



## JUDICIAL COUNCIL OF CALIFORNIA

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# REPORT TO THE JUDICIAL COUNCIL

For business meeting on January 15, 2019

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**Title**

Child Support: AB 1058 Child Support  
Commissioner and Family Law Facilitator  
Program Funding Allocation

**Agenda Item Type**

Action Required

**Effective Date**

January 16, 2019

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

None

**Date of Report**

November 21, 2018

**Recommended by**

AB 1058 Funding Allocation Joint  
Subcommittee  
Hon. Mark Ashton Cope, Cochair  
Hon. Joyce D. Hinrichs, Cochair  
Hon. Mark A. Juhas, Cochair

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### Executive Summary

The AB 1058 Funding Allocation Joint Subcommittee recommends that the Judicial Council approve a new funding methodology that is workload-based for the AB 1058 child support commissioner program and maintain the current funding methodology for the family law facilitator program until FY 2021–22. The Judicial Council established the joint subcommittee in April 2015 to reconsider the allocation methodology developed in 1997 for the Child Support Commissioner and Family Law Facilitator Program, as required by Assembly Bill 1058 (Stats. 1996, ch. 957). In February 2016 the council reconstituted the joint subcommittee and directed it to develop a workload-based funding methodology to begin implementation for fiscal year (FY) 2018–19 but to delay making that recommendation until FY 2019–20 to incorporate the work on the Workload-Based Allocation and Funding Methodology completed in 2018 and to coordinate with the California Department of Child Support Services on their review of funding allocations for local child support agencies. The subcommittee recommends beginning to implement a workload-based funding methodology for child support commissioner funding while waiting to

reallocate funds for Family Law Facilitators to ensure that new workload information can be incorporated into a model.

## **Recommendation**

The AB 1058 Funding Allocation Joint Subcommittee recommends that the Judicial Council, effective January 16, 2019, take the following actions:

1. Approve a new funding methodology for the AB 1058 child support commissioner program base funding that is workload-based and employs the same workload and cost structures as the Workload-Based Allocation and Funding Methodology (WAFM) as described below and set forth in Attachment A.
2. Begin reallocating AB 1058 child support commissioner program base grant funds based on that methodology in FY 2019–20 as set forth in Attachment B and described below to ensure that funding changes are capped at 5 percent and smaller courts can continue to operate their programs.
3. Direct the Family and Juvenile Law Advisory Committee to review the implementation of the AB 1058 funding methodology, including its impact on the performance of the program as federally mandated.
4. Direct the Family and Juvenile Law Advisory Committee to make a recommendation for AB 1058 funding a minimum service level for smaller courts for FY 2021–22.
5. Continue reallocation of funds every two years beginning with FY 2021–22 considering the recommendations of the Family and Juvenile Law Advisory Committee as presented to the Trial Court Budget Advisory Committee (TCBAC).
6. Maintain the current funding methodology for the family law facilitator program until FY 2021–22.
7. Direct the Family and Juvenile Law Advisory Committee to gather information and make recommendations to TCBAC for FY 2021–22 on a funding methodology for family law facilitators.
8. Direct the Family and Juvenile Law Advisory Committee to make recommendations concerning allocation of federal title IV-D (of the Social Security Act) drawdown funds (to be matched by the trial courts) beginning in FY 2019–20 that allocate each court its proportion of the total funds up to the amount the court requests and is prepared to match.

## **Relevant Previous Council Action**

The Judicial Council is required annually to allocate non–Trial Court Trust Fund monies to the Child Support Commissioner and Family Law Facilitator Program and has done so since 1997. The council receives recommendations on these allocations annually from the Family and Juvenile Law Advisory Committee. Funds for this program are provided through a cooperative agreement between the California Department of Child Support Services (DCSS) and the Judicial Council. The agreement requires the council to annually approve the funding allocation for each court for the child support commissioners and family law facilitators. Two-thirds of the funds are provided by the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Child Support Enforcement, through the federal Personal

Responsibility and Work Opportunity Reconciliation Act of 1996. The remaining third of the funds come from the state General Fund (non-Trial Court Trust Fund court funding). This funding is commonly referred to as “base funding.” Any funds left unspent during the fiscal year revert to the state General Fund and cannot be used in subsequent years.

### **Historical funding methodology**

The initial allocation of funds for FY 1997–98 used the active child support cases<sup>1</sup> at each county’s district attorney’s office<sup>2</sup> as the measure of workload. Each court was guaranteed a minimum level of funding regardless of the funding it would otherwise receive based on the workload measure. In subsequent years, the Family and Juvenile Law Advisory Committee made recommendations for adjustments to courts’ allocations based on their responses to annual questionnaires regarding their funding needs.

Since 2008, due to the state budget crisis, the title IV-D program has been flat-funded. Because there are no additional funds available for the program, the Judicial Council has allocated funds to the courts at the same level the court received in the prior fiscal year, less any amount a court indicated they did not need, for both the child support commissioner program and family law facilitator program. Further, as a temporary stopgap measure to ensure that courts could maintain services levels, starting in 2008, courts who were able to contribute trial court funds to provide matching funds, previously provided by DCSS to the Judicial Council, were provided a mechanism for the courts to participate in the federal drawdown option. This option allows courts to receive two-thirds of additional program funding by paying one-third of program costs from local trial court funds and receiving two-thirds federal matching funds.

