



# Judicial Council of California

455 Golden Gate Ave.  
San Francisco, CA  
94102-3688

## Meeting Agenda

## Judicial Council

Meeting materials  
are available through  
the hyperlinks in  
this document.

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JCCAccessCoordinator@jud.ca.gov*

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Friday, November 30, 2018

8:30 AM

San Francisco

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

Session 8:30 a.m. – 9:15 a.m.

Transitional Break 9:15 a.m. – 9:25 a.m.

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

**Council Members**

**Call to Order**

**Public Comment**

*30 minutes*

*The Judicial Council welcomes public comment on general matters of judicial administration and on specific agenda items, as it can enhance the council's understanding of the issues coming before it.*

*For more information about meeting attendance and public comment procedures:*

<http://www.courts.ca.gov/28045.htm>

- 1) Submit advance requests to speak by 4:00 p.m., Tuesday, November 27, 2018.
- 2) Submit written comments for this meeting by 1:00 p.m. on Wednesday, November 28, 2018.

*Contact information for advance requests to speak, written comments, and questions:*

*E-mail:*

[judicialcouncil@jud.ca.gov](mailto:judicialcouncil@jud.ca.gov)

*Postal mail or delivery in person:*

*Judicial Council of California*

*455 Golden Gate Avenue*

*San Francisco, California 94102-3688*

*Attention: Josely Yangco-Fronza*

## **Approval of Minutes**

[18-187](#)      **Minutes of September 20-21, 2018, Judicial Council meeting**

## **Chief Justice's Report**

*10 minutes*

## **Administrative Director's Report**

[18-188](#)      **Administrative Director's Report**

*10 minutes*

## **Judicial Council Committee Presentations**

[18-189](#)      **Judicial Council Committee Reports**

**Summary:**

Executive and Planning Committee

Hon. Marla O. Anderson, Vice-chair

Policy Coordination and Liaison Committee

Hon. Kenneth K. So, Chair

Rules and Projects Committee

Hon. Harry E. Hull, Chair

Judicial Council Technology Committee

Hon. Marsha G. Slough, Chair

Judicial Branch Budget Committee

Hon. Kyle S. Brodie, Vice-chair

*30 minutes*

## **CONSENT AGENDA**

*A council member who wishes to request that any item be moved from the Consent Agenda to the Discussion Agenda is asked to please notify Roma Cheadle at 415-865-7640 at least 48 hours before the meeting.*

[18-207](#)**Judicial Branch Technology: Judicial Branch Statistical Information System (JBSIS) Dispute Resolution Process (Action Required)****Summary:**

The Court Executives Advisory Committee (CEAC) recommends that the Judicial Council adopt the Judicial Branch Statistical Information System (JBSIS) Dispute Resolution Process. As lead staff to the JBSIS Subcommittee of CEAC, the Judicial Council's Office of Court Research is delegated the authority to make determinations on how courts should report data in JBSIS. Recognizing that there might be situations when courts do not agree with the determination made by council staff, the proposed *JBSIS Dispute Resolution Process* has been developed by CEAC to provide guidance and a consistent framework to resolve disagreements on reporting statistical data in JBSIS.

[18-192](#)**Judicial Council: 2018 Summary of Legislative Policy (Action Required)****Summary:**

The Policy Coordination and Liaison Committee (PCLC) recommends adopting the updated *Legislative Policy Summary* reflecting actions through the 2018 legislative year. Adoption of this updated summary of positions taken on court-related legislation will assist the council in making decisions about future legislation, consistent with the judicial branch's strategic plan goals.

[18-223](#)**Judicial Council: Judicial Branch Budget Committee (Action Required)****Summary:**

The Judicial Council's Executive and Planning Committee and Rules and Projects Committee propose the adoption of rule 10.15 of the California Rules of Court on the Judicial Branch Budget Committee, an internal committee of the council. The committees also propose amending four other rules of court relating to the internal committees of the Judicial Council to make them consistent with the new rule and to eliminate duplication in the rules.

[18-225](#)**Judicial Council: Name Change of Governing Committee of the Center for Judicial Education and Research (Action Required)****Summary:**

The Executive and Planning Committee recommends amending California Rules of Court, rule 10.50 (Governing Committee of the Center for Judicial Education and Research) to change the name of the committee to the Center for Judicial Education and Research Advisory Committee. The amendment will align the name of the committee with those of other Judicial Council advisory committees.

