Three new Judicial Council members include:

- Presiding Judge Jeffrey B. Barton, Superior Court of San Diego County, and incoming chair of the Trial Court Presiding Judges Advisory Committee
- Presiding Judge C. Todd Bottke, Superior Court of Tehama County, and president of the California Judges Association
- Attorney Audrey Ybarra, State Bar of California appointee

Four reappointed council members include:

- Justice Douglas P. Miller, Court of Appeal, Fourth Appellate District, Division Two
- Presiding Judge Dean T. Stout, Superior Court of Inyo County
- Judge David M. Rubin, Superior Court of San Diego County
- Judge Kenneth K. So, Superior Court of San Diego County

DISCUSSION AGENDA

[16-201](#)

Overview of 2016 Court Statistics Report (No Action Required. There are no materials for this item.)

Summary: Article VI, section 6 of the California Constitution requires the Judicial Council to survey the condition and business of the California Courts; the annual Court Statistics Report fulfills that mandate. Office of Court Research staff will present an overview of the *2016 Court Statistics Report* and discuss data trends in the California courts. Data from the court statistics report is used in various ways, including in the workload models that are used to inform the executive branch and the Legislature of the need for new judgeships and to identify branch funding need through the Resource Assessment Study (RAS) and Workload-based Allocation and Funding Model (WAFM).

Speakers: Mr. Chris Belloli, Office of Court Research
Ms. Leah Rose-Goodwin, Office of Court Research

[16-161](#)

Judicial Workload Assessment: 2016 Update of Judicial Needs Assessment (Action Required)

Summary: The Workload Assessment Advisory Committee recommends that the Judicial Council approve the attached report, *The Need for New Judgeships in the Superior Courts: 2016 Update of the Judicial Needs Assessment*, for transmittal to the Legislature and the Governor. This legislative report, which fulfills the requirements of Government Code section 69614(c)(1), shows that nearly 189 new judicial officers are needed to meet the workload-based need for new judgeships. This report also includes information about the conversion of additional subordinate judicial officers to fulfill the reporting requirement of Government Code section 69614(c)(3). And, while not part of the legislative report itself, this report to the Judicial Council shows how new judicial resources might be distributed if any new judgeships were authorized and

funded using the council-approved methodology described in Government Code section 69614(b).

Speakers: Hon. Lorna A. Alksne, Chair, Workload Assessment Advisory Committee
Ms. Deana Farole, Office of Court Research
Mr. Peter James, Office of Court Research

- Recommendation:**
1. The Workload Assessment Advisory Committee recommends that the Judicial Council, approve the attached report, *The Need for New Judgeships in the Superior Courts: 2016 Update of the Judicial Needs Assessment* (Attachment A), for transmittal to the Legislature and the Governor; and
 2. The Workload Assessment Advisory Committee recommends that the Judicial Council approve the proposed priority ranking for any new authorized and funded judgeships (Attachment B).

A motion was made by Judge So, seconded by Justice Slough, that this proposal be approved. The motion carried by a unanimous vote.

Adjournment

With the meeting's business completed, the Chief Justice adjourned the meeting at approximately 2:55 p.m.

Respectfully submitted by Administrative Director Martin Hoshino, Secretary to the Judicial Council, on December 16, 2016.



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Meeting Minutes

Judicial Council

*Open to the Public Unless Indicated as Closed
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Friday, October 28, 2016

8:30 AM

San Diego

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

Attendance

Council Members

- Present:** 26 - Chief Justice Tani G. Cantil-Sakauye, Justice Ming W. Chin, Justice Harry E. Hull Jr., Justice James M. Humes, Justice Douglas P. Miller, Justice Marsha G. Slough, Presiding Judge Jeffrey B. Barton, Judge Marla O. Anderson, Judge Brian J. Back, Judge C. Todd Bottke, Judge Kyle S. Brodie, Judge Stacy Boulware Eurie, Judge Daniel J. Buckley, Judge Samuel K. Feng, Judge Scott M. Gordon, Judge Gary Nadler, Judge Dalila Corral Lyons, Judge David M. Rubin, Judge Kenneth K. So, Judge Dean T. Stout, Commissioner David E. Gunn, Mr. Jake Chatters, Mr. Richard D. Feldstein, Ms. Kimberly Flener, Ms. Audra Ibarra, and Ms. Donna D. Melby
- Absent:** 4 - Senator Hannah-Beth Jackson, Assembly Member Richard Bloom, Mr. Patrick M. Kelly, and Ms. Debra Elaine Pole

Media Representatives

Mr. Lyle Moran, *LA Daily Journal*

Others Present

Judge Carolyn Caietti, Judge Hyungjin Kim (South Korea), Judge Frederic L. Link, Mr. Michael M. Roddy, Ms. Ginny Schertt, Ms. Faith Powell, and Ms. Tracey Powell

Call to Order

Chief Justice Tani G. Cantil-Sakauye, chair of the Judicial Council, called the session to order at 8:30 a.m. in Room 363 A and B of the Central Courthouse of the Superior Court of San Diego County.

Public Comment

Ms. Sharon Kramer and Mr. Kirk Smith presented comments on judicial administration issues.

Approval of Minutes

[16-156](#)

Minutes of the August 25-26, 2016, Judicial Council Meeting.

A motion was made by Judge Brodie, seconded by Judge Feng, that the minutes be approved. The motion carried by a unanimous vote.

Chief Justice's Report

The Chief Justice summarized her engagements and outreach on behalf of the Judicial Council and the branch since the August 26 meeting. During this reporting period, she explained that she had the experience of being both interviewee and interviewer. She participated in a question-and-answer session with Mr. David Houston, editor of the *Daily Journal*, regarding the Supreme Court's administrative arm: the State Bar of California. They discussed the issues facing the bar, its many roles and responsibilities, and its duty to protect the public.

The Chief reported that the Civic Learning Initiative and the work of the Power of Democracy steering committee were the subjects for two other interviews--one with Ms. Diana Lambert, the education writer for the *Sacramento Bee*, and the other with Ms. Beth Ruyak of Capital Public Radio. She commented that the efforts and partnerships created to promote civic learning and engagement continue to bear fruit. She participated on a panel with Secretary of State Alex Padilla and Assembly Member Susan Talamantes Eggman at the Center for California Studies' Envisioning California Conference. The conference--attended by educators, advocates, state officials, judges, lawyers, and the public--sought to promote actions to create a more civically engaged citizenry. One of Assembly Member Eggman's proposals seeks to create a state seal of civic engagement on the high school diplomas of students who demonstrate an advanced proficiency in civic engagement. Currently, through the Civic Learning Awards program, students who actively participate in civic learning and civic engagement programs are recognized. She noted that the civics engagement initiative arose from the Commission for Impartial Courts chaired by Justice Ming W. Chin many years ago, and one of the recommendations was that the judicial branch commence informational and educational groundwork around civics with an emphasis on the judiciary--the least understood of the three branches of government. The resulting curriculum will continue to support civics learning and include study of the courts in grades K-12, and she looks forward to seeing a seal of a civic engagement on high school diplomas, thanks to Assembly Member Eggman.

As an honorary member of the board of directors for the Foundation for Democracy and Justice, the Chief Justice interviewed former Speaker of the Assembly Willie Brown and Leon Panetta, former director of the CIA and Secretary of Defense in the Obama administration and Chief of Staff to Bill Clinton, on their public service and civic engagement. She added that Willie Brown was the first African American elected Speaker of the Assembly and mayor of San Francisco. He was also one of

the first African Americans to open his own law practice in the 1960s, specializing in criminal defense. Leon Panetta worked on school desegregation and saving the food stamp program, among many other duties, and was more recently known for his role in the capture of Osama Bin Laden. And although he could have been a concert pianist, he still tends to the family's walnut ranch in Monterey. The Chief commented that both men are committed to nurturing the next generation of public servants and leaders to protect and serve our Constitution. Both are lawyers, and they serve communities through their respective foundations, the Willie L. Brown, Jr. Institute on Politics and Public Service and the Panetta Institute for Public Policy.

The Chief Justice reported that she moderated a panel on the history of women and LGBT judges and justices. This was a panel of groundbreaking now-retired judges who shared their experiences and perspectives on the legal community and the judiciary. The panel included Judge LaDoris Hazzard Cordell, the first African American female judge in Northern California; Judge Stephen M. Lachs and Judge Mary Carolyn Morgan, the first openly gay judges in the United States to be appointed to the bench; and Judge Francis Munos, the first Latina female judge in the state of California and the United States. The discussion was part of the California Judges Association Annual Meeting, which took place in San Diego in conjunction with the State Bar of California Annual Meeting.

The Chief commented that the State Bar meeting is a great opportunity to recognize and celebrate the work of the many dedicated attorneys from throughout the state who provide advocacy for their clients. She presented the Ronald M. George Public Lawyer of the Year award to Ms. Silvia Torres-Guillén, Special Counsel to Governor Brown, and the Loren Miller Legal Services Award to Ms. Catherine Blakemore, the executive director of Disability Rights California. The Chief also attended a California Women Lawyers reception and the Bench-Bar Coalition Fall Meeting, and participated in the State Bar President's Pro Bono Service Awards and the State Bar's Diversity Awards. She also led her annual "Conversation with Chief Justice Tani Cantil-Sakauye" with Judge Donald J. Ayoob and Judge Stuart M. Rice, vice presidents of the California Judges Association. They discussed her six years in office and the challenges and opportunities that they continually face as members of the judiciary.

The Chief Justice participated in a number of state and chapter events for the American Board of Trial Advocates (ABOTA), which has been supportive of branch advocacy needs and the Civic Learning Initiative. Events included the Teachers Law School with the Sacramento Valley Chapter; a panel discussion with U.S. District Court Senior District Judge Susan Illston involving over 200 high school students; and most recently, with the California Coast Chapter, a discussion on the topic "Against the Crowd: Defending Judges Who Make Unpopular Decisions." She thanked Ms. Donna D. Melby, attorney and council member, for her leadership with ABOTA in

the past and present. The Chief Justice also attended the Annual Scholarship Banquet for the National Asian Pacific Islander Prosecutors Association and the Anniversary Dinner of Asian Americans Advancing Justice, where she received the organization's Legal Impact Award.

The Chief commented that she had the pleasure of seeing the work of the current and previous judicial councils on the need for secure court facilities come to fruition while she attended the dedication ceremonies for two new, long-awaited court facilities: the Robert M. Falasco Justice Center, in Los Banos, for the Superior Court of Merced County, and the Santa Clara Family Justice Center, in San Jose, for the Superior Court of Santa Clara County. She stated that both courthouse projects improve access to justice in their communities and demonstrate the importance of collaboration between courts, cities, counties, and the state. The Merced project was designated by the Judicial Council as a cost-reduction demonstration project, and the team identified several ways to reduce costs through the design. The Santa Clara project was the first new courthouse in the state devoted to family law and collaborative courts. It consolidates six locations into a single courthouse.

The Chief Justice thanked Justice Hull for attending the Superior Court of Tehama County's Red Bluff Courthouse dedication on her behalf. She was unable to attend the dedication because she was honored to speak at the funeral of former Chief Justice and Chair of the Judicial Council Malcolm Lucas that same day. Lucas was California's 26th Chief Justice, serving from 1987 to 1996. She joked that he came out of Hollywood's central casting because he looked the part, but he also truly lived the role. He wrote 152 majority opinions on the court and displayed a respect for precedent and thoughtful analysis in those opinions. He was a futurist for the judicial branch. He convened the Commission on the Future of the California's Court System. Under his leadership, the Judicial Council adopted its very first strategic plan. He was the first to commission important studies on gender, racial, and ethnic bias in the judicial branch. The Chief noted that he was more than an idealized model of a Chief Justice because all who served with him and who came in contact with him described his thoughtfulness, patience, kindness, and humor.

The Chief Justice remarked on issues of equal access to justice in California and nationally, noting that all three branches of government have worked on and thought about the bail system and how it sometimes unfairly penalizes the poor and doesn't effectively serve its intended purposes. Therefore, she is establishing the Pretrial Detention Reform Work Group to provide recommendations on how courts may better identify ways to treat people fairly, protect the public, and ensure court appearances for the orderly process of the judiciary. She added that as quickly as they acted on the traffic rule several years ago, they can now act on pretrial detention. She appointed the following members:

- Judge Brian J. Back, Cochair, Superior Court of Ventura County
- Judge Lisa R. Rodriguez, Cochair, Superior Court of San Diego County
- Presiding Judge Mark Boessenecker, Superior Court of Napa County
- Judge Arturo Castro, Superior Court of Alameda County
- Judge Hilary A. Chittick, Superior Court of Fresno County
- Judge George C. Eskin (Ret.), Superior Court of Santa Barbara County
- Judge Scott M. Gordon, Superior Court of Los Angeles County
- Assistant Presiding Judge Teri L. Jackson, Superior Court of San Francisco County
- Presiding Judge Brian L. McCabe, Superior Court of Merced County
- Judge Serena R. Murillo, Superior Court of Los Angeles County
- Presiding Judge Rise Jones Pichon, Superior Court of Santa Clara County
- Court Executive Officer Teresa A. Risi, Superior Court of Monterey County

She noted that the work group may decide to add other stakeholders, should they seek additional input, and that they will report back to the council on their findings and recommendations by December 2017.