### **Formation of the joint subcommittee**

Since 1997, significant demographic shifts have led to changes in counties’ proportional share of the statewide child support caseload. The resulting shift in workload raised concerns about the utility of the current historical model in allocating program funds equitably.

At its meeting on April 17, 2015, the council approved the recommendation from the Family and Juvenile Law Advisory Committee that the AB 1058 Funding Allocation Joint Subcommittee be established to review the allocation methodology developed in 1997 for the AB 1058 child support commissioner(CSC) and family law facilitator (FLF) programs. After three open meetings, the joint subcommittee, at the February 26, 2016 Judicial Council meeting, presented to the council its recommendations and the separate recommendations of the Family and Juvenile Law Advisory Committee, the Trial Court Budget Advisory Committee, and the Workload Assessment Advisory Committee. At that meeting, the council approved the following actions:

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<sup>1</sup> Active child support cases were defined as those cases in which the noncustodial parent had been located and a child order was established or reserved.

<sup>2</sup> In 1997, the district attorney’s offices handled child support matters, which continued until the transition of this caseload to the newly formed Department of Child Support Services and each county’s local child support agency in 2000.

- Adopt the recommendation of the joint subcommittee for revising the process of how funds are moved from one court to another during a fiscal year to maximize program resources.
- Reappoint the joint subcommittee for at least FY 2016–17 to continue consideration of the allocation of the AB 1058 funds.
- Continue to allocate funding using the historical model for FY 2016–17 and FY 2017–18, develop a workload-based funding methodology to begin implementation in FY 2018–19, and coordinate with DCSS on its current review of funding allocations for local child support agencies.
- Instruct the joint subcommittee to continue its work to determine accurate and complete workload numbers to include in a funding methodology for both child support commissioners and family law facilitators.
- When developing a funding methodology, determine whether the family law facilitator methodology should use different underlying data than the child support commissioner methodology, and identify what data should be used, given that different factors drive commissioner and facilitator workloads.
- As part of the joint subcommittee’s funding methodology determination, establish subject matter expert (SME) groups comprising both child support commissioners and family law facilitators to provide input and expertise to the joint subcommittee.
- Instruct the joint subcommittee to report back to the council at its December 2016 meeting after providing a report to the Family and Juvenile Law Advisory Committee, the Trial Court Budget Advisory Committee, and the Workload Assessment Advisory Committee to ensure statewide input.

At its December 16, 2016 meeting, the council received the joint subcommittee’s interim report, which noted that the development of a workload-based funding methodology was ongoing and a final recommendation on a proposed model was anticipated for the January or February 2018 council meeting.

In October 2017, the joint subcommittee was directed to delay making a recommendation for implementation of a new funding methodology until at least FY 2019–20 following the Judicial Council’s reconsideration of WAFM that was discussed at the council’s meeting in January 2018.

## **Analysis/Rationale**

### **Methodology and process**

Since its reconstitution by the council in February 2016, the joint subcommittee has held 10 open meetings<sup>3</sup> to develop guiding principles for a funding model, discuss data available to measure

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<sup>3</sup> The joint subcommittee held open meetings on the following dates: August 8 and September 22, 2016; May 11 and July 31, 2017; and January 19, March 12, April 18, June 19, August 20, and September 10, 2018.

workload for child support commissioners and family law facilitators, and review federal and state law and contractual requirements to meet the requirements of the AB 1058 grant. Following the council's directive, the joint subcommittee additionally created two SME groups—one composed of child support commissioners (CSCs) and another of family law facilitators (FLFs)—to provide input and expertise to the joint subcommittee. The SME groups met one to two times per month from June 2016 to April 2017 to identify factors that might impact workload in the AB 1058 courts and provided their final reports to the joint subcommittee at its May 11, 2017 meeting.

The joint subcommittee spent several meetings developing principles for a funding methodology for the AB 1058 program, starting with its January 19, 2018 meeting. The members began by identifying the aspects of the historical funding methodology that worked and those that did not work. To draw from the expertise of the SME groups, the joint subcommittee invited representatives from each subject matter expert group to serve as advisory members to the joint subcommittee during these discussions. Systematically, the members went through each positive and negative factor of the current methodology and developed principles that would underlie a new funding methodology to address these factors.

In discussing the principles for a methodology, the members emphasized the importance of maintaining the predictability, stability, and transparency of the program, while still having a model that could be flexible to changes in workload. The discussions reinforced the need to develop a workload-based methodology that would work statewide and that would not threaten the current performance nor adversely impact a court's compliance with the federal grant requirements. The joint subcommittee wanted to preserve local court decision making and judicial independence, while also seeking to maximize the utility of title IV-D court resources statewide and supporting collaboration with DCSS to be responsive to changes in policies and practices. Lastly, the members stressed the need to work toward obtaining quality data generated and managed by the court to ensure transparency and accountability within the branch.

At its September 10, 2018 meeting, the joint subcommittee approved the following principles to follow in developing a new funding methodology:

- Equitable allocation/credibility;
- Maintain statewide federal performance measures;
- Establish consistent and reliable data reporting;
- Consistent access to justice;
- Funding allocation methodology will support advocacy and new funding, including replacement of federal drawdown funds with permanent funds;
- Fund every court at minimum level of service; and
- Maximize all funds, including reallocation.