[18-191](#)**Telephonic Appearances: Change in Fee Amount (Action Required)****Summary:**

The Judicial Branch Budget Committee recommends amending rule 3.670 of the California Rules of Court to increase the fee to appear by telephone in civil cases from \$86 to \$94, effective January 1, 2019. The new fee would apply to the balance of the four-year term of the master agreement for telephone appearance services that

was recently entered into with CourtCall, LLC. The fee increase reflects the estimated increase in the Consumer Price Index for All Urban Consumers for the term of the agreement.

[18-200](#)**Juvenile Law: Electronic Filing and Service in Juvenile Court Matters (Implementation of AB 976) (Action Required)****Summary:**

The Family and Juvenile Law Advisory Committee recommends amending 15 of the California Rules of Court, adopting one new rule, revising eight Judicial Council forms, and approving one new optional form. Assembly Bill 976 authorizes electronic filing and service in juvenile matters, pursuant to Code of Civil Procedure section 1010.6. The bill extends the ability to conduct electronic filing and service to all juvenile matters, with some important exceptions and conditions designed to protect the confidential information of minors and to preserve paper notice of specified proceedings. The bill also requires affirmative consent to electronic service as of January 1, 2019. These statutory changes require the modifications to rules and forms recommended in this report.

[18-202](#)**Civil Practice and Procedure: Name Change and Gender Change Forms (Action Required)****Summary:**

The Civil and Small Claims Advisory Committee recommends adopting and revising various Judicial Council Name Change forms to reflect recently enacted legislative amendments that go into effect January 1, 2019. Assembly Bill 3250 adds new requirements for issuance and service of orders to show cause in certain name change and gender change proceedings initiated by parents or guardians, as well as requiring new judicial findings in gender change proceedings brought by guardians. Assembly Bill 2201 adds a new category of petitioners (those seeking to avoid human trafficking) to those who may seek confidential name changes. The advisory committee recommends that the forms be revised, and two additional forms adopted without circulation so that the forms will be correct under the new laws when they become effective.

[18-203](#)**Protective Orders: Gun Violence Restraining Order Forms (Action Required)****Summary:**

The Civil and Small Claims Advisory Committee recommends revising various Judicial Council gun violence restraining order (GVRO) forms to reflect recently enacted legislative amendments that go into effect January 1, 2019. Senate Bill 1200 (Stats. 2018, ch. 898) prescribes that orders under Penal Code section 18100 et seq. must be referred to as gun violence restraining orders, expands the definition of ammunition to include a magazine, prohibits a filing fee for GVRO forms and documents, requires a law enforcement officer to make a specific request when serving a GVRO, and provides that parties do not need to pay the sheriff for service of a GVRO. The bill also requires a court hearing within 21 days of issuing an emergency protective order to determine if a restraining order after notice and hearing should be issued. The advisory committee recommends that the mandatory forms be

revised effective January 1, 2019, so that the forms will be in compliance with the new laws when they become effective.

**[18-230](#)****Rules and Forms: Technical Changes****Summary:**

Judicial Council staff and members of the branch have identified errors in Judicial Council family and juvenile law forms that are technical in nature. Judicial Council staff recommends making the necessary corrections to avoid confusion for court staff, judicial officers, and members of the public who use the forms.

**[18-197](#)****Judicial Branch Technology: Information Security Framework Update (Action Required)****Summary:**

The Judicial Council Technology Committee (JCTC) recommends approval of revisions to the Judicial Branch Information Security Framework. The original framework was approved by the Judicial Council in June 2014 with the understanding that it would require periodic updates. This revision cycle is focused on updates to make the document easier to use and on the addition of privacy controls specified in recently updated federal standards.

**[18-199](#)****Jury Instructions: New, Revised, Revoked, and Renumbered Civil Jury Instructions (Release 33) (Action Required)****Summary:**

The Advisory Committee on Civil Jury Instructions recommends approving for publication the new, revised, revoked, and renumbered civil jury instructions prepared by the committee. These revisions bring the instructions up to date with developments in the law over the previous six months. On Judicial Council approval, the instructions will be published in the official 2019 edition of the *Judicial Council of California Civil Jury Instructions (CACI)*.

**[18-206](#)****Uniform Bail and Penalty Schedules: 2019 Edition (Action Required)****Summary:**

The Traffic Advisory Committee recommends the Judicial Council adopt revisions to the Uniform Bail and Penalty Schedules, effective January 1, 2019. The 2019 proposal includes: (1) recommendations based on new legislation, as required under Vehicle Code section 40310 and Penal Code section 1269b, (2) changes to the Fish and Game Schedule recommended by the Department of Fish and Wildlife, and (3) miscellaneous technical additions and corrections.

