



Judicial Council of California

Meeting Agenda

Judicial Council

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October 1, 2021

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Friday, October 1, 2021

9:45 AM

Videoconference

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

Session: 8:45 – 9:30 a.m.

Transitional Break: 9:30 – 9:45 a.m.

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

A link to the live videostream of the meeting will be available in the Meeting Information Center approximately 15 minutes prior to the start of the open session. In the event the preceding closed session adjourns late, the start time of the public session may be delayed.

Open Session Begins at 9:45 a.m.

Call to Order

10 minutes

Swearing in of New and Reappointed Judicial Council Members

10 minutes

The Chief Justice will administer the oath of office to new and reappointed council members.

Public Comment

This meeting will be conducted via videoconference. Public comments will be accepted in writing only. Submit written comments for this meeting by 1:00 p.m. on Thursday, September 30.

judicialcouncil@jud.ca.gov

Visit the link below and follow the instructions provided under the “Written Comments” section.

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

Comments received after the deadline will not be delivered to Judicial Council members.

Approval of Minutes

[21-123](#) **Minutes of July 9, 2021, Judicial Council Meeting**

Chief Justice’s Report

20 minutes

Administrative Director’s Report

[21-133](#) **Administrative Director’s Report**

15 minutes

Judicial Council Committee Presentations

21-118 Judicial Council Internal Committee Presentations

Speakers: Hon. Dalila C. Lyons, Vice-chair, Rules Committee
10 minutes

[21-149](#) **Judicial Council Internal Committee Written Reports**

CONSENT AGENDA

5 minutes

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.

[21-138](#) **Allocations and Reimbursements to Trial Courts | Continued
Distribution of Children’s Waiting Room Funds During Temporary
Closure (Action Required)**

Summary: The Fiscal Planning Subcommittee of the Trial Court Budget Advisory Committee recommends approving requests from the Ventura and Alameda Superior Courts to continue receiving children’s waiting room funds during the unforeseen temporary closure of the courts’ children’s waiting rooms in response to the state of emergency related to the COVID-19 pandemic. By continuing to receive funding, these courts would have sufficient resources to provide safe and healthy waiting room settings for children when courts can safely reopen.

[21-145](#)**Allocations and Reimbursements to Trial Courts | Pretrial Release Funding and Allocation Methodology (Action Required)****Summary:**

The Judicial Branch Budget Committee recommends approval of the Trial Court Budget Advisory Committee recommendation that the Judicial Council for allocate 2021-22 Pretrial Release funding of \$140 million General Fund for the trial courts in accordance with methodologies outlined in Senate Bill 129 and including minimum funding floors.

[21-150](#)**Child Support | \$4.45 Million AB 1058 Reimbursement Authority Increase (Action Required)****Summary:**

The Judicial Branch Budget Committee recommends approval of the Trial Court Budget Advisory Committee recommendation that the Judicial Council allocate \$4.45 million in new funding made available in the 2021 Budget Act to the AB 1058 Child Support Commissioner and Family Law Facilitator Program's base funding allocation, and included in the Judicial Council's cooperative agreement with the California Department of Child Support Services' for fiscal year 2021-22, and ongoing.

[21-130](#)**Collaborative Justice | Recommended Allocations of Fiscal Year 2021-22 Substance Abuse Focus Grants (Action Required)****Summary:**

As part of the Budget Act of 2021, the Legislature has allocated \$1,160,000 to the superior courts to maintain, expand, or enhance collaborative courts. In November 2005, the Judicial Council established a caseload-based methodology for allocation of these funds (the Substance Abuse Focus Grants) to the courts. The Collaborative Justice Courts Advisory Committee recommends that the Judicial Council allocate the fiscal year (FY) 2021-22 funds to courts using the council's methodology. Additionally, \$75,000 in federal Court Improvement Program funds have been made available for FY 2021-22 to fund the noncompetitive Dependency Drug Court Augmentation to the focus grant program. The committee recommends funding programs in 45 courts for FY 2021-22 with these annual grants and providing augmentation grants to dependency drug courts in 20 counties.

[21-142](#)**Court Facilities | Membership in Tuolumne Public Power Agency for New Sonora Courthouse (Action Required)****Summary:**

The Trial Court Facility Modification Advisory Committee recommends the Judicial Council of California (Judicial Council) join the Tuolumne Public Power Agency (TPPA), a joint powers authority that provides electricity to public facilities in the County of Tuolumne. The TPPA provides lower-cost electricity to various local facilities in Tuolumne County, including the City of Sonora, all K-12 public schools, the County of Tuolumne, and special districts such as utilities and fire and community service districts. If the Judicial Council joins the TPPA, the new Sonora Courthouse in Tuolumne County would be able to enjoy the benefit of lower electricity rates than those offered by PG&E. Annual energy costs of the new Sonora Courthouse project would be reduced by approximately \$102,500, related to the transition to a lower, flat-rate electricity rate structure.

[21-151](#) **Equal Access Fund | California Access to Justice Commission Grants (Action Required)**

Summary: The Budget Act of 2021 (Sen. Bill 129, Stats. 2021, ch. 69) appropriated \$70 million to the Judicial Council for the Equal Access Fund, \$5 million of which must be allocated to the California Access to Justice Commission for grants to civil legal aid nonprofits. These grants are to be used to support the infrastructure and innovation needs of legal services in civil matters for indigent persons.