With these principles in mind, the joint subcommittee established a basic framework for a proposed CSC base funding model. At the onset, it was anticipated that further modifications

would be made to this base model to ensure all courts had sufficient funding to maintain minimum services.<sup>4</sup>

The base funding model estimates the workload-based need for child support commissioners and the staff to support those commissioners, excluding the family law facilitator, using the same principles and model parameters as the Resource Assessment Study (RAS) model and the WAFM. Child support commissioner need is estimated by taking a three-year average of governmental child support filings<sup>5</sup> (FY 2014–15 through FY 2016–17) and multiplying those filings by the caseweight in the Family Law–Other Petitions category (46 minutes).<sup>6</sup> The product is then divided by the judicial workload year value. The result is an estimate of the full-time equivalent (FTE) positions needed for the workload. To convert the FTE estimate into dollars, the subcommittee directed staff to use an average salary for commissioners equivalent to 85 percent of a judge’s salary. Statewide average estimates for salary-driven and non–salary-driven benefits, from WAFM, were applied, as was a multiplier for operating expenses and equipment (OE&E), using the same parameters as the WAFM model.

A similar approach was taken to estimate the workload-based need for staff support. Again, the family law facilitator FTE was omitted from the calculation because of the separate funding stream for that program, and the committee’s decision to address that funding on a separate timeline. For non-CSC staff, the three-year average of filings was multiplied by a modified RAS caseweight used to measure child support workload. The original version of that caseweight includes the facilitator workload, but program staff were able to use other workload analyses to back out that time and use the remaining modified weight of 253.4 minutes to assess the need for non-facilitator program staff. In addition to line staff, estimates for managers/supervisors and administrative staff (HR, IT, finance) were made using the same ratios as the RAS model. The subcommittee also approved using a ratio of 1.25 court reporters to each judicial officer needed, consistent with RAS. The RAS estimates for the staff year value and the WAFM parameters for salary, benefits, and labor costs were used to convert the FTE need to dollars. The OE&E factor used in WAFM was also applied on the staff side.

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<sup>4</sup> Family Code section 4251(a) requires “each superior court [to] provide sufficient commissioners to hear Title IV-D child support cases filed by the local child support agency.”

<sup>5</sup> Prior to FY 2018–19, the definition for title IV-D governmental child support cases in the Judicial Branch Statistical Information System (JBSIS) did not include all cases with involvement by the local child support agencies, which the joint subcommittee decided should be included to appropriately measure workload. Starting with the current fiscal year, courts are directed to include all cases in which the local child support agency intervenes, including family law cases in which the local child support agency is entered to establish, enforce, or modify a child support order. It is anticipated that it will take several months for courts to adjust their case management systems to the new definition, meaning complete case counts for title IV-D governmental child support cases may not be available until 2019.

<sup>6</sup> As the latest judicial needs study did not determine caseweights for title IV-D governmental child support cases specifically, the caseweights for the Family Law–Other Petitions case type was used to assess CSC staffing need for each court. A future judicial needs study will determine a separate caseweight for title IV-D governmental child support cases that can be applied to the CSC funding model.

The joint subcommittee reviewed this base model and two variants of it during its August 20, 2018 conference call. Members made suggestions for additional modifications, which were presented at the September 10, 2018 in-person meeting, during which the joint subcommittee made its final recommendations.

### **CSC base funding methodology and implementation of reallocation**

The subcommittee recommends that the council adopt a methodology for assessing the workload-driven need for child support commissioners and related staff in the AB 1058 program that is consistent with the WAFM and RAS models as described above. However, because this methodology would result in dramatic funding cuts or increases in most courts, which would impact the courts' ability to provide the services required to meet federal and state law and contractual provisions associated with the funding (see Attachment A), the subcommittee is also recommending that the initial reallocation be capped at 5 percent of the total amount that each court's program can be cut or increased. In addition, the joint subcommittee recognizes that the allocation of funds for small courts must be adjusted to take into account the reality that they cannot hire a child support commissioner, who is barred from doing other legal work, from the very small allocations that would be provided to them based on workload alone. To address these challenges under the existing funding allocation, a number of courts have entered into intra-branch agreements in which they share a child support commissioner and thus are able to meet federal, state, and contractual requirements while attracting qualified attorneys to serve as commissioners.<sup>7</sup> To ensure that these programs can continue to fulfill their statutory and contractual obligations, the joint subcommittee is recommending that those courts (cluster 1 courts and any courts with an existing intra-branch agreement with another court for AB 1058 services) be funded at no less than their current levels for FY 2019–20 and FY 2020–21 (see Attachment B for proposed FY 2019–20 and FY 2020–21 allocations).

### **Future CSC base funding needs and allocation**

While the joint subcommittee is recommending that the council move toward a funding allocation that is based on each court's workload, it also recognizes that there is work to be done to refine and revise the allocations to take into account the improved workload data collection currently underway as a result of improved data definitions in JBSIS that were implemented beginning in the current fiscal year. The subcommittee also recognizes a need to reexamine the appropriate minimum level of funding needed to ensure that each court can fulfill its AB 1058 obligations and maintain or improve program performance as measured by federal performance standards on establishing and enforcing child support orders. Thus, the joint subcommittee is recommending that the Family and Juvenile Law Advisory Committee be directed to undertake a review of the funding model using the updated workload data from JBSIS and the forthcoming time studies and to develop recommendations to be submitted to TCBAAC on:

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<sup>7</sup> The courts that share a child support commissioner and whose funding would be maintained at current levels if the recommendation noted above is adopted are the following: (1) Alpine and El Dorado; (2) Nevada and Sierra; (3) Shasta and Trinity; (4) Monterey and San Benito; (5) Colusa, Glenn, Plumas, and Tehama; (6) Mariposa and Tuolumne; (7) Sutter, Yolo, and Yuba; and (8) Inyo and Mono.