Administrative Director's Report

[16-157](#)

Administrative Director's Report

Mr. Martin Hoshino highlighted items from his written report and provided additional information to promote the activities that Judicial Council staff has been engaged in. He provided an update on the Court Innovations Grant Program and process. Subsequent to the last meeting, in which \$25 million in new funding for innovations was approved, a request for applications was issued. Teleconferences with court leadership followed to discuss the requirements that were developed by the ad hoc working group and the court executives who were previously appointed. He noted that almost 180 notices of intent were received for grants in three categories: collaborative courts; self-help, family, and juvenile courts; and the catchall "other." The notices of intent span 46 trial courts, 4 Courts of Appeal, and even the Supreme Court. Formal applications, due on October 31, will be reviewed by the Judicial Branch Budget Committee, which will bring its recommendations before the council at a future meeting. Mr. Hoshino noted that the early response to the program underscores the tremendous unmet need and opportunities for the courts to see their innovations, which some of them have already developed, as well as to scale them across or replicate them in other courts throughout the system, all for the purpose of better serving the public.

Mr. Hoshino reported on more potential efficiencies. In addition to seeking branchwide innovations, staff is also continuing to evaluate potential operational or service efficiencies in areas where they can either remove outdated, redundant statutory restrictions or court rules or add revisions that may help the courts and the

public. He noted that this ongoing effort builds on initial input gathered by an earlier working group of the council's presiding judges, court executives, and advisory bodies. He commented that the incremental progress on some of the prior efforts occurred legislatively and by rules of court, and now they're refocusing because time has passed to see if new proposals can be brought to the council or Legislature. More details will follow in future meetings.

He also highlighted the annual disaster recovery exercise that took place in September and was completed for the California Courts Technology Center. The infrastructure network services and applications that are hosted in the out-of-state technology center were successfully, safely, and securely backed up and redirected and restored in a secondary location. He informed members that this exercise has been conducted annually for the past 12 years with help from local courts. This year's exercise included assistance from the superior courts of San Benito, Sacramento, and Ventura Counties, for whom much appreciation is given for the support they provided.

Mr. Hoshino reported on Judicial Council staff and the activity occurring in the courts. He noted that the council staff works daily with judges, court administrators, and personnel, underpinning the success of the work on statewide programs and initiatives. Staff spend considerable time physically out in the courts providing direct services, consulting, advising, collecting data, and helping to implement programs and policies. In the current reporting period staff visited approximately 25 courts, ranging from as far south as Los Angeles to the northern most county, Siskiyou. He commented that such visits illustrate the kind of customer connection essential to informing the work that staff does on behalf of the council and the courts.

Mr. Hoshino provided an update on Judicial Council staff management transitions. He commented that they illustrate the importance of the knowledge exchange between the public servants of the council and the court. He informed the council that Mr. Michael Guevara, Director of Human Resources, will retire at the end of the year after three decades of public service--and 11 of those years with the judicial branch. Mr. Guevara came to the Judicial Council from the Superior Court of Santa Clara, where he was also Human Resources Director. With his departure, Ms. Aurora Rezapour, Human Resources Principal Manager, will serve as Acting Director immediately following Mr. Guevara's departure. Mr. Hoshino noted that by coincidence, new Chief Information Officer and Director of Information Technology Rob Oyung also began his public service with the Santa Clara court. Mr. Oyung has been a member of the council's Information Technology Advisory Committee since 2010 and was program manager for its Technology Planning Task Force, which brought together judicial officers and court professionals to establish a new collaboration model that produced the current strategic and tactical technology plans for the judicial branch. He thanked Mr. Mark Dusman, current Chief Information Officer, and expressed his appreciation that he will remain with the IT team working with Mr. Oyung, who will join the Judicial Council staff on November 7.

Judicial Council Committee Presentations

[16-158](#)

Judicial Council Committee Reports

Speakers: Executive and Planning Committee
Hon. Marla O. Anderson, Chair
Policy Coordination and Liaison Committee
Hon. Kenneth K. So, Chair
Rules and Projects Committee
Hon. Harry E. Hull, Jr., Chair
Judicial Council Technology Committee
Hon. Marsha G. Slough, Chair
Judicial Branch Budget Committee
Hon. David M. Rubin, Chair

Executive and Planning Committee

Judge Marla O. Anderson, vice-chair, provided the report on behalf of Justice Douglas P. Miller, chair, in his absence. Judge Anderson reported that the Executive and Planning Committee sets the agenda for council meetings. She echoed the Chief in stating that hosting the meeting in San Diego is part of the council's effort to hold meetings in other venues throughout the state to work toward accessibility in allowing more people to attend meetings in person. Judge Anderson commented that she was particularly pleased with the addition of newly appointed council member Hon. Jeffrey B. Barton, Presiding Judge of the Superior Court of San Diego, to the Executive and Planning Committee.

Judge Anderson informed listeners that public comment will now be the first agenda item for council meetings moving forward. She explained that because agenda items often move more quickly or slowly than predicted, this change will provide the convenience of predictability to public speakers. She added that the council was happy to provide this accommodation to the public.

Policy Coordination and Liaison Committee

Judge Kenneth K. So, chair, welcomed new members Justice Harry E. Hull, Jr., and Judge Scott M. Gordon, as well as returning members. He reported that the committee met once since the last council meeting and that it was the annual in-person meeting with an orientation for new members and discussion of the recommendations for Judicial Council-sponsored legislation. The committee reviewed 11 proposals and moved on 10 of those. It will be discussing the 11th proposal on November 17. Judge So reported that the committee also adopted the 2016 Legislative Policy Summary. He added that this legislative year the Governor signed into law four high-profile bills of fiscal interest to the branch and vetoed one. Signed into law were

Assembly Bill 813, related to postconviction relief; Assembly Bill 2013, which creates a pilot program for arraignments in three counties; Assembly Bill 2839, which deals with criminal penalties; and Senate Bill 1134, related to habeas corpus petitions. Assembly Bill 2629 would have increased court reporter transcript fees but was returned without the Governor's signature. He added that the Legislature will reconvene in early January for the first year of the 2016-2017 two-year session and that he will provide updates throughout the session on Judicial Council-sponsored bills, budget issues, and bills of interest to the branch.

Rules and Projects Committee

Justice Harry E. Hull, Jr., chair, reported that the Rules and Projects Committee (RUPRO) met twice by telephone and once by e-mail since the August 26 Judicial Council meeting. The committee reviewed 22 proposals for amended rules and forms that have circulated for public comment. Three of the proposals were related to technical training. Judicial Council advisory committees were involved in developing and recommending 7 of the proposals. Others proposals were requested by courts or identified by advisory committee members to clarify or streamline procedures, reduce costs, develop efficiencies, and assist court users in navigating the court system. RUPRO recommended approval of all proposals, items 16-163 through 16-186 on the consent agenda. The committee also met by telephone on October 5 to consider (1) a proposal that had been revised by one of the advisory committee proponents, (2) an update to the *Handbook for Conservators*, and (3) an item circulated during the previous comment period--a proposal from the Trial Court Presiding Judges Advisory Committee and Court Executives Advisory Committee to amend rule 10.742, which would eliminate its reporting requirements concerning use of court-appointed temporary judges. Justice Hull stated that RUPRO recommends approval of these items, items 16-173 and 16-191 on the consent agenda, and item 16-200 on the discussion agenda. He noted that the large number of proposals on the consent agenda does not suggest that they are unimportant proposals. They required many hours of work and significant effort by the advisory committees and their staff.

On October 17, RUPRO acted by e-mail to approve the addition of two members to the Protective Order Subcommittee of the Civil and Small Claims Advisory Committee. These members will provide needed expertise to the subcommittee.

Justice Hull also reported on the council's ongoing efforts to carry on the work of the Mental Health Issues Implementation Task Force. Though its final report was received by the council in December 2015, the council directed the chairs to coordinate ongoing implementation efforts in the area of mental health. Seventy-five recommendations that the task force was unable to complete before the end of its term were referred to six advisory committees. Referrals have been made and recommendations are being addressed as part of the committees' annual agendas. He

noted that new members with expertise in mental health issues have been appointed to the advisory committees that needed them, and these new members will ensure that mental health issues receive appropriate attention in the years ahead. Justice Hull reported that the advisory committees that are focusing on mental health issues have already initiated significant measures to implement the council's directives and the task force's remaining work. The Collaborative Justice Courts Advisory Committee has formed a subcommittee to review and prioritize the recommendations referred to it. In addition, it will consider mental health issues in noncriminal cases. The Family and Juvenile Law Advisory Committee is working on competency legislation and issues related to the administration of psychotropic medication to children in foster care. The Criminal Law Advisory Committee is developing a proposal to implement the task force's recommendations regarding information requirements in court-appointed expert reports on competency to stand trial. Justice Hull added that the Center for Judicial Education and Research (CJER) is asking committees to review curricula to determine if the recommendations are already addressed in existing programs and products and to explore podcasts and other new methods of delivering information and training about mental health. CJER is also planning roundtables and presentations to address issues such as the use of psychotropic medications in juvenile cases. The Probate and Mental Health Advisory Committee is continuing to work on conservatorship issues including conservatorships of persons with mental disabilities as well as other committee work. He reiterated that the 2016 revised edition of the *Handbook for Conservators*, which is on the consent calendar, was a major undertaking and will be a tremendously valuable resource to everyone involved in conservatorship proceedings.

He concluded by welcoming new members C. Todd Bottke, Judge of the Superior Court of Tehama County, and David E. Gunn, Commissioner of the Superior Court of Butte County, to the Rules and Projects Committee.

Judicial Council Technology Committee

Justice Marsha G. Slough, chair, reported on the activities of the Judicial Council Technology Committee (JCTC) since the last Judicial Council meeting. JCTC met one time by teleconference, and yesterday it had a robust three-hour orientation that resulted in great dialogue, ideas, and communication. She thanked members for their participation. In addition, the Information Technology Advisory Committee (ITAC)--under the leadership of chair Sheila F. Hanson, Judge of the Superior Court of Orange County, and vice-chair Louis R. Mauro, Justice of the Court of Appeal, Third Appellate District--met once and reported to JCTC on its progress. Justice Slough explained that at the September 12 JCTC meeting, members received an update on the potential budget change proposal for the Sustain Justice Edition case management system replacement and more information about the Placer Superior Court hosting consortium. The committee also reviewed the approved ITAC legislative proposal to

amend the Welfare and Institutions Code to allow for electronic service by consent and electronic filing in juvenile dependency and delinquency proceedings. She reported that the JCTC also reviewed and approved a legislative proposal from ITAC and the Probate and Mental Health Advisory Committee to amend the Probate Code and related Probate Code sections in the Welfare and Institutions Code to allow for e-service for related probate proceedings. JCTC reviewed a proposal for a one-time funding request for the information technology infrastructure for the superior courts of Humboldt and Madera Counties. This proposal would allow the branch to realize full savings from migrating the remaining Sustain Justice Edition courts away from the technology center. These two courts would remain and would need to find a way to migrate to another solution. The committee requested from the courts additional information, which they will review at their next meeting.

ITAC met on October 14 and received updates from the various workstreams. The committee also discussed its 2017 annual agenda, which includes workstreams addressing data exchange, e-filing strategy, Next Generation hosting, self-represented litigant e-services, a disaster recovery framework, and tactical plan workstreams, all of which fall under ITAC and ultimately JCTC. Justice Slough commented that the workstreams continue to move forward and comprise superior court employees and judges, whose hard work the committee is deeply grateful for.

Justice Slough welcomed Mr. Robert Oyung to his new role and commented that the committee members look forward to the new ideas that he will bring in working with JCTC. She thanked Mr. Mark Dusman for the years of service he has provided to technology for the branch. She commented that he has been in the leadership role for approximately 10 years and has worked for Judicial Council staff for over 20 years and that the committee looks forward to continuing to work with him and having his continued participation in addressing branch technology.

Justice Slough concluded by welcoming Ms. Audra Ibarra to JCTC, noting that she brings a great perspective to the committee as a lawyer and user of branch technology. She commented that technology should make the court process easier for the people served, and in that regard Ms. Ibarra's perspective is particularly valuable to the committee.

Judicial Branch Budget Committee

Judge David M. Rubin, chair, reported on the activities of the newly established Judicial Branch Budget Committee. He explained that the committee continues to execute its charge and promote the fiscally prudent, effective, and fair allocation of branch resources to advance statewide judicial branch interests. Since the last council meeting in August, the committee has met twice in person, on September 28 and October 26. Judge Rubin stated that at the meetings, council staff provided

educational sessions about the state budget process, state funds, and the rules and regulations observed by the judicial branch. The educational sessions gave committee members a broader budget perspective to assist the committee in its role. Judge Rubin noted that the committee discussed the \$10 million statewide reserve process in detail, and he will present their resulting recommendation on the discussion agenda, item 16-195, later in today's meeting. The new process will facilitate approval and allocation by the Judicial Council of one-time funding to trial courts for emergency needs. He added that the \$10 million is an evergreen fund established by the 2016 Budget Act with General Fund dollars replacing the former 2% reserve, which is funded from trial court allocations. The reserve will be replenished annually consistent with the provisions of the Budget Act. Judge Rubin commented that the committee is developing a process to provide structure for the annual preparation, approval, and submission of budget change proposals by the branch to the state Department of Finance. He noted that the process will be designed to ensure timely and efficient submission with appropriate review and approval by the council. More information on the process will be presented at the December council meeting.