Vehicle Code section 40310 requires that the Judicial Council annually adopt a uniform traffic infraction penalty schedule that conforms to new legislation. Additionally, Penal Code section 1269b and rule 4.102 of the California Rules of Court require all trial courts annually to revise and adopt a countywide schedule of penalties for all misdemeanor and infraction offenses, except Vehicle Code infractions. The penalty schedule for Vehicle Code infractions is established by the Uniform Traffic Penalty Schedule adopted by the Judicial Council in accordance with section 40310.

[18-205](#)**Traffic: Selection of Online Traffic Adjudication Pilot Project Expansion Courts (Action Required)****Summary:**

The Budget Act of 2018-19 appropriated \$3.4 million in new operational funding and \$1.3 million in ongoing funds to support and expand on the Judicial Council's partnership with five superior courts initially funded by a U.S. Department of Justice grant to enhance processes for ability-to-pay determinations for traffic infraction fines and fees and to adjudicate these cases online. The act authorizes the Judicial Council to select at least eight courts to expand the Online Traffic Adjudication Pilot Project, and further test and develop ability-to-pay and other online adjudication functions. Judicial Council staff request the council's approval of the proposed court selection, adding three additional courts to join the five already involved in the pilot.

[18-194](#)**Trial Courts: Trial Court Trust Fund Funds Held on Behalf of the Trial Courts (Action Required)****Summary:**

The Trial Court Budget Advisory Committee's (TCBAC) Fiscal Planning Subcommittee recommends approving two new requests and three amended requests from five 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 reduced funding as a result of a court's exceeding the 1 percent fund balance cap, to be retained in the TCTF for the benefit of that court.

[18-204](#)**Recidivism Reduction Fund Annual Report (Action Required)****Summary:**

The Criminal Justice Services office recommends that the Judicial Council receive the *Recidivism Reduction Fund Court Grant Program: Annual Report, 2018*; 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).

[18-196](#)**Report to the Legislature: Statewide Collection of Court-Ordered Debt for 2017-18 (Action Required)****Summary:**

Judicial Council staff recommend approval of the *Statewide Collection of Court-Ordered Debt for 2017-18* for transmittal to the Legislature. Penal Code section 1463.010(c) requires the Judicial Council to report the extent to which each court or county collections program is following best practices, the programs' performance, and any changes necessary to improve performance of collection programs statewide. Additionally, as stated in the October 2018 report to the Department of Finance (DOF) and the Joint Legislative Budget Committee (JLBC) per Government Code section 68514, this report contains revised or additional information from programs that did not submit data, or submitted incomplete data for inclusion in the October 1 report. The first report required under Government Code section 68514 was submitted to the Legislature in October 2018 and is available at [www.courts.ca.gov/7466.htm](http://www.courts.ca.gov/7466.htm).

[18-198](#)**Report to the Legislature: Court Facilities Trust Fund Expenditures 2017-18 (Action Required)****Summary:**

Judicial Council staff recommend approval of the annual report of *Court Facilities Trust Fund Expenditures: 2017-18*. Government Code section 70352(c) requires that the Judicial Council report to the Legislature annually all expenditures from the Court Facilities Trust Fund after the end of each fiscal year.

[18-201](#)**Report to the Legislature: State Trial Court Improvement and Modernization Fund Expenditures for 2017-18 (Action Required)****Summary:**

Judicial Council staff recommend approval of the *Report of State Trial Court Improvement and Modernization Fund Expenditures for 2017-18* for transmittal to the Legislature. Government Code section 77209(i) requires the Judicial Council to report annually to the Legislature on the use of the State Trial Court Improvement and Modernization Fund and include any appropriate recommendations.

[18-224](#)**Report to the Legislature: California Community Corrections Performance Incentives Act of 2009 (Action Required)****Summary:**

The Criminal Justice Services office recommends that the Judicial Council receive the 2018 *Report on the California Community Corrections Performance Incentives Act of 2009: Findings from the SB 678 Program* and direct the Administrative Director to submit this annual report to the California Legislature and Governor, as mandated by Penal Code section 1232. Under the statute, the Judicial Council is required to submit a comprehensive report on the implementation of the program-including information on the effectiveness of the act and specific recommendations regarding resource allocations and additional collaboration-no later than 18 months after the initial receipt of funding under the act and annually thereafter.