- Reallocation of funds in FY 2021–22 and every two years thereafter; and
- The minimum funding level for each court to meet its statutory and contractual obligations.

TCBAC would then be responsible for making recommendations to the council on the continued implementation and revision of the methodology as well as the allocation of funds.

### **FLF funding model recommendation**

In considering options for allocating FLF funding, the joint subcommittee discussed various metrics for measuring workload. The joint subcommittee recognized that the work performed by the FLF is not easily measured based on the current available data. FLFs routinely provide services that do not result in court filings and provide support for individuals where the jurisdiction of the case resides in a different court. As most FLFs are incorporated into courts' self-help centers, the joint subcommittee reviewed the methodology used for allocating self-help funding. The self-help funding model gives each court a base level of funding of \$34,000 and then allocates the remaining funds based on population.

The Governor's budget for FY 2018–19 included \$19.1 million in new funds for the self-help program, which would be allocated following the same model. These new funds are intended to be used to expand self-help services in the court and the Judicial Council is required to report back to the Legislature on the impact of the new funds on self-help programs statewide. The joint subcommittee was concerned that changing the FLF historic funding allocation may result in the inability to accurately measure the impact of the increase in self-help funds and could threaten the success of the implementation of new self-help program funding. The joint subcommittee considered whether the best option would be to defer the development of a new FLF funding model until after the analysis of the implementation of the new self-help program funding was complete.

The joint subcommittee recommends that FLF base and federal drawdown funding be allocated using the existing funding allocation methodology until at least FY 2021–22 when a review of the impact of the self-help funding can be undertaken and better workload data for FLF offices can be gathered. The joint subcommittee is recommending that the Family and Juvenile Law Advisory Committee be directed to gather the data and information needed to make recommendations to TCBAC on a method and time frame for allocating FLF base and drawdown funds on a workload basis that conforms with the principles established by the joint subcommittee to inform future FLF funding allocations.

### **Federal drawdown funds recommendation**

In 2008, due to a statewide budget crisis, funding for the AB 1058 program was reduced. In order to maintain service levels, some courts elected to contribute trial court funds to use as a match to drawdown federal title IV-D funds. Courts were able to receive two federal dollars for every dollar courts were able to contribute, up to a maximum amount negotiated with the Department of Child Support Services. This was intended to be a stopgap measure to maintain service levels until funding could be restored. Because trial courts are required to contribute their



own funds to draw down federal funds, the joint subcommittee determined that the federal drawdown funds should be allocated following a different methodology than what would be used for the base funds.

Currently, the process for allocating these funds is based on courts indicating whether they have sufficient trial court funds to participate in this funding and identifying the amount that they are able to contribute as matching funds. An annual questionnaire is completed by each court, in which the court indicates if they want to increase, decrease, or keep the same level of federal drawdown funds as for the prior year. If the requested increases exceed the total federal drawdown funds available to the program, the requested increases are prorated down to available funds based on the allocation of the base funding.

The joint subcommittee recommends that federal drawdown funds be allocated proportionally to each court based on the new funding allocations up to the amount that a court requests and can match. If the request for federal drawdown funds exceeds the amount available to allocate, these funds should be allocated in proportion to a court's base funding. This proportional allocation should be continued until all drawdown funds are allocated to those courts that are willing and able to provide the matching funds. The joint subcommittee also recommends that the council seek to have these funds restored to the base funding of the program so that courts are no longer required to provide matching funds.

The joint subcommittee approved with modifications the draft of this report on October 9, 2018. Thereafter, under the council's directive, the report was provided to the three advisory committees to ensure statewide input.

#### **Subsequent advisory committee review**

The Trial Court Budget Advisory Committee (TCBAC) met in person in a public session on October 18, 2018, to review and discuss the recommendations that were approved by the AB 1058 Funding Allocation Joint Subcommittee. TCBAC voted unanimously to support the recommendations of the joint subcommittee in concept, with nonsubstantive amendments to two of the recommendations. Recommendation 2 was amended to make explicit that any increase or decrease would be set at not more than 5 percent from the court's prior allocation.

Recommendation 5 was revised to clarify that reallocations will continue every two years, beginning with FY 2021–22, considering the recommendations of the Family and Juvenile Law Advisory Committee, as presented to TCBAC.

The Workload Assessment Advisory Committee (WAAC) met on October 22, 2018, by phone, to discuss the recommendations of the joint subcommittee, which included the amendments approved by TCBAC. WAAC unanimously approved the report and recommendations of the joint subcommittee with the modifications made by TCBAC.

The Family and Juvenile Law Advisory Committee met by phone on October 22, 2018, to review and discuss the recommendations of the joint subcommittee with the modifications to recommendations 2 and 5 approved by TCBAC. Members expressed appreciation for the work

that was done by the joint subcommittee. The committee unanimously approved the report and recommendations with the amendments adopted by TCBAC and WAAC.

### **Policy implications**

The council directive to the joint subcommittee was clear that funding for the AB 1058 program should be grounded in a workload-based methodology that would fairly distribute funds for the program. In addition, the joint subcommittee needed to balance the statutory directive that each court provide an AB 1058 commissioner and a family law facilitator. To ensure that each court can meet that requirement within the funding for the program it is critical that each court receive a level of funding that makes it possible to employ someone in each of these positions. In addition, it is critical that the funding for the program is such that California continues to meet federal performance measures that allow the federal funds to flow to the program. Because courts are currently meeting those performance measures, it was critical that any new methodology be implemented cautiously to prevent any loss of performance in the program.