Judge Rubin concluded his report by reiterating the comments of Mr. Hoshino regarding the Court Innovations Grant Program. He mentioned that it has received a great deal of interest: 47 courts, including the appellate courts, have weighed in; there have been 179 intents to apply; and the committee will be working hard, bringing in subject-matter experts as needed, to ensure that grant awards are made as soon as possible so the work that will benefit the entire branch can begin. He commented that there are many exciting proposals, making the final award selections difficult, but that all the proposals reflect a real vitality and creativity on behalf of the branch.

Judicial Council Members' Liaison Reports

[16-204](#)

Judicial Council Members' Liaison Reports

Summary: Judicial Council Members report on their visits to the superior courts of California.

Judge Dalila Corral Lyons reported on her visit to the Superior Court of Mono County. Judge David M. Rubin presented on the superior courts of San Bernardino and Sonoma Counties.

CONSENT AGENDA

Approval of the Consent Agenda

[16-149](#)

Equal Access Fund: Distribution of Funds for Partnership Grants and IOLTA-Formula Grants (Action Required)

Summary: The Legal Services Trust Fund Commission of the State Bar reports in *Equal Access Fund: Distribution of Funding for IOLTA-Formula Grants and Partnership Grants Under the Budget Act of 2016* that the Budget Act of 2016 includes an estimated \$19,014,500 in the Equal Access Fund for

distribution to legal services providers and support centers. Equal Access Fund monies are distributed primarily in two parts: IOLTA (Interest on Lawyer Trust Accounts)-formula grants and partnership grants (with a small amount also distributed for administration). The commission requests approval to distribute \$17,312,500 in IOLTA-formula grants for fiscal year 2016-2017, according to the statutory formula in the state Budget Act, and \$1,702,000 in partnership grants for 2017. It further requests approval of the commission’s 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 approve the distribution of \$17,312,500 in IOLTA-formula grants for 2016-2017 according to the terms of the state Budget Act and approve the commission’s determination that the proposed budget of each individual grant complies with statutory and other guidelines. In addition, the commission recommends that the council approve the distribution of \$1,702,000 in Equal Access Fund partnership grants for distribution to the following legal services agencies for programs conducted jointly with courts to provide legal assistance to self-represented litigants:

- 1. Alameda County Bar Association Volunteer Legal Services:
 - Unlawful Detainer Mediation Project.....\$12,000
 - Alameda County Family Law Day of Court Pilot Project.....\$65,000
- 2. Bay Area Legal Aid:
 - San Mateo County Consumer Debt Clinic.....\$60,000
- 3. Bet Tzedek Legal Services:
 - Self-Help Elder and Dependent Adult Restraining Order Clinic (Los Angeles County)\$80,000
- 4. California Rural Legal Assistance, Inc.:
 - San Luis Obispo County Rental Clinic for Self-Represented Litigants\$45,000
- 5. Central California Legal Services, Inc.:
 - Guardianship Project.....\$50,000
 - Tenant/Landlord Housing Law Clinic (Fresno).....\$41,000
- 6. Community Legal Services in East Palo Alto:
 - San Mateo County Unlawful Detainer Mandatory Settlement Conference.....\$50,000
- 7. East Bay Community Law Center:
 - Holistic Legal Assistance Project (Alameda)

-\$80,000
- 8. Elder Law and Advocacy:
Imperial County Unlawful Detainer/Elder Abuse Restraining Order Self-Help
Clinic.....
.....\$65,000
- 9. Family Violence Law Center:
Domestic Violence Pro Per Project (Alameda)
.....\$25,000
- 10. Inland Counties Legal Services:
Family Law Self-Help Clinics (Talleres de derechos legales de familia)
(Riverside).....
.....\$82,000
- 11. Justice and Diversity Center:
Family Law Assisted Self-Help/Case Resolution (FLASH/CARE) Project
(San Francisco)
.....\$63,000
- 12. Legal Aid Foundation of Los Angeles:
Long Beach Self-Help Legal Access Center
.....\$80,000
- 13. Legal Aid Society of Orange County:
Consumer Debt Workshop (Norwalk, Los
Angeles).....\$41,000
Estate Accounting Workshop and
Clinic.....\$38,000
Unlawful Detainer
Clinic.....\$50,000
- 14. Legal Aid Society of San Diego, Inc.:
Civil Harassment & Elder Abuse Restraining Order Program at the HOJ
.....\$45,000
San Diego County Conservatorship Assistance Project
.....\$40,000
- 15. Legal Assistance for Seniors:
Partnership to Assist Guardianship
Litigants.....\$65,000
- 16. Legal Services of Northern California:
Mother Lode Pro Per Project (Amador, Calaveras, El Dorado, Placer)
.....\$60,000
Elder Abuse Restraining Order Workshop Project in Sacramento County
.....\$32,000
Small Claims, Small Estates and Guardianship Clinic in Yolo County
.....\$60,000
- 17. Neighborhood Legal Services of Los Angeles County:
Chatsworth Self Help Legal Access Center Project

.....	\$80,000
Pasadena Unlawful Detainer Assistance Project	
.....	\$82,000
18. Pro Bono Project Silicon Valley:	
PBP Mediation, Negotiation, and Settlement	
Project.....	\$70,000
19. Public Counsel:	
Pro Per Guardianship Clinic (Los	
Angeles).....	\$60,000
20. Public Law Center:	
Orange County Expanded Domestic Violence Assistance	
Project.....	\$40,000
21. Riverside Legal Aid:	
Small Estates Assistance	
Program.....	\$59,000
22. San Diego Volunteer Lawyer Program:	
North County Civil Harassment/Unlawful Detainer Self-Help Clinic	
.....	\$82,000
Total	
.....	
\$1,702,000	

A motion was made by Ms. Ibarra, seconded by Judge Nadler, to approve the Consent Agenda. The motion carried unanimously.

16-163 Juvenile Law: Court Orders (Action Required)

Summary: The Family and Juvenile Law Advisory Committee recommends that rule 5.504 of the California Rules of Court be amended to grant courts an extra two years to produce modified versions of mandatory juvenile forms for court orders. This change will help reduce the financial burden associated with changes to mandatory forms and ensure that courts continue to have the flexibility in the production of forms to meet local needs.

Recommendation: The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective January 1, 2017, amend subdivision (c)(2) of rule 5.504 of the California Rules of Court to extend to January 1, 2019 the date by which courts are required to implement mandatory Judicial Council juvenile forms.

A motion was made by Ms. Ibarra, seconded by Judge Nadler, to approve the Consent Agenda. The motion carried unanimously.

16-164 Appellate Procedure: Privacy in Appellate Opinions (Action Required)

Summary: The Appellate Advisory Committee recommends adopting a new rule to provide guidance on the use of protective nondisclosure of names in appellate court opinions to protect the privacy of specific categories of individuals. To better

highlight existing requirements for protecting the privacy of social security and financial account numbers in filed documents, the committee also proposes moving these existing requirements to a new rule and cross-referencing the requirements in the appellate rules. This proposal is based on concerns about privacy protection raised by appellate justices and individuals whose identity or personal information has been revealed in appellate opinions.

Recommendation: The Appellate Advisory Committee recommends that the Judicial Council, effective January 1, 2017:

1. Amend rule 1.20 (Filing) to move the requirements for protecting the privacy of social security and financial account numbers in filed documents from subdivision (b) of this rule to new rule 1.201;
2. Adopt California Rules of Court, rule 1.201 (Protection of privacy), to contain the content of former rule 1.20(b);
3. Adopt rule 8.41 to cross-reference in the appellate rules the existing requirements for protecting the privacy of social security and financial account numbers in filed documents;
4. Adopt rule 8.90 (Privacy in opinions) to provide guidance on the use of names in appellate court opinions, and place this rule in new article 7 (Privacy), within title 8, division 1, chapter 1, of the California Rules of Court; and
5. Revise *Confidential Reference List of Identifiers* (form MC-120), making a technical change to replace a reference to current rule 1.20(b) with a reference to new rule 1.201.

A motion was made by Ms. Ibarra, seconded by Judge Nadler, to approve the Consent Agenda. The motion carried unanimously.

16-165

Appellate Procedure: Juvenile Proceedings (Action Required)

Summary: The Appellate Advisory Committee recommends amending the rule that identifies the proceedings governed by the juvenile appellate rules to clarify that these rules apply to appeals of orders terminating parental rights under Probate Code section 1516.5 and Family Code section 7662 et seq. The committee also recommends amending the rule that lists what must be included in the normal record in juvenile appeals to clarify that the clerk's transcript must include various notices under the Indian Child Welfare Act and to add hearings at which certain advisements are to be given to the hearings that must be included in the reporter's transcript. This proposal, which originated from a suggestion submitted by an attorney at one of the appellate projects that assist the Courts of Appeal with appointed counsel in juvenile appeals, is intended to save time and costs for courts associated with requests to augment or receive copies of the record on appeal, and the costs associated with preparing and transmitting supplemental clerk's and reporter's transcripts when such requests are granted.

Recommendation: The Appellate Advisory Committee recommends that the Judicial Council,

effective January 1,
2017:

1. Amend rule 8.400 of the California Rules of Court to provide that the rules regarding juvenile appeals apply to appeals of orders:
 - a. Terminating parental rights under Probate Code section 1516.5; and
 - b. Requiring or dispensing with an alleged father's consent for the adoption of a child under Family Code section 7662 et seq.; and
2. Amend rule 8.407 of the California Rules of Court to:
 - a. Require that the oral proceedings of hearings at which certain advisements are to be given to the hearings be included in the reporter's transcript in juvenile appeals; and
 - b. Clarify that in appeals from an order terminating parental rights under Welfare and Institutions Code section 300 et seq., the reporter's transcript must include all section 366.26 hearings; and
3. Amend the advisory committee comment to rule 8.407 to clarify that the clerk's transcript in juvenile appeals must include various notices and responses under the Indian Child Welfare Act.

A motion was made by Ms. Ibarra, seconded by Judge Nadler, to approve the Consent Agenda. The motion carried unanimously.

[16-166](#)

Appellate Procedure: Transcripts of *Marsden* Hearings (Action Required)

Summary: The Appellate Advisory Committee recommends amending the advisory committee comment accompanying the rule that addresses the transmission of confidential records to clarify that a copy of the confidential reporter's transcript of any in-camera hearings conducted by the superior court under *People v. Marsden* (1970) 2 Cal.3d 118 (*Marsden* transcripts) must be transmitted to the appellate counsel for the party that participated in the hearing or, if such counsel has not yet been appointed, to the district appellate project. This change, which is based on a suggestion received from the assistant clerk/administrator of a Court of Appeal, is intended to eliminate confusion about whether copies of *Marsden* transcripts should be provided to appellate counsel and should result in decreased costs associated with motions by counsel to receive a copy of any such transcripts.

Recommendation: The Appellate Advisory Committee recommends that the Judicial Council, effective January 1, 2017, amend the advisory committee comment to California Rules of Court, rule 8.45 to:

1. Clarify that a copy of any confidential *Marsden* transcript must be transmitted to the appellate counsel for the party that participated in the hearing or, if such counsel has not yet been appointed, to the district appellate project;
2. Correct a cross-referencing error; and

3. Make other minor, nonsubstantive changes.

A motion was made by Ms. Ibarra, seconded by Judge Nadler, to approve the Consent Agenda. The motion carried unanimously.

16-167

Appellate Procedure: Amicus Curiae Briefs in Writ Proceedings (Action Required)

Summary: The Appellate Advisory Committee recommends amending the California Rule of Court governing writ proceedings to include a new procedure for submission of applications to file amicus curiae briefs in those writ proceedings in which an alternative writ or order to show cause is issued. This change, which is based on a suggestion received from an attorney, is intended to provide potential amicus curiae with guidance regarding applications to file amicus briefs in these writ proceedings, which may reduce questions about how to do this and also ensure that the court has the information it needs to consider such applications.

Recommendation: The Appellate Advisory Committee recommends that the Judicial Council, effective January 1, 2017, amend rule 8.487 to add a new procedure for submission of applications to file amicus curiae briefs in those writ proceedings in which an alternative writ or order to show cause is issued.

A motion was made by Ms. Ibarra, seconded by Judge Nadler, to approve the Consent Agenda. The motion carried unanimously.

16-168

Appellate Procedure: Ensure Consistency Between E-filing Rules and Court Practices (Action Required)

Summary: The Information Technology Advisory Committee and the Appellate Advisory Committee propose changes to the appellate rules to reflect the e-filing practices used by the appellate courts. These changes will eliminate conflicts between appellate court local rules and the rules of court, and ensure consistency in the e-filing practices of the Courts of Appeal where such consistency is desirable.