[18-190](#)**Judicial Council Administration: Judicial Council Conflict of Interest Code (Action Required)****Summary:**

Judicial Council staff recommends amending the *Conflict of Interest Code for the Judicial Council of California* (Code) to replace office names and job titles with leadership areas and job classifications. The proposed changes would provide flexibility in the event of an organizational restructuring-which may require the transfer of positions between offices-and will ensure that classifications required to report their economic interests will continue to do so regardless of office or organizational changes. The Judicial Council must review proposed amendments to the Code and approve the Code as amended or direct that it be further revised and resubmitted for approval.

**Break 10:45 a.m. – 11:00 a.m.**

**DISCUSSION AGENDA**[18-213](#)**Judicial Council: 2019 Legislative Priorities (Action Required)****Summary:**

Each year, the Judicial Council authorizes sponsorship of legislation to further key council objectives and establishes priorities for the upcoming legislative year. In past years, the council's legislative priorities have focused on implementing efficiencies in the courts, investing in the judicial branch, and securing critically needed judgeships. The Policy Coordination and Liaison Committee (PCLC) recommends to the Judicial Council a similar approach for the 2019 legislative year.

*25 minutes*

[18-212](#)**Judicial Branch Administration: Strategic Plan for Technology 2019-2022****Summary:**

The Judicial Council Technology Committee (JCTC) and the Strategic Plan Update Workstream, appointed by the JCTC, recommend that the Judicial Council adopt the *Strategic Plan for Technology 2019-2022* to supersede the 2014-2018 plan. The updated plan was developed as a result of analyzing goals, judicial branch business drivers, and objectives, as well as by evaluating the benefits, outcomes, and measures of success, and was subsequently refined following circulation for branch and public comment. This plan provides a comprehensive and cohesive technology strategy, with clear, measurable goals and objectives at the branch level.

*20 minutes*

[18-210](#)**Rules and Forms: Qualifications of Counsel for Appointment in Death Penalty Appeals and Habeas Corpus Proceedings (Action Required)****Summary:**

To achieve competent representation without unduly restricting the pool of attorneys willing and able to accept appointment in death penalty appeals and habeas corpus proceedings, the Proposition 66 Rules Working Group recommends the adoption of two new rules and amendments to two existing rules relating to qualifications of counsel. These proposed rule changes are intended to partially fulfill the Judicial Council's obligation under Proposition 66 to reevaluate the competency standards for the appointment of counsel in death penalty direct appeals and habeas corpus proceedings. This proposal is submitted concurrently with a separate report to the Judicial Council containing the working group's proposal for related rules regarding the vetting and appointment of counsel for death penalty-related habeas corpus proceedings in the superior courts.

*10 minutes*

[18-209](#)**Criminal and Appellate Procedure: Superior Court Appointment of Counsel in Death Penalty-Related Habeas Corpus Proceedings (Action Required)****Summary:**

To provide procedures for superior courts to determine if an attorney meets the



minimum qualifications for counsel in death penalty-related habeas corpus proceedings and to appoint such counsel for indigent persons subject to a judgment of death, the Proposition 66 Rules Working Group proposes amending one rule and adopting four new rules and two new forms. These proposed rules changes are intended to partially fulfill the Judicial Council's rule-making obligations under Proposition 66. A second report to the Judicial Council presents the working group's recommendations for amendments to related rules governing qualifications of counsel for appointment in death penalty appeals and habeas corpus proceedings.

*10 minutes*

## INFORMATION ONLY ITEMS (NO ACTION REQUIRED)

### [18-214](#)

#### **Judicial Branch Education: Final Report on the 2016-2018 Education Plan (No Action Required)**

**Summary:**

The Governing Committee of the Center for Judicial Education and Research (CJER) has completed the final report on its *2016-2018 Education Plan Final Report* for the judicial branch (see Attachment A). The education plan, developed by the CJER Governing Committee for all the judicial branch audiences that CJER serves, contains training and education programs and products that enable those audiences to fulfill the education requirements and expectations outlined in rules 10.451-10.491 of the California Rules of Court. This final report provides an overview of the education plan's execution.

### [18-215](#)

#### **Court Facilities: Lease-Revenue Bond Issuance, Fall 2017 and Spring 2018**

**Summary:**

As authorized and directed by the Judicial Council, the Administrative Director presents this report on actions taken in connection with lease-revenue bonds issued by the State Public Works Board (SPWB) in fall 2016 and spring 2017, for the financing of court facilities projects. No new lease-revenue bonds were issued by the SPWB on behalf of the Judicial Council in fall 2017 and spring 2018. However, in the fall of 2018, the Judicial Council requested and was granted approval of interim general fund loans to start construction on five capital outlay projects, with the payback from funds generated in a future bond sale.