### **Comments**

The joint subcommittee made a concerted effort to garner as much public input as possible. As noted above, at the direction of the council, the joint subcommittee created two SME groups—one composed of CSCs and one composed of FLFs—who met one to two times per month from June 2016 to April 2017 to identify factors that might impact workload in the AB 1058 courts. The SME groups provided their final reports to the joint subcommittee at its May 11, 2017 meeting. The joint subcommittee also invited a representative from each SME group to serve as advisory members for three of the joint subcommittee’s meetings.

Prior to each of its 10 open meetings, the joint subcommittee notified all CSCs and FLFs, the stakeholders most directly impacted by the funding methodology, requesting their written public comments or oral public comments at the meetings themselves. Collectively, the joint subcommittee received 14 comments—7 written public comments and 7 oral public comments. The commenters included a CSC, three FLFs (including the president of the California Family Law Facilitator Association, who spoke on the association’s behalf), a superior court, and the Child Support Directors Association of California.

Some of the main concerns expressed included the following:

- The need to maintain a minimum level of funding so that all courts can provide adequate services to fulfill their contractual and statutory requirements, particularly since the failure of any one court to meet these requirements can jeopardize the funding for the program as a whole;
- The belief that AB 1058 workload for CSCs is best measured by counting motions, since it is a motion-based practice and the same number of case filings in two different counties can lead to very different levels of workload-based on the practices of the local child support agencies (LCSAs) in each county;

- The importance of not relying on filings for measuring FLF workload as the work of FLFs often does not lead to actual filings in the court, and when they do, the filings often occur in counties other than the one in which the FLF provides services;
- The reality that a drastic change in funding for courts will impact the ability of the LCSAs to complete their work within the federally mandated time frames; and
- The need to gradually phase in any new funding methodology to allow courts time to adjust and to plan accordingly.

In addition to the input given directly to the joint subcommittee, DCSS hired an outside consultant, Maximus, to conduct an extensive analysis on the available workload data and options for workload-based funding models. Maximus presented its recommendations for a funding model to the joint subcommittee for its consideration.

### **Alternatives considered**

All of this feedback and commentary was taken into consideration during the joint subcommittee's discussions, during which it considered various approaches to developing a funding methodology for child support commissioner, family law facilitator, and federal drawdown funds for FY 2019–20. What follows is a description of the alternative approaches to a funding methodology considered by the joint subcommittee and the rationale for rejecting these approaches and moving forward with the proposal recommended above.

**CSC alternative 1: Use workload data from the Department of Child Support Services.** The joint subcommittee considered using data from DCSS's case management system to measure the workload of CSCs. This data is entered into the statewide system by the LCSAs and is reported annually to the federal government. Based on local policies and practices, LCSAs may enforce child support orders in counties where the court within that county does not have jurisdiction. Concerns were raised that the data tracked by the LCSA that shows its workload may not be consistent with the workload of the court located within the same county. The joint subcommittee additionally raised concerns about building a judicial branch funding methodology using data collected by parties to a case<sup>8</sup> to measure the workload of judicial officers. Consistent with the stated guideline of having a methodology that relies on data generated and managed by the branch, the joint subcommittee elected instead to recommend use of the JBSIS filings data.

**CSC alternative 2: Use motions data rather than case filings data.** Responding to the concern raised by commenters and specifically by the child support commissioner SME group that the AB 1058 program is a motions-based practice whose workload is best measured by counts of motions, the joint subcommittee spent substantial time discussing the possible use of motions as a workload measure. It was determined that there were no reliable measures of motions statewide, and the best proxy for motions was hearings. Members voiced concerns about the ability to manipulate hearing totals, even if unintentional. Moreover, if hearings were to be used

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<sup>8</sup> While DCSS itself is not a litigant in the superior court cases that would be impacted by this funding methodology, the LCSAs that collect the caseload data are parties to all governmental title IV-D child support cases.

as the measure, the joint subcommittee noted that about one-third of courts, including some of the largest, do not enter motions or hearings data into JBSIS, which would leave the DCSS hearings data as the only option for obtaining these counts in every jurisdiction. Recognizing the joint subcommittee's aim to use data generated and managed by the court, and not by an outside party, the joint subcommittee rejected this option. Rather, after many discussions over the course of several meetings, the joint subcommittee concluded that RAS takes into account the number of hearings on average that are set in the life of a case, making the case filing count via JBSIS the best available workload measure for CSCs based on the criteria set by the joint subcommittee.

**CSC alternative 3: Use a 1-to-1 ratio for court reporters to child support commissioners.**

The joint subcommittee recognized the need to include court reporters in the child support commissioner base funds funding model and considered using a 1-to-1 ratio. The joint subcommittee discussed the unique nature of court reporter work and that court reporters are not interchangeable with other court staff. The joint subcommittee recognized that WAFM uses a 1-to-1.25 ratio for judicial officer to court reporter ratio. The joint subcommittee rejected using a 1-to-1 ratio so that the funding model would be aligned with WAFM and more accurately identify actual funding need for the courts.