Recommendation: The Information Technology Advisory Committee (ITAC) and the Appellate Advisory Committee (AAC) recommend that the Judicial Council, effective January 1, 2017:

1. Revise rule 8.70 to eliminate outdated references to e-filing “projects” in the appellate courts.
2. Reorganize the appellate e-filing rules so that the rules pertaining to e-filing come first, followed by the e-service rules.
3. Renumber rule 8.71 as rule 8.78 and revise it to apply only to e-service, with e-filing covered under new rule 8.71. (A detailed description of proposed renumbered rule 8.78 is given below.)
4. Create new rule 8.71, implementing mandatory e-filing in the appellate courts; exempting self-represented parties from mandatory e-filing unless they agreed to e-file, by e-filing a document or otherwise; exempting trial courts from e-filing unless they agreed to e-file; and requiring appellate courts to have procedures for parties to ask to be excused from e-filing

- upon a showing of undue hardship or significant prejudice.
5. Delete rule 8.72, which specifies which documents may be filed electronically, with some of its provisions moved into new rule 8.71.
 6. Renumber rule 8.73 as rule 8.79 and revise it to apply only to orders for e-service. (A detailed description of proposed renumbered rule 8.79 is given below.)
 7. Renumber rule 8.74 as rule 8.72 and revise it to reflect that e-filing is proposed to be mandatory.
 8. Renumber rule 8.75 as rule 8.73 and add a provision stating that, whenever possible, a court should include in its contract with an electronic filing service provider a requirement that the provider agree to waive any fee to be charged to a party upon a court order for waiver.
 9. Renumber rule 8.76 as rule 8.74, add a requirement that a court's required electronic filing format be text-searchable while maintaining original document formatting, and add a standard for pagination of e-filed documents.
 10. Renumber rule 8.77 as rule 8.75.
 11. Renumber rule 8.78 as rule 8.76.
 12. Renumber rule 8.79 as rule 8.77, add language requiring the court to "arrange for" confirmation of filing to an electronic filer, delete the requirement that such a notice include notice of any fees assessed for the filing, and revise the provision regarding delayed delivery of a filing due to technical problems with the court's electronic filing system, allowing a filer who misses a deadline to file late and move to have the document accepted as timely filed.
 13. Revise rule 8.78, renumbered from existing rule 8.71, (1) so a party who files a document electronically will be able, by filing a notice with the court and serving it on the other parties, to indicate that the party prefers to be served paper copies; (2) to apply the rule to nonparties who agree to or otherwise are required to accept electronic service or to electronically serve documents; (3) to state that a proof of electronic service need not state that the person making service is not a party; and (4) to delete the requirement that a proof of electronic service state time of service.
 14. Revise rule 8.79, renumbered from existing rule 8.73, to apply only to orders for electronic service, to distinguish between orders to electronically serve other parties and orders for a party to accept electronic service, and to delete the subdivision which prohibited the court from ordering a party to electronically file or serve documents if the party objected to paying the electronic filing service provider fee.
 15. Revise rule 8.204 to require that briefs be consecutively paginated with Arabic numerals, with the cover page as page 1, and allowing the number to be suppressed from the cover page, and to require that briefs submitted in paper form be submitted unbound unless otherwise provided by local rule or court order.

A motion was made by Ms. Ibarra, seconded by Judge Nadler, to approve the Consent Agenda. The motion carried unanimously.

16-169

Corrections to Judicial Council Forms Without Circulation for Public Comment (Action Required)

Summary: The Civil and Small Claims Advisory Committee recommends corrections to five Judicial Council forms (GV-116, SV-110, SV-130, WV-110, WV-130) without circulation for public comment. Form GV-116, *Notice of New Hearing Date (Gun Violence Prevention)* should be structured as a court order so that it can be entered into the California Law Enforcement Telecommunications System (CLETS). Orders for Private Postsecondary School Violence and Workplace Violence proceedings should be revised to provide legally correct information for law enforcement.

Recommendation: The Civil and Small Claims Advisory Committee recommends the following revisions of Judicial Council Forms:

1. Revise Form GV-116, *Notice of New Hearing Date (Gun Violence Protection)* to convert it into a court order that can be entered into CLETS;
2. Revise forms SV-110, *Temporary Restraining Order (Private Postsecondary School Violence)* WV-110, *Temporary Restraining Order (Workplace Violence)*, SV-130, *Private Postsecondary School Violence Restraining Order After Hearing*, and WV-130, *Workplace Violence Restraining Order After Hearing*, to remove from the Instructions to Law Enforcement the paragraphs entitled Arrest Required If Order Is Violated and Notice/Proof of Service.

The committee further recommends that these revisions be made without circulation for public comments.

A motion was made by Ms. Ibarra, seconded by Judge Nadler, to approve the Consent Agenda. The motion carried unanimously.

16-170

Small Claims: Plaintiff's Claim and Information Forms (Action Required)

Summary: The Civil and Small Claims Advisory Committee recommends revising two small claims forms to conform to the recent change in the law regarding court interpreters in civil cases and further revising these forms and one other small claims form to improve their clarity, consistency with the law, and readability.

Recommendation: The Civil and Small Claims Advisory Committee recommends that the Judicial Council,
effective January 1, 2017:

1. Revise *Plaintiff's Claim and ORDER to Go to Small Claims Court (Small Claims)* (form SC-100) and *Information for the Plaintiff (Small Claims)* (form SC-100-INFO) to conform to recent changes in

- the law regarding court interpreters in civil cases;
2. Further revise form SC-100 to:
 - a. Add a check box to item 1 on page 2 to specify whether the plaintiff is a payday lender under the California Deferred Deposit Transaction Law, Financial Code section 23000 et seq.;
 - b. Include space for the name and address of the person designated as an agent for service, where the defendant is a business or public entity;
 - c. Add a demand for the return of property, with demand language that conforms to Code of Civil Procedure section 116.320, subdivision (b);
 - d. Conform the declaration that the plaintiff has not filed more than two small claims cases demanding more than \$2,500 in the calendar year to section 116.231, subdivision (b);
 - e. Clarify the description of small claims court and to specify the types of plaintiffs that may claim up to \$10,000 and those that are limited to \$5,000;
 - f. More accurately state the time for filing a notice of appeal;
 - g. Clarify that, in the event of settlement, the plaintiff and only the plaintiff must file a request for dismissal with the clerk; and
 - h. More accurately state the law regarding a defendant's claim, including jurisdictional limits and transferability;
 3. Further revise form SC-100-INFO to:
 - a. Add an item advising that, with very limited exceptions, the defendant must be served within the state of California (see Code Civ. Proc., § 116.340);
 - b. Advise small claims plaintiffs to read *What is "Proof of Service"?* (*Small Claims*) (form SC-104B) and to add a heading to distinguish information regarding timing and proof of service from the prior section on substituted service; and
 - c. More accurately describe when a defendant can file a motion to transfer the plaintiff's claim out of small claims court; and
 4. Revise *Other Plaintiffs or Defendants (Attachment to Plaintiff's Claim and ORDER to Go to Small Claims Court)* (form SC-100A), the attachment form to be used for listing additional plaintiffs or defendants, to include space for the name and address of the person designated as an agent for service, where the defendant is a business or public entity.

A motion was made by Ms. Ibarra, seconded by Judge Nadler, to approve the Consent Agenda. The motion carried unanimously.

[16-171](#)

Civil Practice and Procedure: Order of Examination (Action Required)

Summary: The Civil and Small Claims Advisory Committee recommends revising the forms

used to order examination of a judgment debtor to clarify in the instructions that, to be enforceable by the court, the order must be served by a law enforcement officer or a registered process server. This proposal, based on a suggestion from a superior court commissioner who handles small claims cases, will assist litigants and eliminate needless appearances by judgment creditors seeking court enforcement of orders that were not served in this manner and therefore are unenforceable. The committee also recommends revisions to these forms to improve clarity and readability.

Recommendation: The Civil and Small Claims Advisory Committee recommends that the Judicial Council, effective January 1, 2017:

1. Revise *Application and Order to Produce Statement of Assets and Appear for Examination* (form SC-134), used in small claims cases, and *Application and Order for Appearance and Examination* (form AT-138/EJ-125), the parallel form used in civil actions generally, to clarify in the instructions that, although service may be completed by any means proper for serving a summons, to be enforceable by the court service *must* be effected by a sheriff, marshal, or a registered process server;
2. Further revise forms SC-134 and AT-138/EJ-125 to add instructions for those who are hard of hearing regarding requesting accommodations for a court appearance;
3. Further revise form SC-134 by reorganizing the top of the first page to allow space for filestamping; adding a parenthetical statement to explain that the judgment debtor should have provided the statement of assets within 30 days after service of notice of entry of the judgment; and reformatting item 2 and reorganizing the instructions on the second page for clarity and readability; and
4. Further revise form AT-138/EJ-125 to delete a requirement in the box on the second page titled “Appearance of a Third Person (Enforcement of Judgment)” that the description of the property must be made “using typewritten capital letters.”

A motion was made by Ms. Ibarra, seconded by Judge Nadler, to approve the Consent Agenda. The motion carried unanimously.

16-172

Forms: Declarations of Demurring Party Regarding Meet and Confer (Action Required)

Summary: Senate Bill 383 (Stats. 2015, ch. 418) added to and amended statutes governing demurrers to pleadings. New Code of Civil Procedure section 430.41 requires a meet-and-confer session before a party can file a demurrer. The Civil and Small Claims Advisory Committee recommends two new optional forms to implement the meet-and-confer requirements that a demurring party must comply with before filing a demurrer, and to obtain an automatic 30-day extension of time to file a demurrer when the parties were unable to meet before the due date of the

responsive pleading.

Recommendation: The Civil and Small Claims Advisory Committee recommends that the Judicial Council, effective January 1, 2017, approve:

1. *Declaration of Demurring Party Regarding Meet and Confer* (form CIV-140); and
2. *Declaration of Demurring Party in Support of Automatic Extension* (form CIV-141).

A motion was made by Ms. Ibarra, seconded by Judge Nadler, to approve the Consent Agenda. The motion carried unanimously.

[16-173](#)

Criminal Procedure: Intercounty Probation and Mandatory Supervision Transfer (Action Required)

Summary: The Criminal Law Advisory Committee recommends that the Judicial Council amend rule 4.530 of the California Rules of Court, which provides courts with procedures for implementing intercounty transfers of persons on probation and mandatory supervision pursuant to Penal Code section 1203.9. The proposed amendment would (1) clarify file transfer requirements after intercounty transfer under section 1203.9, and (2) make the rule consistent with Assembly Bill 673's amendments to section 1203.9.

Recommendation: The Criminal Law Advisory Committee recommends that the Judicial Council amend California Rules of Court, rule 4.530, effective January 1, 2017, to

1. Change the rule to require that after intercounty transfer under Penal Code section 1203.9:
 - a. In all cases in which the supervisee is the sole defendant, the transferring court must transmit the entire *original* court file, except exhibits and records of payment, to the receiving court; and
 - b. If transfer is ordered in a case involving more than one defendant, the transferring court must transmit *certified copies* of the entire court file, except exhibits, to the receiving court.
2. Bring rule 4.530 into compliance with changes to Penal Code section 1203.9 regarding the collection and disbursement of court-ordered debt pursuant to Assembly Bill 673.

A motion was made by Ms. Ibarra, seconded by Judge Nadler, to approve the Consent Agenda. The motion carried unanimously.

[16-174](#)

Criminal Law: Criminal Realignment and Military Service (Action Required)

Summary: The Criminal Law Advisory Committee proposes amendments to specified criminal sentencing rules of the California Rules of Court to (1) reflect statutory amendments enacted as part of the Criminal Justice Realignment Act, which made significant changes to the sentencing and supervision of persons convicted of felony offenses; (2) facilitate the court's determinations under Penal Code section

1170.9 for defendants with military service; and (3) make nonsubstantive technical amendments. The proposed amendments respond, in part, to recent legislation directing the Judicial Council to amend the rules to promote uniformity in sentencing under the Realignment Act.

Recommendation: The Criminal Law Advisory Committee (CLAC) recommends that the Judicial Council, effective January 1, 2017:

1. Amend rules 4.403, 4.405, 4.406, 4.410, 4.412, 4.414, 4.420, 4.421, 4.423, 4.425, 4.427, 4.433, 4.435, 4.452, and 4.480 and/or the corresponding advisory committee comments to reflect the Criminal Justice Realignment Act by incorporating references to imprisonment in county jail under Penal Code section 1170(h)1, mandatory supervision under section 1170(h)(5), postrelease community supervision under sections 3450-3465, parole under section 3000.08, and/or local county correctional administrator or sheriff, where appropriate.
2. Further amend rule 4.405 and the advisory committee comment to incorporate terms relevant to the Criminal Justice Realignment Act: mandatory supervision; postrelease community supervision; evidence-based practices; community-based corrections program; local supervision; and county jail; and make other specified nonsubstantive amendments.
3. Further amend rule 4.406 by adding paragraph (b)(11): “(11) Denying mandatory supervision in the interests of justice under section 1170(h)(5) (A).”
4. Further amend rule 4.410 and the corresponding advisory committee comment to add references to the policies underlying the Criminal Justice Realignment Act.
5. Amend rule 4.411.5 to reflect the statutory requirement that the court consider as a factor in granting probation include those relevant to whether the defendant may be suffering from sexual trauma, traumatic brain injury, post-traumatic stress disorder, substance abuse, or mental health problems as a result of his or her U.S. military service.
6. Amend rule 4.415 and the corresponding advisory committee comment to reflect the decision in *People v. Borynack* (2015) 238 Cal.App.4th 958, that courts may not impose mandatory supervision when the defendant is statutorily ineligible for a suspension of part of the sentence.
7. Further amend rule 4.433 to incorporate relevant provisions of the Criminal Justice Realignment Act: mandatory supervision, postrelease community supervision, parole.
8. Amend rule 4.472 by adding “4019” after “2933.2(c), and” in the first sentence.
9. Further amend rules 4.403, 4.405, 4.409, 4.414, 4.421, 4.427, 4.431, and 4.433 and/or relevant portions of advisory committee comments to add references to relevant statutory provisions and make nonsubstantive

changes.