### [18-217](#)

#### **Court Facilities: FY 2017-18 Trial Court Facility Modification Advisory Committee Annual Report**

**Summary:**

The Trial Court Facility Modification Advisory Committee has completed allocating facility modification funding for fiscal year (FY) 2017-18 and submits its *Annual Report of the Trial Court Facility Modification Advisory Committee for Fiscal Year 2017-18* for informational purposes.

### [18-218](#)

#### **Judicial Workload Assessment: Preliminary 2018 Update of the Judicial Needs Assessment**

**Summary:**

*The Need for New Judgeships in the Superior Courts: Preliminary 2018 Update*

of the *Judicial Needs Assessment*, a report to the Legislature required by Government Code section 69614(c)(1), shows that 127 new judicial officers are needed based on workload. This analysis is based on judicial caseweights that were established in 2011 and are in the process of being updated; as a result, the workload measures will not reflect many factors that have changed judicial workload since 2011. The analysis will be updated and resubmitted to the council once the new workload measures are finalized in mid-2019. 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).

[18-220](#)**Report to the Legislature: Court Realignment Data (Calendar Year 2017)****Summary:**

Penal Code section 13155 requires Judicial Council staff, commencing January 1, 2013, to collect information from trial courts regarding the implementation of the 2011 Criminal Justice Realignment Legislation and make the data available annually to the California Department of Finance (DOF), Board of State and Community Corrections (BSCC), and Joint Legislative Budget Committee (JLBC) by September 1. This is the sixth annual court realignment data report, and was distributed to the DOF, BSCC, and JLBC on August 28, 2018. The report, *Court Realignment Data (Calendar Year 2017)*, is included as Attachment A to this report.

[18-216](#)**Report to the Legislature: Allocations and Reimbursements to the Trial Courts in Fiscal Year 2017-18****Summary:**

Government Code section 77202.5(a) requires that the Judicial Council report to the Legislature annually on allocations and reimbursements to the trial courts. Judicial Council staff submitted to the Legislature on September 30, 2018, the report *Fiscal Year 2017-18 Allocation and Reimbursement to Trial Courts*. The information in this report was provided to the Judicial Council by the superior courts.

[18-222](#)**Report to the Legislature: Allocation of the State Level Reserve in the Trial Court Trust Fund****Summary:**

As required in Government Code section 68502.5(c)(2)(B), funds are set aside in the Trial Court Trust Fund to be allocated by the Judicial Council and used by the trial courts for unforeseen emergencies, unanticipated expenses for existing programs, or unavoidable funding shortfalls. Judicial Council staff submitted to the Legislature on October 1, 2018, the *Report of Allocation of the State Level Reserve in the Trial Court Trust Fund in 2017-18*.

[18-226](#)**Report to the Legislature: Court Innovations Grant Program for Fiscal Year 2017-18 (No Action Required)****Summary:**

The Budget Act of 2016 allocated \$25 million to the judicial branch to promote court innovations and efficiencies through the Court Innovations Grant Program. The Budget Act of 2016 requires the Judicial Council to report to the Legislature no later than September 30, 2017, and each year thereafter the progress on that program and its projects. This year's report was submitted as required.

[18-221](#)**Report to the Legislature: Standards and Measures That Promote the Fair and Efficient Administration of Justice****Summary:**

The Judicial Council should approve the transmittal of the attached report to the Legislature, *Standards and Measures That Promote the Fair and Efficient Administration of Justice*. Government Code section 77001.5 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.

[18-227](#)**Trial Courts: Public Notice by Courts of Closures or Reduced Clerks' Office Hours (Gov. Code, § 68106-Rep. No. 47)****Summary:**

Government Code section 68106 (1) directs trial courts to notify the public and the Judicial Council before closing courtrooms or clerks' offices, or reducing clerks' regular office hours; and (2) directs the council to post all such notices on its website and relay them to the Legislature. This is the 47th report to date listing the latest court notices received by the council under this statutory requirement. Since the previous report, four superior courts-the Superior Courts of San Francisco, Fresno, San Diego, and Madera Counties-have issued new notices.

**Circulating Orders**[18-228](#)**Circulating Orders since the last business meeting.****Summary:**

Approved minutes for Trial Court Budget: Allocation of \$75 Million in Discretionary Funds (CO-18-01)

Approved minutes for Allocation of \$15 Million From the Trial Court Trust Fund to support start-up activities associated with Implementation of Pretrial Reform (CO-18-02)

### **Appointment Orders**

[18-229](#)

**Appointment Orders since the last business meeting.**

### **Adjournment**