**CSC alternative 4: Limit only decreases in funding to no more than 5 percent from what the court received in funding from the prior fiscal year.** The proposed methodology attempts to balance the competing goals of allocating funding based on the workload of each court and the ability of each court to continue to provide a minimum level of services. The Joint Subcommittee considered placing a cap only on any decrease in funding any court could receive from the prior fiscal year. The joint subcommittee acknowledged the discrete nature of the program and the challenges that the courts face in making adjustments to maximize the use of funding when additional funding is made available, as well as when funding is reduced. Therefore, the joint subcommittee recommended that a reallocation in funding should be capped for courts who would receive a decrease in funding as well for those who would receive an increase.

**CSC alternative 5: Include minimum funding for cluster 1 courts only.** The joint subcommittee recognized the need to provide a minimum amount of funding for the smallest courts in order for those courts to continue to meet the statutory and contractual requirements of the child support program. The joint subcommittee further recognized that some of these courts have reached intra-branch agreements with other cluster 1 courts or with larger courts in their area to meet the federal and state requirements of the program and the needs of the communities. The joint subcommittee was concerned that not maintaining existing funding to courts that have an existing agreement would create a gap in necessary funding to meet the obligations of the agreement. In addition, the joint subcommittee concluded that there was insufficient information to determine the amount of minimum funding necessary for the smallest courts and that reducing funding could have unintended consequences.

**CSC alternative 6: Include cluster 1 courts and courts that have an intra-branch agreement for shared services in the model variance that limits any increase or decrease in funding to**

**5 percent.** In balancing the competing goals of developing a funding methodology that has simplicity and transparency with the need to ensure the federal, state, and contractual requirements of the program are met, the joint subcommittee concluded that there was insufficient information to make this recommendation, but that this issue could be reexamined after the Family and Juvenile Law Advisory Committee evaluates the minimum services levels necessary to ensure compliance with federal, state, and contractual requirements and make recommendations to the Trial Court Budget Advisory Committee.

### **FLF funding**

The joint subcommittee considered identifying data to measure the workload of the family law facilitator's office and developing a funding methodology based on workload consistent with other trial court funding allocation methods. However, as most FLF offices are located within courts' self-help centers, the joint subcommittee was concerned that any reallocation of FLF funding could have unintended consequences on measuring the impact and expansion of services that result from the \$19.1 million in increased self-help funds. Ultimately, the joint subcommittee determined that the current funding methodology—for both base funds and federal drawdown funds—should be left in place until the courts can expand self-help services with the additional funds and complete the required cost-benefit analysis due the Legislature on the impacts of the new funds.

### **Federal drawdown funding**

The joint subcommittee considered including the federal drawdown funds with the base funds and allocating both types of funds consistent with the recommended allocation methodology for CSCs. However, as these funds require the courts to provide a one-third match of trial court funds to draw down two-thirds federal title IV-D funds, the joint subcommittee concluded that local court decision making should be maintained as to whether courts have the desire or ability to participate in this program and draw down these additional funds. Also, consistent with the goal of maintaining stability within the program and meeting minimum service levels, the joint subcommittee concluded that it was critical that the courts make their decisions whether to participate and at what level before the Judicial Council makes the allocations so that courts have a clear understanding of the funding available and can make informed decisions on how to use the available funds.

### **Fiscal and Operational Impacts**

The committee does not anticipate that these recommendations will result in any costs to the branch, but the reallocation of funds will decrease funds available for some courts, which may impact their ability to meet program objectives.

### **Attachments and Links**

1. Attachment A: Child Support Commissioner Base Funding Model Allocations
2. Attachment B: Recommended Child Support Commissioner Funding Model Allocations