A motion was made by Ms. Ibarra, seconded by Judge Nadler, to approve the Consent Agenda. The motion carried unanimously.

[16-175](#)

Criminal Procedure: Petition and Order for Dismissal-Deferred Entry of Judgment (Action Required)

Summary: In response to legislation that provides a new statutory basis for dismissals, the Criminal Law Advisory Committee recommends revising the *Petition for Dismissal* (form CR-180) and *Order for Dismissal* (form CR-181) to add data fields to facilitate dismissals under Penal Code section 1203.43 for defendants who were granted deferred entry of judgment on or after January 1, 1997, who successfully completed a deferred entry of judgment program, and for whom the criminal charge(s) were dismissed under Penal Code section 1000.3, as well as to make related revisions to the format, advisements, and instructions on both forms.

Recommendation: The Criminal Law Advisory Committee recommends that the Judicial Council, effective January 1, 2017, revise the *Petition for Dismissal* (form CR-180) and the *Order for Dismissal* (form CR-181) to:

1. Add the phrase, “or was granted deferred entry of judgment,” to item 1 on form CR-180 to clarify that defendants granted deferred entry of judgment may use the form to request dismissal relief;
2. Add a check box and related instructions in new item 6 on form CR-180 to facilitate requests for dismissal under Penal Code section 1203.43, including check boxes to indicate whether the petitioner has attached a copy of his or her state summary criminal history information;
3. Add the phrase “or nolo contendere” and a check box for Penal Code section 1203.43 to the request for relief in item 8 on form CR-180, and to the grant or denial of relief in items 3 and 4 on form CR-181;
4. Add check boxes to items 3 and 4 on form CR-181 to clarify whether the court is granting or denying the request for dismissal relief under Penal Code section 1203.43 for all or some of the convictions, and add phrases referencing “pleas for deferred entry of judgment” to both items;
5. Add new item 10 to form CR-181 as an advisement to clarify that the basis for the dismissal under Penal Code section 1203.43 is the invalidity of defendant’s prior plea due to misinformation in Penal Code section 1000.4 regarding the actual consequences of making a plea combined with successful completion of a deferred entry of judgment program;
6. Revise the format, advisements, and instructions on both forms by (a) adding a reference to Penal Code section 1203.43 to the caption and footer of both forms, (b) including instructions to “check one” where appropriate, and (c) making other minor format revisions.

A motion was made by Ms. Ibarra, seconded by Judge Nadler, to approve the Consent Agenda. The motion carried unanimously.

[16-176](#)

Child Support: Statutory Relief for Incarcerated or

Involuntarily Institutionalized Obligor (Action Required)

Summary: The Family and Juvenile Law Advisory Committee recommends revising eight forms to remove outdated language, which became effective on July 1, 2011 under Senate Bill 1355 and sunsetted on June 30, 2015, regarding suspension of child support orders for obligors who are incarcerated or involuntarily institutionalized. In addition, the committee recommends implementing the mandates of Assembly Bill 610, which became effective October 8, 2015, by revising the same eight forms and an additional five forms to incorporate current provisions regarding temporary suspension of child support obligations by operation of law for incarcerated and involuntarily institutionalized obligors (unless certain exceptions apply). These proposed form revisions also provide guidance regarding the adjustment of arrears for a suspended support order, the procedure to object to the local child support agency's adjustment, and the information needed by the court to consider and approve a request to adjust arrears.

Recommendation: The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective January 1, 2017, revise:

1. The following 10 forms to add a notification, in plain language, regarding the temporary suspension of the obligor's duty to pay child support while incarcerated or involuntarily institutionalized:
 - a. Form FL-342, *Child Support Information and Order Attachment*
 - b. Form FL-350, *Stipulation to Establish or Modify Child Support and Order*
 - c. Form FL-530, *Judgment Regarding Parental Obligations*
 - d. Form FL-615, *Stipulation for Judgment or Supplemental Judgment Regarding Parental Obligations and Judgment*
 - e. Form FL-625, *Stipulation and Order*
 - f. Form FL-630, *Judgment Regarding Parental Obligations*
 - g. Form FL-665, *Findings and Recommendation of Commissioner*
 - h. Form FL-687, *Order After Hearing*
 - i. Form FL-688, *Short Form Order After Hearing*
 - j. Form FL-692, *Minutes and Order or Judgment*
2. Form FL-490, *Application to Determine Arrears*, to request the adjustment of arrears due to incarceration or involuntarily institutionalization in cases in which the local child support agency is not providing services;
3. Form FL-676, *Request for Judicial Determination of Support Arrearages or Adjustment of Arrearages Due to Incarceration or Involuntary Institutionalization*, to clarify that a request for adjustment of arrears due to incarceration or involuntary institutionalization applies only to child support orders issued or modified on or after October 8, 2015; and

4. Form FL-676-INFO, Information Sheet for Request for Judicial Determination of Support Arrearages or Adjustment of Arrearages Due to Incarceration or Involuntary Institutionalization, to update and clarify instructions.

A motion was made by Ms. Ibarra, seconded by Judge Nadler, to approve the Consent Agenda. The motion carried unanimously.

16-177

Family Law: Child Support and Uniform Interstate Family Support Act (Action Required)

Summary: The Family and Juvenile Law Advisory Committee recommends amending one rule and revising five Judicial Council forms to accurately reflect updated code references, adopting three new Judicial Council forms, and revoking two forms in their entirety. These changes are required by modifications to the Uniform Interstate Family Support Act (Sen. Bill 646 [Jackson]; Stats. 215, ch. 493, § 5), which was chaptered as Family Code sections 5700.101-5700.905.

Recommendation: The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective January 1, 2017:

1. Amend rule 5.324 to replace the reference to Family Code section 4930 with section 5700.316;
2. Adopt *UIFSA Child Support Order Jurisdictional Attachment* (form FL-590(A)) to make assumption or loss of continuing exclusive jurisdiction a standard order in California;
3. Adopt *Notice of Registration of an International Hague Convention Support Order* (form FL-592) which clearly delineates the time frames within which one may contest the validity or enforcement of a registered Hague Convention support order and provide the necessary next steps toward contesting the Convention support order;
4. Adopt *Request for Hearing Regarding Registration of an International Hague Convention Support Order* (form FL-594), which lists the appropriate defenses for the Convention support order;
5. Revise form FL-510 to replace the reference to Family Code section 4925 with section 5700.311 and change the layout of the form to conform to the layout of other existing family law summons forms;
6. Revise form FL-520 to replace the reference to Family Code section 4925 with section 5700.311 and to make a request for genetic testing mandatory for all children to which an alleged parent denies parentage;
7. Revise form FL-560 to replace the reference to Family Code section 5001 with section 17404.2;
8. Revise form FL-570 to replace the references to Family Code sections 4952 and 4954 with sections 5700.603 and 5700.605, respectively, and to correct the notice regarding the deadline for a responding party to request a hearing;
9. Revise form FL-575 to replace the references to Family Code sections

- 4955 and 4956 with sections 5700.606 and 5700.607, respectively; and
10. Revoke forms FL-511, *Ex Parte Application for Order for Nondisclosure of Address and Order (UIFSA)* and FL-515, *Order to Show Cause (UIFSA)*.

A motion was made by Ms. Ibarra, seconded by Judge Nadler, to approve the Consent Agenda. The motion carried unanimously.

[16-178](#)

Juvenile Law: Termination of Jurisdiction Over Nonminor (Action Required)

Summary: The Family and Juvenile Law Advisory Committee recommends amending one of the California Rules of Court and revising two Judicial Council forms to provide legally accurate information about available benefits to nonminors facing termination of juvenile court jurisdiction. Certain form revisions implement amended statutory entitlements in response to suggestions received from the California Department of Social Services and are consistent with Assembly Bill 1849. The rule amendments and other form revisions make technical corrections to ensure consistency with existing law and each other, to improve readability, and to reduce unnecessary repetition of statutory language.

Recommendation: The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective January 1, 2017:

1. Amend rule 5.555 of the California Rules of Court to ensure consistency with current law, reduce the unnecessary restatement of statutory language, and promote internal consistency and readability;
2. Revise *Termination of Juvenile Court Jurisdiction-Nonminor* (form JV-365) to conform to amended statutory eligibility requirements for Medi-Cal and other benefits, ensure the accuracy of the information provided to and receipt of the required assistance or services by nonminors facing termination of juvenile court jurisdiction and to make nonsubstantive technical changes; and
3. Revise *Findings and Orders After Hearing to Consider Termination of Juvenile Court Jurisdiction Over a Nonminor* (form JV-367) to conform to current law, ensure consistency with the amendments to rule 5.555 and the revisions to form JV-365, and to make nonsubstantive technical changes.

A motion was made by Ms. Ibarra, seconded by Judge Nadler, to approve the Consent Agenda. The motion carried unanimously.

[16-179](#)

Juvenile Law: Dependency Hearings (Action Required)

Summary: The Family and Juvenile Law Advisory Committee recommends amending the rules in title 5 of the California Rules of Court that set forth the procedures to be followed during dependency court hearings, from the initiation of the case through each of the status review hearings, to delete unnecessary repetitions of statutory text or replace them with references to the relevant code sections. These amendments will enhance the brevity and accuracy of the rules while also consolidating some shorter rules where appropriate and reduce the frequency with

which the rules need to be amended to reflect changes in the statutory text. In addition, proposed amendments clarify and update provisions in the rules concerning case plan requirements, relative placement, notice of subsequent dependency guardianship proceedings, and the legal distinctions between admitting petition allegations and submitting on the facts set forth in the petition.

Recommendation: The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective January 1, 2017, amend or repeal the following rules of the California Rules of Court (all statutory references below are to the Welfare and Institutions Code):

1. Amend rule 5.534 to delete subdivisions (a), (b), (c), (d), (o), and (p) that restate provisions of sections 349, 350, and 365;
2. Amend rule 5.668 to clarify subdivision (a) and delete language from subdivision (b) that restates provisions of sections 316.2;
3. Amend rule 5.670 to delete subdivisions (b), (c), (d), and (f) that restate provisions of sections 311, 313, 309(b), 315, and 334, and include a reference to section 309(b) in former subdivision (e);
4. Amend rule 5.674 to delete subdivision (c) that restates section 319 and substitute a reference to this deleted subdivision with a reference to section 319, and add provisions from repealed rule 5.680 concerning the procedures for detention hearings;
5. Amend rule 5.682 to delete subdivision (a) that restates section 353, delete the reference to rule 5.686, which is recommended to be repealed, delete provisions in subdivision (b) that restate provisions of section 353, and revise subdivisions (e) and (f) to clarify the differences between a parent or guardian admitting or not contesting the jurisdictional allegations, as distinguished from submitting the jurisdictional determination to the court based upon the report of the social worker;
6. Amend rule 5.684 to remove restatement of statutory text from subdivisions (c) and (d) concerning testimony of the social worker and hearsay exceptions and replace with a reference to section 355(c), and add provisions on the continuance pending a disposition hearing from repealed rule 5.686 to subdivision (f);
7. Amend rule 5.690 to update case plan finding requirements to reflect recent statutory changes, and include a provision concerning sibling placement;
8. Amend rule 5.695 to delete subdivision (b) that repeats provisions of section 360 and clarify and add clerk requirements to subdivision (a), delete specific required removal findings from subdivision (d) and replace with a reference to subdivision (c) of section 361, delete extensive text sections drawn from section 361.5 contained in subdivision (h) of the rule and replace with appropriate code references, and delete subdivision (j) that restates timing for status reviews contained in various sections, and subdivision (k) that restates section 367 timing provisions;

9. Amend rule 5.706 to delete subdivisions (a), (c), and (e) that restate provisions of section 364;
10. Amend rule 5.708 to delete all or part of subdivisions (a), (d), (e), (h), (i), (m), and (n) that restate provisions of sections 366, 366.21, 366.22, and 366.25, and incorporate recently enacted case plan requirements for older youth into the required determinations of the court concerning the case plan;
11. Amend rule 5.710 to delete all or part of subdivisions (a), (b), and (d), and redraft subdivision (c) to remove restated language from sections 364, 366, and 366.21;
12. Amend rule 5.715 to delete language from subdivisions (a) and (b) that restates sections 293 and 366.21;
13. Amend rule 5.720 to delete subdivision (a) and language in subdivision (b) that restate provisions of sections 293 and 366.22;
14. Amend rule 5.722 to delete subdivision (a) and language in subdivision (b) that restate provisions of section 366.25;
15. Amend rule 5.725 to delete language from subdivisions (a), (d), and (e) that restates language that is duplicative of section 366.26, and add a missing reference to section 727.31 to subdivision (a);
16. Amend rule 5.726 to redraft subdivisions (b), (c), and (e) to delete restatements of section 366.26(n), to change a reference to the rule to a reference to section 366.26(n)(1), and to clarify the existing procedures in the rule;
17. Amend rule 5.727 to replace references to rule 5.726 in subdivisions (a) and (b) with references to section 366.26(n)(1), and clarify the procedures in the rule;
18. Amend rule 5.728 to substitute references to rule 5.726 in subdivisions (a) and (b) with references to section 366.26(n)(1), and clarify the procedures and notice requirements in the rule;
19. Amend rule 5.730 to add code references to the title of the rule;
20. Amend rule 5.735 to delete subdivision (c) that restates section 366.26(d), update provisions on visitation in subdivision (d) to be consistent with current law, and correct an erroneous rule citation in subdivision (e);
21. Amend rule 5.740 to delete language from subdivision (b) that restates provisions of section 366.3, clarify that notice of a petition to terminate, modify, or appoint a successor guardian shall be accomplished by the court, and not the petitioner, and include required findings concerning identifying relatives who may present placement options;
22. Repeal rule 5.680 and move its key provisions into rule 5.674;
23. Repeal rule 5.686 and add its substance to rule 5.684;
24. Repeal rule 5.688 as it simply restates section 360(b);
25. Revise *Dispositional Attachment: Removal From Custodial*

Parent-Placement With Nonparent (form JV-421) to add recently enacted statutory grounds for bypassing reunification services at item 20a, conform item 32 to recent statutory changes on case plan requirements, correct legal inaccuracies concerning the date a permanency hearing must be set in item 33a, and to reflect new Judicial Council form names in items 27b and 35d.

A motion was made by Ms. Ibarra, seconded by Judge Nadler, to approve the Consent Agenda. The motion carried unanimously.

[16-180](#)

Juvenile Law: Intercounty Transfer (Action Required)

Summary: The Family and Juvenile Law Advisory Committee recommends adopting one new rule and two new mandatory Judicial Council forms to implement the transfer provisions for nonminor dependents in Assembly Bill 1712. The committee further recommends amending the current intercounty transfer rules and revising a mandatory form to include provisions that have streamlined the transfer process for counties involved in two transfer protocol pilot programs. Lastly, the committee recommends amending two of the California Rules of Court to require mandatory use of the forms.

Recommendation: The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective January 1, 2017:

1. Adopt rule 5.613 of the California Rules of Court, which mandates transfer-out and transfer-in procedures for the transfer of nonminor dependent cases.
2. Adopt form JV-552, *Juvenile Court Transfer-Out Orders-Nonminor Dependent*, which serves to alert the receiving court of the new case and allows the sending court to set a transfer-in hearing in the receiving court.
3. Amend rules 5.610 and 5.612 of the California Rules of Court to require the transfer-out court to set a date certain for the transfer-in hearing and mandate use of form JV-548, *Motion for Transfer Out*.
4. Adopt form JV-548, *Motion for Transfer Out*, which provides the receiving court with a synopsis of the pertinent facts and procedural history of the case being transferred.
5. Revise form JV-550, *Juvenile Court Transfer-Out Orders*, to mandate inclusion of important case details that will insure the receiving court has the information it needs to conduct the transfer-in hearing and set appropriate future hearings.

A motion was made by Ms. Ibarra, seconded by Judge Nadler, to approve the Consent Agenda. The motion carried unanimously.

[16-181](#)

Protective Orders: Requests for the Possession and Protection of Animals (Action Required)

Summary: To implement the recent statutory changes made by Assembly Bill 494 (Stats. 2015, ch. 401) to Code of Civil Procedure section 527.6 and Welfare and

Institutions Code sections 213.5 and 15657.03, the Civil and Small Claims Advisory Committee recommends revisions to the Judicial Council forms for civil harassment and elder and dependent adult abuse protective orders to include orders regarding the possession and protection of animals; and the Family and Juvenile Law Advisory Committee recommends revisions to the Judicial Council juvenile protective order forms to include such orders.

Recommendation: To add a new item (see number in parentheses) to provide for orders for the possession and protection of animals, effective January 1, 2017, the Judicial Council is asked by:

1. The Civil and Small Claims Advisory Committee to revise:
 - a. CH-100, Request for Civil Harassment Restraining Orders (item 15);
 - b. CH-110, Temporary Restraining Order (civil harassment) (item 8);
 - c. CH-120, Response to Request for Civil Harassment Restraining Orders (item 7);
 - d. CH-130, Civil Harassment Order After Hearing (item 10);
 - e. EA-100, Request for Elder or Dependent Adult Abuse Restraining Orders (item 19);
 - f. EA-110, Temporary Restraining Order (elder and dependent adult abuse) (item 10);
 - g. EA-120, Response to Request for Elder or Dependent Adult Abuse Restraining Orders (item 8);
 - h. EA-130, Elder or Dependent Adult Abuse Restraining Order After Hearing (item 11); and
2. The Family and Juvenile Law Advisory Committee to revise:
 - a. JV-245, Request for Restraining Order-Juvenile (item 8h);
 - b. JV-250, Notice of Hearing and Temporary Restraining Order-Juvenile (item 10); and
 - c. JV-255, Restraining Order-Juvenile (item 9); and
3. The Family and Juvenile Law Advisory Committee, because of differences in form structure and the law, further to revise order forms JV-250 and JV-255:
 - a. To require the court to indicate the name of the protected person who is granted an order for possession; and
 - b. To include language that the order for possession could be made for an animal that is in the residence or household of a person protected by the order.

A motion was made by Ms. Ibarra, seconded by Judge Nadler, to approve the Consent Agenda. The motion carried unanimously.

[16-182](#)

**Probate Conservatorship: Notice of the Conservatee's Death
(Action Required)**

Summary: The Probate and Mental Health Advisory Committee recommends that the Judicial Council respond to a direction from the Legislature by adopting a new Judicial Council form for a conservator of the person of a deceased conservatee to use to notify the court and persons interested in the conservatorship that the conservatee has died.

Recommendation: The Probate and Mental Health Advisory Committee recommends that the Judicial Council adopt a new mandatory form *Notice of the Conservatee's Death* (form GC-399), to be used to advise the court and persons interested in the conservatorship that the conservatee has died.

A motion was made by Ms. Ibarra, seconded by Judge Nadler, to approve the Consent Agenda. The motion carried unanimously.

[16-183](#)

Probate: Decedents' Estate Proceedings and a Substitute for Those Proceedings (Action Required)

Summary: The Probate and Mental Health Advisory Committee proposes revising two forms. One form commences a decedent estate proceeding; the other form is used to convey title to a decedent's real and connected personal property when an estate proceeding is not required. The Petition for Probate would be revised to inquire whether a decedent was a citizen of a foreign country, whether the original of the decedent's will or a codicil offered for probate has been lost, and whether the proposed appointment of a personal representative is the appointment of a successor in that office. The *Petition to Determine Succession to Real Property (Estates of \$150,000 or Less)* would be revised to require the petitioner to state facts showing the character of the subject property as separate, community, or quasi-community if his or her claim to the property is based on inheritance. These revisions will ensure that the additional information requested by these changes will be provided by the petitioners in both of these proceedings.

Recommendation: The Probate and Mental Health Advisory Committee recommends that the Judicial Council, effective January 1, 2017:

1. Revise the *Petition for Probate* (form DE-111) to:
 - a. Ask the petitioner whether the decedent was a citizen of a country other than the United States, and if so, to identify the country;
 - b. Require the petitioner to disclose that the original of the will or a codicil offered for probate has been lost, and if so, to attach to the petition a copy of the lost document or a written statement of its dispositive provisions; and state reasons why the statutory presumption of the testator's intentional destruction of the document does not apply or has been overcome; and
 - c. Ask the petitioner if the personal representative proposed for appointment in the petition would be a successor; and
2. Revise the *Petition to Determine Succession to Real Property (Estates of \$150,000 or Less)* (form DE-310) to require the petitioner to state, if his or her claim to the subject property is based on an inheritance, facts

that show the character of the subject property to be community, separate, or quasi-community property.

A motion was made by Ms. Ibarra, seconded by Judge Nadler, to approve the Consent Agenda. The motion carried unanimously.

[16-184](#)

Technology: Modernization of the Rules of Court (Phase II of the Rules Modernization Project) (Action Required)

Summary: The Information Technology Advisory Committee recommends amending various rules in titles 2, 3, and 5 of the California Rules of Court as part of phase II of the Rules Modernization Project. These amendments are substantive changes to the rules that are intended to promote electronic filing, electronic service, and modern e-business practices. The Civil and Small Claims Advisory Committee and the Family and Juvenile Law Advisory Committee also recommend the amendments to the rules in their respective subject-matter areas.

Recommendation: The Information Technology Advisory Committee (ITAC) recommends that the Judicial Council, effective January 1, 2017, amend Cal. Rules of Court, rules 2.100, 2.103, 2.104, 2.105, 2.109, 2.110, 2.111, 2.114, 2.118, 2.140, 2.251, 2.256, 2.306, 2.551, 2.577, 3.250, 3.751, 3.823, 3.1110, 3.1113, 3.1302, 3.1306, 3.1362, 5.66, 5.380, 5.390, and 5.392. The rule amendments in titles 2 and 3 have been reviewed and recommended by ITAC and the Civil and Small Claims Advisory Committee; and those in title 5 have been reviewed and recommended by ITAC and the Family and Juvenile Law Advisory Committee.

A motion was made by Ms. Ibarra, seconded by Judge Nadler, to approve the Consent Agenda. The motion carried unanimously.

[16-185](#)

Technology: Modernization of the Appellate Rules of Court (Phase II of the Rules Modernization Project) (Action Required)

Summary: The Information Technology Advisory Committee (ITAC) and Appellate Advisory Committee (AAC) recommend adoption of changes to the appellate rules and forms to facilitate modern e-business practices, e-filing, and e-service. Last year, technical changes to the appellate rules were approved to eliminate rule language inconsistent with current e-filing, e-service, and other e-business practices of the appellate courts. This year, ITAC and the AAC recommend more substantive changes to the rules to facilitate and encourage use of modern e-business practices by the appellate courts, as well as further necessary technical changes to rules and forms.

Recommendation: The AAC and ITAC recommend that the Judicial Council, effective January 1, 2017:

1. Add language to rule 8.104 providing that an order signed electronically has the same effect as an order signed on paper;
2. Correct the reference in rule 8.124, subdivision (d), to the format requirements of rule 8.144(b)-(d) to refer instead to rule 8.144(a)-(c);
3. Add language in rule 8.144, subdivision (a), setting the format standard

- for computer-readable copies of reporters' transcripts as any text-searchable format approved by the reviewing court, and make corresponding changes to rules 8.130, 8.336, 8.409, 8.416, 8.450, 8.613, 8.619, 8.625, 8.834, 8.866, and 8.919 where those rules refer to the existing format standard;
4. Add language to the advisory committee comments to rules 8.150, 8.336, 8.409, 8.416, 8.450, 8.454, 8.480, 8.482, and 8.1007 stating that “[u]nder rule 8.71(c), the superior court clerk may send the record to the reviewing court in electronic form”¹;
 5. Replace the word “mail” with “send” and “mailed” with “sent” in rules 8.450 and 8.454, and add e-mail to the list of ways the superior court clerk can send out notice as required under those rules;
 6. In rules 8.452, 8.456, and 8.489, allow notice from the clerk of the reviewing court to the clerk of the respondent court in specified urgent situations to be by telephone or e-mail, where only telephonic notice is allowed under the existing rule;
 7. In rule 10.1028, allow the clerk of a Court of Appeal to keep a true and correct electronic copy of the reporter's transcript in a criminal case in which the court affirms a judgment of conviction, changing the existing requirement that the original, paper transcript be kept;
 8. Revise forms APP-002, APP-003, APP-004, APP-005, APP-006, APP-007, APP-008, APP-010, APP-011, APP-012, APP-102, APP-103, APP-104, APP-106, APP-107, APP-110, APP-151, CR-126, CR-132, CR-133, CR-134, CR-135, CR-137, CR-142, CR-143, CR-145, JV-810, JV-816, JV-817, and JV-822 to remove the words “optional” or “if available” where the forms ask for an e-mail address or fax number;
 9. Remove the integrated proof of service from forms APP-002, APP-005, and APP-007;
 10. Add to form APP-004, *Civil Case Information Statement*, an integrated proof of service that would allow proof of service by mail, personal delivery, or electronic service;
 11. Add to form APP-009 a note that it should not be used for proof of electronic service and that new form APP-009E should be used instead;
 12. Add information to form APP-009-INFO, *Information Sheet for Proof of Service (Court of Appeal)*, regarding electronic service and the new form APP-009E, *Proof of Electronic Service (Court of Appeal)*;
 13. Create new form APP-009E, *Proof of Electronic Service (Court of Appeal)*, and add references to this new form throughout the forms whenever the existing APP-009, *Proof of Service (Court of Appeal)*, is referenced;
 14. Change information on proof of service in form APP-101-INFO, *Information on Appeal Procedures for Limited Civil Cases*, to reflect

- the possibility of electronic service and to provide information on APP-109E, *Proof of Electronic Service (Appellate Division)*, the new form for proof of electronic service;
15. Add language to form APP-109 noting that proposed new form APP-109E should be used for proof of electronic service;
 16. Add information to form APP-109-INFO, “*What Is Proof of Service?*” regarding electronic service and the new form APP-109E, *Proof of Electronic Service (Appellate Division)*;
 17. Create new form APP-109E, *Proof of Electronic Service*;
 18. Change information on proof of service in form APP-150-INFO, *Information on Writ Proceedings in Misdemeanor, Infraction, and Limited Civil Cases*, to reflect the possibility of electronic service;
 19. Add space for an attorney e-mail address on form CR-120, *Notice of Appeal-Felony*;
 20. Change information on proof of service in form CR-141, *Information on Appeal Procedures for Infractions*, to reflect the possibility of electronic service;
 21. Add space for a petitioner’s e-mail address on form JV-825, *Petition for Extraordinary Writ (Juvenile Dependency)*; and
 22. Add language to form MC-275, *Petition for Writ of Habeas Corpus*, to reflect that different requirements as to the number of copies to be filed apply if the petition is filed electronically.