Attachment A: Child Support Commissioner Base Funding Model Allocations

Cluster Col.A	Court Col.B	CSC Funding Need Col. C	CSC Staff (non- FLF) Funding Need Col. D	Total CSC and Staff Need (C+D) Col. E	Prorate to available funding Col. F	Current (FY 18-19) Base Allocation Col. G	Difference (F-G) Col. H
4	Alameda	581,313	2,040,063	2,621,376	1,224,299	1,066,055	158,244
1	Alpine	278	825	1,103	515		515
1	Amador	17,264	56,496	73,760	34,449	140,250	(105,801)
2	Butte	124,483	341,050	465,533	217,425	300,000	(82,575)
1	Calaveras	27,145	82,616	109,761	51,263	132,667	(81,404)
1	Colusa	5,440	15,290	20,730	9,682	45,691	(36,009)
3	Contra Costa	228,013	745,072	973,086	454,474	873,000	(418,526)
1	Del Norte	37,192	105,419	142,611	66,606	48,004	18,602
2	El Dorado	71,860	218,497	290,358	135,610	203,169	(67,559)
3	Fresno	840,246	2,303,693	3,143,939	1,468,359	1,617,646	(149,287)
1	Glenn	22,871	60,548	83,419	38,960	120,030	(81,070)
2	Humboldt	72,343	178,877	251,220	117,331	121,036	(3,705)
2	Imperial	180,053	455,697	635,749	296,923	165,363	131,560
1	Inyo	6,883	20,606	27,489	12,839	79,264	(66,425)
3	Kern	571,882	1,633,965	2,205,847	1,030,228	670,498	359,730
2	Kings	113,980	305,027	419,007	195,695	302,609	(106,914)
2	Lake	53,051	132,146	185,197	86,495	155,126	(68,631)
1	Lassen	25,369	73,063	98,431	45,972	60,000	(14,028)
4	Los Angeles	3,645,692	12,484,803	16,130,495	7,533,655	5,289,980	2,243,675
2	Madera	114,891	321,392	436,283	203,764	215,291	(11,527)
2	Marin	30,973	108,030	139,003	64,921	126,208	(61,287)
1	Mariposa	8,826	26,515	35,342	16,506	75,216	(58,710)
2	Mendocino	65,216	168,501	233,717	109,156	170,269	(61,113)
2	Merced	252,663	683,928	936,592	437,430	539,732	(102,302)
1	Modoc	7,161	17,501	24,662	11,518		11,518
1	Mono	2,220	7,081	9,301	4,344	45,974	(41,630)
3	Monterey	190,609	598,046	788,655	368,337	375,757	(7,420)
2	Napa	43,727	145,838	189,565	88,535	105,000	(16,465)
2	Nevada	34,403	101,321	135,724	63,389	327,593	(264,204)
4	Orange	1,020,245	3,319,736	4,339,981	2,026,964	2,299,118	(272,154)
2	Placer	95,546	315,509	411,054	191,981	343,600	(151,619)
1	Plumas	10,714	29,035	39,749	18,565	95,777	(77,212)
4	Riverside	1,283,679	3,813,947	5,097,627	2,380,817	1,005,357	1,375,460
4	Sacramento	803,217	2,634,077	3,437,294	1,605,368	1,044,502	560,866
1	San Benito	20,428	66,050	86,478	40,389	135,384	(94,995)
4	San Bernardino	1,968,415	5,581,660	7,550,076	3,526,220	2,569,836	956,384
4	San Diego	919,126	2,827,813	3,746,939	1,749,986	1,791,621	(41,635)
4	San Francisco	225,012	882,723	1,107,735	517,361	902,452	(385,091)
3	San Joaquin	407,798	1,209,194	1,616,992	755,207	685,004	70,203
2	San Luis Obispo	72,771	220,443	293,214	136,944	230,689	(93,745)
3	San Mateo	97,368	356,357	453,725	211,910	389,666	(177,756)
3	Santa Barbara	132,467	421,603	554,070	258,775	478,689	(219,914)
4	Santa Clara	343,333	1,208,542	1,551,874	724,794	1,773,701	(1,048,907)
2	Santa Cruz	40,244	128,266	168,509	78,701	195,056	(116,355)
2	Shasta	108,139	291,336	399,474	186,572	416,675	(230,103)
1	Sierra	1,277	3,318	4,595	2,146		2,146
2	Siskiyou	34,832	82,793	117,625	54,936	130,350	(75,414)
3	Solano	211,830	662,657	874,487	408,424	515,817	(107,393)
3	Sonoma	106,424	322,857	429,281	200,493	498,798	(298,305)
3	Stanislaus	328,918	934,759	1,263,676	590,193	771,110	(180,917)
2	Sutter	82,899	238,249	321,148	149,990	192,235	(42,245)
2	Tehama	63,661	161,302	224,963	105,068	94,249	10,819
1	Trinity	11,380	30,418	41,798	19,522		19,522
3	Tulare	212,473	570,426	782,899	365,649	558,311	(192,662)
2	Tuolumne	28,294	76,161	104,455	48,785	158,566	(109,781)
3	Ventura	278,546	903,350	1,181,896	551,998	575,604	(23,606)
2	Yolo	112,211	345,133	457,344	213,600	190,192	23,408
2	Yuba	54,069	174,817	228,887	106,900	203,149	(96,249)
	<b>Total</b>	<b>16,451,363</b>	<b>51,244,435</b>	<b>67,695,798</b>	<b>31,616,936</b>	<b>31,616,936</b>	<b>-</b>

Attachment B: Recommended Child Support Commissioner Funding Model Allocation

	A	C	D	E	F	H	I	T	U	V
1	Cluster	Court	CSC Funding Need	CSC Staff (non-FLF Funding Need	Total CSC and Staff Need (C+D)	Prorate to available funding	Current (FY 18-19) Base Allocation	Adjust to limit to max. 5% increase/decrease	Difference (H-G)	Percentage Difference Col. I/Col. G
2	Col. A	Col. B	Col. C	Col. D	Col. E	Col. F	Col. G	Col. H	Col. I	Col. J
3	4	Alameda	581,313	2,040,063	2,621,376	1,224,299	1,066,055	1,119,358	53,303	5.0%
4	1	Alpine	278	825	1,103	515				
5	1	Amador	17,264	56,496	73,760	34,449	140,250	140,250	0	0.0%
6	2	Butte	124,483	341,050	465,533	217,425	300,000	287,042	(12,958)	-4.3%
7	1	Calaveras	27,145	82,616	109,761	51,263	132,667	132,667	0	0.0%
8	1	Colusa	5,440	15,290	20,730	9,682	45,691	45,691	0	0.0%
9	3	Contra Costa	228,013	745,072	973,086	454,474	873,000	835,291	(37,709)	-4.3%
10	1	Del Norte	37,192	105,419	142,611	66,606	48,004	50,404	2,400	5.0%
11	2	El Dorado	71,860	218,497	290,358	135,610	203,169	203,169	0	0.0%
12	3	Fresno	840,246	2,303,693	3,143,939	1,468,359	1,617,646	1,547,773	(69,873)	-4.3%
13	1	Glenn	22,871	60,548	83,419	38,960	120,030	120,030	0	0.0%
14	2	Humboldt	72,343	178,877	251,220	117,331	121,036	117,835	(3,201)	-2.6%
15	2	Imperial	180,053	455,697	635,749	296,923	165,363	173,631	8,268	5.0%
16	1	Inyo	6,883	20,606	27,489	12,839	79,264	79,264	0	0.0%
17	3	Kern	571,882	1,633,965	2,205,847	1,030,228	670,498	704,023	33,525	5.0%
18	2	Kings	113,980	305,027	419,007	195,695	302,609	289,538	(13,071)	-4.3%
19	2	Lake	53,051	132,146	185,197	86,495	155,126	148,425	(6,701)	-4.3%
20	1	Lassen	25,369	73,063	98,431	45,972	60,000	60,000	0	0.0%
21	4	Los Angeles	3,645,692	12,484,803	16,130,495	7,533,655	5,289,980	5,554,479	264,499	5.0%
22	2	Madera	114,891	321,392	436,283	203,764	215,291	205,992	(9,299)	-4.3%
23	2	Marin	30,973	108,030	139,003	64,921	126,208	120,757	(5,451)	-4.3%
24	1	Mariposa	8,826	26,515	35,342	16,506	75,216	75,216	0	0.0%
25	2	Mendocino	65,216	168,501	233,717	109,156	170,269	162,914	(7,355)	-4.3%
26	2	Merced	252,663	683,928	936,592	437,430	539,732	516,419	(23,313)	-4.3%
27	1	Modoc	7,161	17,501	24,662	11,518				
28	1	Mono	2,220	7,081	9,301	4,344	45,974	45,974	0	0.0%
29	3	Monterey	190,609	598,046	788,655	368,337	375,757	375,757	0	0.0%
30	2	Napa	43,727	145,838	189,565	88,535	105,000	100,465	(4,535)	-4.3%
31	2	Nevada	34,403	101,321	135,724	63,389	316,593	316,593	0	0.0%
32	4	Orange	1,020,245	3,319,736	4,339,981	2,026,964	2,299,118	2,199,809	(99,309)	-4.3%
33	2	Placer	95,546	315,509	411,054	191,981	343,600	328,758	(14,842)	-4.3%
34	1	Plumas	10,714	29,035	39,749	18,565	95,777	95,777	0	0.0%
35	4	Riverside	1,283,679	3,813,947	5,097,627	2,380,817	1,005,357	1,055,625	50,268	5.0%
36	4	Sacramento	803,217	2,634,077	3,437,294	1,605,368	1,044,502	1,096,727	52,225	5.0%
37	1	San Benito	20,428	66,050	86,478	40,389	135,384	135,384	0	0.0%
38	4	San Bernardino	1,968,415	5,581,660	7,550,076	3,526,220	2,569,836	2,698,328	128,492	5.0%
39	4	San Diego	919,126	2,827,813	3,746,939	1,749,986	1,791,621	1,755,653	(35,968)	-2.0%
40	4	San Francisco	225,012	882,723	1,107,735	517,361	902,452	863,471	(38,981)	-4.3%
41	3	San Joaquin	407,798	1,209,194	1,616,992	755,207	685,004	719,254	34,250	5.0%
42	2	San Luis Obispo	72,771	220,443	293,214	136,944	230,689	220,725	(9,964)	-4.3%
43	3	San Mateo	97,368	356,357	453,725	211,910	389,666	372,835	(16,831)	-4.3%
44	3	Santa Barbara	132,467	421,603	554,070	258,775	478,689	458,012	(20,677)	-4.3%
45	4	Santa Clara	343,333	1,208,542	1,551,874	724,794	1,773,701	1,697,087	(76,614)	-4.3%
46	2	Santa Cruz	40,244	128,266	168,509	78,701	195,056	186,631	(8,425)	-4.3%
47	2	Shasta	108,139	291,336	399,474	186,572	398,675	398,675	0	0.0%
48	1	Sierra	1,277	3,318	4,595	2,146	11,000	11,000	0	0.0%
49	2	Siskiyou	34,832	82,793	117,625	54,936	130,350	124,720	(5,630)	-4.3%
50	3	Solano	211,830	662,657	874,487	408,424	515,817	493,537	(22,280)	-4.3%
51	3	Sonoma	106,424	322,857	429,281	200,493	498,798	477,253	(21,545)	-4.3%
52	3	Stanislaus	328,918	934,759	1,263,676	590,193	771,110	737,802	(33,308)	-4.3%
53	2	Sutter	82,899	238,249	321,148	149,990	192,235	192,235	0	0.0%
54	2	Tehama	63,661	161,302	224,963	105,068	94,249	98,961	4,712	5.0%
55	1	Trinity	11,380	30,418	41,798	19,522	18,000	18,900	900	5.0%
56	3	Tulare	212,473	570,426	782,899	365,649	558,311	534,195	(24,116)	-4.3%
57	2	Tuolumne	28,294	76,161	104,455	48,785	158,566	158,566	0	0.0%
58	3	Ventura	278,546	903,350	1,181,896	551,998	575,604	555,211	(20,393)	-3.5%
59	2	Yolo	112,211	345,133	457,344	213,600	190,192	199,702	9,510	5.0%
60	2	Yuba	54,069	174,817	228,887	106,900	203,149	203,149	0	0.0%
61		<b>Total</b>	<b>16,451,363</b>	<b>51,244,435</b>	<b>67,695,798</b>	<b>31,616,936</b>	<b>31,616,936</b>	<b>31,616,936</b>	<b>0</b>	<b>0.0%</b>