A motion was made by Ms. Ibarra, seconded by Judge Nadler, to approve the Consent Agenda. The motion carried unanimously.

[16-186](#)

Rules and Forms: Miscellaneous Technical Changes (Action Required)

Summary: Various Judicial Council advisory committee members, members of the public, and Judicial Council staff have identified errors in forms resulting from inadvertent omissions, typographical errors, and changes resulting from legislation. The staff to the Judicial Council recommends making the necessary corrections to avoid confusing court users, clerks, and judicial officers.

Recommendation: The staff to the Judicial Council recommends that the council, effective January 1, 2017:

1. Amend rule 8.200(a) of the California Rules of Court to correct an internal reference from “(c)(6)” to “(c)(7).”
2. Revise *Criminal Protective Order-Domestic Violence* (form CR-160), and *Criminal Protective Order-Other Than Domestic Violence* (form CR-161) to implement Assembly Bill 307 (Campos; ch. 291, 2013), which added the phrase “or subject to mandatory supervision,” to Penal Code section 136.2(i)(1). Forms CR-160 and CR-161 would be revised to add the phrase to the Warnings and Notices on each of the forms (paragraph 6 on form CR-160 and paragraph 5 on form CR-161).

3. Revise *Description of Abuse* (form DV-101), an optional attachment to *Request for Domestic Violence Restraining Order* (form DV-100), to be consistent with changes made to DV-100 effective July 1, 2016. Form DV-100 was revised to allow the applicant to describe a second incident of abuse. Form DV-101 would be revised to make it consistent with the format on form DV-100, specifically to allow the applicant to describe other incidents of abuse without requiring the applicant to provide the “second most recent incident of abuse.”
4. Revise *Firearms Emergency Protective Order* (EPO-002), item 2, to clarify that a receipt must also be filed if any firearms have been surrendered to law enforcement: “You must ~~then~~ file a receipt proving surrender, sale, or storage with the court.”
5. Revise *Petition to Determine if Dog is Potentially Dangerous or Vicious* (MC-600) to reflect a change to the Food and Agricultural Code, section 31603, deleting the first definition of “vicious dog” (sub. a: “Any dog seized under Section 599aa of the Penal Code and upon the sustaining of a conviction of the owner or keeper under subdivision (a) of Section 597.9 of the Penal Code.”)

A motion was made by Ms. Ibarra, seconded by Judge Nadler, to approve the Consent Agenda. The motion carried unanimously.

[16-187](#)

Judicial Council Report to the Legislature: Disposition of Criminal Cases According to the Race and Ethnicity of the Defendant (Action Required)

Summary: Court Operations Services and its Office of Court Research recommend that the Judicial Council approve the report *Disposition of Criminal Cases According to the Race and Ethnicity of the Defendant: 2016 Report to the California Legislature as Required by Penal Code Section 1170.45*, and direct staff to transmit it to the Legislature. Doing so fulfills the requirements of Penal Code section 1170.45, which requires the Judicial Council to report annually on the disposition of criminal cases statewide according to the defendants’ race and ethnicity. Since 2001 the Judicial Council’s Office of Court Research has produced this report by analyzing the disposition of felony cases using data provided by the California Department of Justice. The 2016 report indicates that when grouping defendants according to the extensiveness of their prior criminal records and types of offense, the data show a complex pattern in the severity of sentences that defendants receive. When directly comparing defendant groups in the context of the severity of their criminal offenses and prior criminal histories, sentencing outcomes are variable and appear to be primarily associated with defendants’ prior criminal record and offense type. Due to data limitations that are outlined in the report and also highlighted by the Criminal Justice Statistics Center (CJSC) of the California Department of Justice (DOJ), we encourage the reader to exercise caution in attempting to attribute causes for the observed differences in sentencing among racial/ethnic groups.

Recommendation: The Office of Court Research recommends that the Judicial Council approve the report *Disposition of Criminal Cases According to the Race and Ethnicity of the Defendant: 2016 Report to the California Legislature as Required by Penal Code Section 1170.45*, and direct staff to transmit it to the Legislature.

A motion was made by Ms. Ibarra, seconded by Judge Nadler, to approve the Consent Agenda. The motion carried unanimously.

[16-189](#)

Judicial Council Report to the Legislature: Standards and Measures That Promote the Fair and Efficient Administration of Justice (Action Required)

Summary: The Workload Assessment Advisory Committee recommends that the Judicial Council approve the attached report, *Standards and Measures That Promote the Fair and Efficient Administration of Justice*, for transmittal to the Legislature. This report satisfies the requirements of Government Code section 77001.5, which requires the Judicial Council to adopt and annually report on judicial administration standards and measures that promote the fair and efficient administration of justice, including, but not limited to, the following subjects: (1) providing equal access to courts and respectful treatment for all court participants; (2) case processing, including the efficient use of judicial resources; and (3) general court administration.

Recommendation: The Workload Assessment Advisory Committee recommends that the Judicial Council, effective October 28, 2016, approve the attached report, *Standards and Measures That Promote the Fair and Efficient Administration of Justice* (Attachment A), for transmittal to the Legislature under Government Code section 77001.5.

A motion was made by Ms. Ibarra, seconded by Judge Nadler, to approve the Consent Agenda. The motion carried unanimously.

[16-191](#)

Probate Conservatorships: Handbook for Conservators: 2016 Revised Edition (Action Required)

Summary: The Probate and Mental Health Advisory Committee recommends that the Judicial Council approve the *Handbook for Conservators: 2016 Revised Edition*, and authorize its publication by posting on the judicial branch website and production in print form by courts. This handbook updates the written information required by Probate Code section 1835 to be provided by the Judicial Council to the courts and by the courts to newly-appointed conservators.

Recommendation: The Probate and Mental Health Advisory Committee recommends that the Judicial Council, effective October 28, 2016:

1. Approve the Handbook for Conservators: 2016 Revised Edition as the information concerning a conservator's rights, duties, limitations, and responsibilities to be provided by the Judicial Council to courts under Probate Code section 1835;
2. Authorize electronic publication of the handbook by posting on the

judicial branch website; and

3. Authorize courts to print copies of the handbook from a posted copy of the text for distribution to private conservators who desire print copies.

A motion was made by Ms. Ibarra, seconded by Judge Nadler, to approve the Consent Agenda. The motion carried unanimously.

[16-192](#)

Trial Courts: Recidivism Reduction Fund Court Grant Program, Annual Report, 2016 (Action Required)

Summary: The Criminal Justice Services office recommends that the Judicial Council receive the *Recidivism Reduction Fund Court Grant Program: Annual Report, 2016*; direct the Administrative Director to submit this annual report to the Joint Legislative Budget Committee and the Department of Finance as mandated by the Budget Act of 2015 (Assem. Bill 93, Stats. 2015, ch. 10) and authorize staff to continue to work with the courts to ensure that program funding is effectively allocated and utilized to support the operation of trial court programs and practices known to reduce adult offender recidivism and enhance public safety as directed by the Legislature.

Recommendation: Staff to the Judicial Council, Criminal Justice Services office, recommends that the Judicial Council:

1. Receive the attached *Recidivism Reduction Fund Court Grant Program: Annual Report, 2016*, that documents the establishment of the Recidivism Reduction Fund (RRF) court grant program, describes grant-related activities of the Judicial Council and the grantees, and provides preliminary information on program implementation;
2. Direct the Administrative Director to submit this report to the Joint Legislative Budget Committee (JLBC) and the Department of Finance (DOF) as mandated by the Budget Act of 2015 (Assem. Bill 93, Stats. 2015, ch.10); and,
3. Authorize staff to continue to work with the courts to most effectively use resources already allocated, provide supplemental funding to existing grantees above their original grant awards, and seek possible project extension from the legislature and Department of Finance.

A motion was made by Ms. Ibarra, seconded by Judge Nadler, to approve the Consent Agenda. The motion carried unanimously.

[16-193](#)

Judicial Council Report to the Legislature: Allocation of New Judgeships Funding in Fiscal Year 2015-2016 (Action Required)

Summary: Judicial Council staff recommends approval of the attached *Report on Allocation of Funding in Fiscal Year (FY) 2015-2016 for Support of New Judgeships Authorized in FY 2007--2008*. The Budget Act of 2007 requires that this report be submitted each year until all judgeships are appointed and new staff hired.

Recommendation: Staff recommends that the Judicial Council:

1. Approve the *Report on Allocation of Funding in Fiscal Year (FY) 2015-2016 for Support of New Judgeships Authorized in FY 2007-2008*; and
2. Direct staff to submit the report to the Legislature.

A motion was made by Ms. Ibarra, seconded by Judge Nadler, to approve the Consent Agenda. The motion carried unanimously.

[16-194](#)

Judicial Council Report to the Legislature: Electronic Recording Equipment (Action Required)

Summary: Judicial Council staff recommends approval of the *Report on Purchase or Lease of Electronic Recording Equipment by Superior Courts (January 1-June 30, 2016)*. Government Code section 69958 requires that the Judicial Council report to the Legislature semiannually on all purchases and leases of electronic recording equipment that will be used to record superior court proceedings.

Recommendation: Staff recommends that the Judicial Council:

1. Approve the *Report on Purchase or Lease of Electronic Recording Equipment by Superior Courts (January 1-June 30, 2016)*; and
2. Direct staff to submit the report to the Legislature.

A motion was made by Ms. Ibarra, seconded by Judge Nadler, to approve the Consent Agenda. The motion carried unanimously.

[16-196](#)

Juvenile Dependency: Proposed Allocation for Fiscal Year 2016-2017 for Court Appointed Special Advocate Local Assistance (Action Required)

Summary: The Family and Juvenile Law Advisory Committee recommends that the Judicial Council approve Court Appointed Special Advocate (CASA) program grant funding allocations for fiscal year 2016-2017. The recommended allocations were calculated based on the CASA funding methodology approved by the Judicial Council at the August 2013 business meeting. Allocations will fund 45 programs serving 50 counties.

Recommendation: The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective October 28, 2016 allocate \$2.213 million for CASA local assistance grants to 45 CASA programs serving 50 counties using the council's funding methodology (established in 2013).

A motion was made by Ms. Ibarra, seconded by Judge Nadler, to approve the Consent Agenda. The motion carried unanimously.

[16-197](#)

Judicial Council Report to the Legislature: Status of the Phoenix Program, 2015 (Action Required)

Summary: Staff recommends that the Judicial Council approve the report entitled *Status of the Phoenix Program, 2015*, to be sent to the chair of the Joint Legislative Budget Committee, the chair of the Senate Committee on Budget and Fiscal Review, and the chair of the Assembly Committee on Budget, as required by

Government Code section 68511.8(a).

Recommendation: Staff recommends that the Judicial Council, effective October 27, 2016:

1. Approve the report entitled *Status of the Phoenix Program, 2015*; and
2. Direct staff to submit the report to the Legislature.

A motion was made by Ms. Ibarra, seconded by Judge Nadler, to approve the Consent Agenda. The motion carried unanimously.

16-203

Criminal Law: Judicial Council Appointment to Sex Offender Management Board (Action Required)

Summary: The Executive and Planning Committee recommends that the Judicial Council appoint Judge Brett H. Morgan, Superior Court of San Joaquin County, to the Sex Offender Management Board (“the board”). Enactment of Assembly Bill 1015 (2006) created the board, under the jurisdiction of the Department of Corrections and Rehabilitation, which is composed of 17 members and includes “[o]ne California state judge, appointed by the Judicial Council.” (Pen. Code, § 9001(b)(1)(D).)

Recommendation: The Executive and Planning Committee recommends that the Judicial Council appoint Judge Brett H. Morgan, Superior Court of San Joaquin County, to the Sex Offender Management Board effective November 1, 2016.

A motion was made by Ms. Ibarra, seconded by Judge Nadler, to approve the Consent Agenda. The motion carried unanimously.

DISCUSSION AGENDA

16-200

Temporary Judges: Reporting on Use of Attorneys as Court-Appointed Temporary Judges (Action Required)

Summary: The Trial Court Presiding Judges Advisory Committee (TCPJAC) and the Court Executives Advisory Committee (CEAC) recommend amending (1) rule 10.742 of the California Rules of Court to eliminate that rule’s reporting requirements concerning the use of court-appointed temporary judges, and (2) subdivision (d) of rule 2.810 to delete the related reference to this reporting requirement. Rule 10.742 governs the use of attorneys as court-appointed temporary judges. Subdivision (c) of the rule requires each trial court that uses attorneys as temporary judges to report quarterly to the Judicial Council the number of attorneys used as temporary judges each month, the number and types of cases on which they were used, and whether any of the appointments were made under the exception in rule 2.810(d). This exception allows, in extraordinary circumstances, for appointment of an attorney as a temporary judge who has not met all of the requirements for such appointment. TCPJAC and CEAC recommend these changes because the information that rule 10.742(c) requires courts to report on is in part duplicative of information collected and reported to the council in another report, and thus the rule places an unnecessary burden on the courts.

Speakers: Hon. Jeffrey B. Barton, Chair, Trial Court Presiding Judges Advisory Committee

Mr. Jake Chatters, Chair, Court Executives Advisory Committee

Recommendation: The Trial Court Presiding Judges Advisory Committee and Court Executives Advisory Committee recommend that the Judicial Council, effective January 1, 2017, amend:

1. Rule 10.742 of the California Rules of Court to eliminate all reporting requirements concerning the use of court-appointed temporary judges; and
2. Rule 2.810, which addresses certain appointments made under extraordinary circumstances, to eliminate the reference to the reporting requirements in rule 10.742(c).

A motion was made by Justice Slough, seconded by Judge Lyons, that this proposal be approved. The motion carried by a unanimous vote.

[16-162](#)

Adoption and Permanency Month: Judicial Council Resolution (Action Required)

Summary: The Family and Juvenile Law Advisory Committee recommends adopting a resolution proclaiming November to be Court Adoption and Permanency Month. As it has since 1999, in observance of National Adoption Month, the Judicial Council can recognize the ongoing efforts of California's juvenile courts and their justice partners to provide children and families with access to fair, understandable judicial proceedings leading to timely, well-informed, and just permanency outcomes. The resolution will also give courts the opportunity to hold special events finalizing adoptions from foster care and raising community awareness of the importance of finding safe, stable, and permanent homes for every child or youth in foster care.

Speakers: Hon. Carolyn M. Caietti, Presiding Judge, Superior Court of California, County of San Diego, Juvenile Division
Adoptive Family: Ms. Faith Powell and Ms. Tracey Powell

Recommendation: The Family and Juvenile Law Advisory Committee recommends that the Judicial Council adopt the attached resolution, effective October 28, 2016, proclaiming November 2016 to be Court Adoption and Permanency Month.

A motion was made by Judge Boulware Eurie, seconded by Judge Back and Judge Stout, that this proposal be approved. The motion carried by a unanimous vote.

[16-195](#)

Trial Court Budget: \$10 Million State-Level Reserve Process (Action Required)

Summary: Government Code section 68502.5(c)(2)(B) requires the Judicial Council to establish a process for trial courts to apply for emergency funding from the newly established \$10 million state-level reserve, which replaces the 2 percent state-level reserve. Government code section 68502.5(c)(2)(C) requires a report to the Legislature, pursuant to Section 9795, and to the Department of Finance no later than October 1 of each year detailing all requests and allocations made for the preceding year. The Judicial Branch Budget Committee recommends that the Judicial Council approve the

updated process for requesting emergency funding.

Speakers: Hon. David M. Rubin, Chair, Judicial Branch Budget Committee
Hon. James M. Humes, Vice Chair, Judicial Branch Budget Committee
Ms. Kimberly Flener, Court Executive Officer, Superior Court of Butte County
Mr. Zlatko Theodorovic, Budget Services

Recommendation: The Judicial Branch Budget Committee is unanimously recommending that the Judicial Council adopt the following recommendations effective immediately:

1. The process, criteria, and required information for requesting emergency funding as developed from the previous Judicial Council approved process for the 2 percent state-level reserve and incorporating updates as related to the new statute are as follows:
 - a. allow only trial courts that are projecting a current-year negative fund balance to apply for emergency funding;
 - b. define emergency funding as funding “for unavoidable shortfalls, unforeseen emergencies, or unanticipated expenses for existing programs;”
 - c. require that a request be for either a loan or one-time funding, but not for ongoing funding;
 - d. require the submission, review, and approval process to be:
 - i. all requests will be submitted to the council for consideration;
 - ii. requests will be submitted to the Administrative Director, Judicial Council by either the court’s presiding judge or court executive officer;
 - iii. the Administrative Director, Judicial Council will forward the request to the Director of Budget Services, Judicial Council;
 - iv. Judicial Council Budget Services staff will review the application for completeness, submit the application to the ad hoc court executives’ work group for review and contact with the requesting court, and issue a report to the Judicial Branch Budget Committee;
 - v. the Judicial Branch Budget Committee will review the request and make a recommendation for Judicial Council consideration;
 - vi. the final report will be provided to the requesting court prior to the report being made publicly available on the California Courts website; and
 - vii. the requesting court may send a representative to the council meeting to present its request and respond to questions from the council.
 - e. authorize courts to submit requests for emergency funding only after a proposed baseline budget (Schedule 1) has been submitted by the court;

- f. allow requests submitted to the Administrative Director, Judicial Council to be considered at the next regularly scheduled council meeting following the time necessary to review the application;
- g. require replenishment of the reserve to occur on an annual basis as a pro rata reduction to each trial courts' beginning base allocations the following fiscal year;
- h. require requests for emergency funding approved by the council after April 1 of any given fiscal year to be distributed to the court as a cash advance loan until the following fiscal year when the court, if necessary, could apply for emergency funding in the new fiscal year in order to repay the cash advance loan;
- i. require the following information be submitted by courts when requesting emergency funding:
 - i. a description of what factors caused or are causing the need for funding;
 - ii. if emergency funding was received in the prior year, identify the amount and explain why funding is needed in the current year;
 - iii. if requesting a one-time distribution, an explanation of why a loan would not be appropriate;
 - iv. current status of court fund balance;
 - v. three-year history of year-end fund balances, revenues, and expenditures;
 - vi. current detailed budget projections for the current fiscal year (e.g., 2016-2017), budget year (e.g., 2017-2018), and budget year plus 1 (e.g., 2018-2019);
 - vii. measures the court has taken in the last three years regarding revenue enhancement and/or expenditure reduction, including layoffs, furloughs, reduced hours, and court closures;
 - viii. employee compensation practices (e.g., cost-of-living adjustments) and staffing levels for the past five years;
 - ix. description of the consequences to the court's operations if the court does not receive funding;
 - x. description of the consequences to the public and access to justice if the court does not receive funding;
 - xi. what measures the court will take to mitigate the consequences to court operations, the public, and access to justice if funding is not approved;
 - xii. five years of filing and disposition numbers;
 - xiii. most recent audit history and remediation measures; and
 - xiv. an expenditure/revenue enhancement plan that identifies how the court will resolve its ongoing funding issue if the

- request for emergency funding is not for a one-time concern.
- j. include the condition that the council will consider appropriate terms and conditions that courts must accept in order to receive emergency funding; and
 - k. require courts that are allocated emergency funding to return the amount that is not needed, if a court determines during the fiscal year that some or all of the allocation is no longer needed due to changes in revenues and/or expenditures.
2. The amendment of the Application for Supplemental Funding form allowing trial courts to apply for cash advances, loans, and one-time emergency funding, and the corresponding Instructions for Applying for Supplemental Funding, to omit inapt information as a result of the new fund reserve, incorporate recommended changes as necessary, to include templates for each application requirement, and extend the application to include a requirement for courts to elaborate on why 57 courts should assist in funding the request through a pro rata base allocation deduction the following fiscal year.
 3. The establishment of an ad hoc court executives working group, the membership of which will be the court executive officer member of the Judicial Branch Budget Committee, and two other court executive officers appointed by the Chief Justice. The working group will review completed applications and follow up with requesting courts as necessary prior to submitting a report to the Judicial Branch Budget Committee for review. In the event a court executive officer currently on the ad hoc working group is from a requesting court, then an alternate court executive officer will be appointed by the Chief Justice for the purposes of that review.
 4. Judicial Council Budget Services staff to have the authority to make technical adjustments to the process and application for requesting emergency funding as needed, and draft and submit the required report to the Legislature following current processes in place by the October 1 deadline for all requests and allocations made in the preceding year.

A motion was made by Ms. Ibarra, seconded by Justice Chin, that this proposal be approved. The motion carried by a unanimous vote.

[16-198](#)

Trial Court Allocations: Trial Court Trust Fund Funds Held on Behalf of the Trial Courts (Action Required)

Summary: The Trial Court Budget Advisory Committee's Fiscal Planning Subcommittee recommends that the Judicial Council approve two requests from two trial courts for Trial Court Trust Fund (TCTF) funds to be held on behalf of the trial courts. Under the Judicial Council-adopted process, courts may request funding reduced as a result of a court's exceeding the 1 percent fund balance cap, to be retained in the Trial Court Trust Fund for the benefit of that court. The total amount requested by the trial courts that would be reduced from their fiscal year (FY) 2016-2017 allocations for exceeding the cap is \$267,559. The subcommittee is also informing the council on the

final adjustments to the estimated approved amounts after FY 2015-2016 yearend. Based on year-end closing of courts' financial records, the final amount of TCTF funds to be held on behalf of the courts for those requests that were approved in June and July 2016 has decreased from \$8.2 million to \$7.3 million.

Speakers: Mr. Zlatko Theodorovic, Budget Services

Recommendation: Based on actions taken at its October 4, 2016, meeting, the Trial Court Budget Advisory Committee's (TCBAC's) Fiscal Planning Subcommittee recommends that the Judicial Council, effective October 28, 2016, allocate and designate \$23,699 in Trial Court Trust Fund fund balance to the Superior Court of Mendocino County and \$243,860 to the Superior Court of Napa County from funding to be reduced from the courts' allocations in fiscal year 2016-2017 as a result of the courts' exceeding the 1 percent fund balance cap because of contracts that exceeded their three-year term. The funds would be distributed to the courts in FY 2016-2017 (see Attachments B1 and B2).

A motion was made by Judge Rubin, seconded by Judge Buckley, that this proposal be approved. The motion carried by a unanimous vote.

16-199

Trial Courts: Children's Waiting Room Fund Balance Cap Adjustments (Action Required)

Summary: The Trial Court Budget Advisory Committee (TCBAC) recommends the Judicial Council approve requests from three trial courts to adjust their children's waiting room (CWR) fund balance caps. The Judicial Council revised its CWR distribution policy on June 26, 2015, adopting a revised policy that was recommended by the TCBAC and places a cap on CWR fund balance. Under the Judicial Council-adopted process, a court wanting a cap adjustment must submit a request explaining the extenuating circumstance and including its CWR expenditure plan for consideration by the TCBAC and the Judicial Council. The total amount requested by the three trial courts that would increase their CWR fund balance caps is \$1.1 million. Judicial Council staff also are reporting the returned CWR fund balance amounts in fiscal year 2016- 2017 through one-time reductions to those courts' allocations.

Speakers: Mr. Zlatko Theodorovic, Budget Services

Recommendation: Based on actions taken at its meeting on October 12, 2016, the Trial Court Budget Advisory Committee recommends that the Judicial Council, effective October 28, 2016, increase the amount of the fiscal year 2016-2017 cap on the children's waiting room fund balance the courts can carry forward from one fiscal year to the next by:

1. \$67,946 for the Superior Court of Contra Costa County (Attachment C1),
2. \$552,329 for the Superior Court of Orange County (Attachment C2), and
3. \$455,732 for the Superior Court of Santa Barbara County (Attachment C3).

A motion was made by Judge Anderson, seconded by Judge Buckley and Judge Boulware Eurie, that this proposal be approved. The motion carried by a unanimous vote.

INFORMATION ONLY ITEMS (NO ACTION REQUIRED)

[16-190](#)**Court Security: Report on Trial Court Screening Equipment Replacement for Fiscal Year 2015-2016**

Summary: The Screening Equipment Replacement Program has been in operation since fiscal year (FY) 2006-2007 and provides \$2.286 million in funding from the Trial Court Trust Fund to replace outdated or malfunctioning screening equipment in the trial courts. Each year the Administrative Director approves the list of entrance screening equipment to be funded that year through this program. This report updates the council on the entrance screening equipment that was replaced in FY 2015-2016 using that funding.

[16-202](#)**Government Code Section 68106: Public Notice by Courts of Closures or Reduced Clerks' Office Hours (Gov. Code, § 68106-Report No. 39)**

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 also relay them to the Legislature. This is the 39th report to date listing the latest court notices received by the council under this statutory requirement; since the previous report, one superior court-Kings County-has issued a new notice.

There were no Circulating Orders since the last business meeting.

Appointment Orders since the last business meeting.

[16-188](#)**Appointment Orders since the last Judicial Council business meeting.****In Memoriam**

The Chief Justice concluded the meeting with a remembrance of the following judicial colleagues recently deceased, honoring their service to their courts and to the cause of justice:

- Hon. Earle J. Gibbons (Ret.), Kern County Municipal Court
- Hon. Edward L. Merrill, (Ret.) Superior Court of California, County of Contra Costa
- Hon. Theodore E. Millard (Ret.), Superior Court of California, County of Orange
- Hon. Ward O. Matthews (Ret.), San Bernardino County Municipal Court
- Hon. James I. Aaron (Ret.), Superior Court of California, County of Fresno
- Hon. Gary E. Meyer (Ret.), Superior Court of California, County of Monterey
- Hon. Alex C. McDonald (Active), Court of Appeal, Fourth Appellate District, Division One

- Hon. Jack E. Goertzen (Ret.), Court of Appeal, Second Appellate District, Division Four
- Hon. Walter H. Condley (Ret.), Superior Court of California, County of Kern
- Hon. Sherman W. Smith (Ret.), Superior Court of California, County of Los Angeles
- Hon. Alan B. Haber (Ret.), Superior Court of California, County of Los Angeles
- Hon. Thomas C. Hendrix (Ret.), Superior Court of California, County of San Diego
- Hon. Harkjoon Paik (Ret.), Superior Court of California, County of Monterey
- Hon. Malcolm M. Lucas (Ret.), Supreme Court of California

Adjournment

Respectfully submitted by Administrative Director Martin Hoshino, Secretary to the Judicial Council, on December 16, 2016.