[21-152](#) **Equal Access Fund | Distribution of Funding for Housing Issues (Action Required)**

Summary: The Budget Act of 2021 (AB 164 Ting), chaptered July 16, 2021, includes \$40 million of federal funding from the Coronavirus Fiscal Recovery Fund of 2021 in the Equal Access Fund for distribution to legal services providers and support centers to assist with issues relating to housing matters including eviction defense or other landlord-tenant disputes, or services to prevent foreclosures for homeowners. The State Bar's Legal Services Trust Fund Commission requests approval of the distribution of \$40 million, less administrative costs, according to the formula specified in the Budget Act.

[21-153](#) **Equal Access Fund | Distribution of Funds for Partnership Grants and IOLTA-Formula Grants (Action Required)**

Summary: The Budget Act of 2021 (Stats. 2021, ch. 21) includes over \$65 million in the Equal Access Fund for general distribution to legal services providers and support centers. The funds are to be distributed primarily in two parts: IOLTA (Interest on Lawyers' Trust Accounts)-formula grants and partnership grants (with a small amount also distributed for administration). The Legal Services Trust Fund Commission of the State Bar recommends approving distribution of \$58,147,302 in IOLTA-formula grants for fiscal year (FY) 2021-22, according to the statutory formula in the state Budget Act, and \$6,460,811 in partnership grants. The commission further requests approval of its findings that the proposed budget for each individual grant complies with statutory and other relevant guidelines.

[21-129](#) **Judicial Branch Administration | Revisions to *Judicial Branch Contracting Manual* (Action Required)**

Summary: The Advisory Committee on Audits and Financial Accountability for the Judicial Branch recommends that the Judicial Council adopt proposed revisions to the *Judicial Branch Contracting Manual*. The proposed revisions include edits regarding waivers of the Disabled Veteran Business Enterprise (DVBE) incentive, as well as edits regarding judicial branch entities' reporting requirements, to reflect amendments to Public Contract Code section 19209.

[21-109](#)**Jury Instructions | Revisions and Additions to Criminal Jury Instructions (Action Required)****Summary:**

The Advisory Committee on Criminal Jury Instructions recommends approving for publication the revised criminal jury instructions prepared by the committee under rule 2.1050 of the California Rules of Court. These changes will keep the instructions current with statutory and case authority. Once approved, the revised instructions will be published in the 2021 supplement of the *Judicial Council of California Criminal Jury Instructions*.

[21-154](#)**Juvenile Law | Fiscal Year 2021-22 Allocation of Augmented Local Assistance Funding for Court Appointed Special Advocates of Los Angeles (Action Required)****Summary:**

The Family and Juvenile Law Advisory Committee recommends approving augmented grant funding allocation for fiscal year 2021-22 to the Court Appointed Special Advocates of Los Angeles (CASA-LA). Primary allocations of the \$2.713 million budget for Judicial Council CASA grants were made at the July 9, 2021 Judicial Council meeting.

[21-144](#)**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 2021 *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.

[21-143](#)**Rules and Forms | Collaborative Justice: Collaborative Justice Courts Advisory Committee's Area of Focus and Duties (Action Required)****Summary:**

The Collaborative Justice Courts Advisory Committee recommends amending rule 10.56 of the California Rules of Court to update the committee's areas of focus and duties by incorporating diversion and other collaborative justice-related programs. This recommendation would allow the advisory committee to better address judicial leadership and the court processes of collaborative justice courts and similar programs that affect individuals who are moving through the court system and have mental illnesses, substance use disorders, or co-occurring disorders.

[21-164](#)**Rules and Forms | Appellate Procedure: Electronic Signatures (Action Required)****Summary:**

The Appellate Advisory Committee recommends amending two rules of court governing electronic filing in the appellate courts to permit the use of electronic signatures and make other updates. The trial court electronic filing rules have been amended several times recently, including to allow electronic signatures. Several similar amendments for the parallel appellate rules are now being proposed to foster modern e-business practices, promote consistency in the rules and efficiency among stipulating parties, and reduce unnecessary transmission of paper documents. The rules would be amended to authorize the use of electronic signatures on electronic documents filed with the court, add new definitions, update several existing definitions, improve clarity, and eliminate redundancies.

[21-155](#)**Rules and Forms | Appellate Procedure: Notice of Appeal After Plea or Admission of Probation Violation (Action Required)****Summary:**

The Appellate Advisory Committee recommends amending the rule that governs initiating an appeal in a felony case after a plea of guilty or nolo contendere or after an admission of a probation violation. The amendments would reorganize the rule, simplify procedures, and eliminate the onus on the clerk to make a legal decision regarding whether the notice of appeal should be filed.

[21-162](#)**Rules and Forms | Civil Practice and Procedure: Remote Depositions (Action Required)****Summary:**

The Civil and Small Claims Advisory Committee recommends amending rule 3.1010 of the California Rules of Court governing remote depositions. The proposed amendments reflect recent statutory changes enacted in Senate Bill 1146 (Stats. 2020, ch. 112, § 3) that (1) removed the requirement that deponents appear in the physical presence of the deposition officer, and (2) eliminated the different treatment for party and nonparty deponents. The revised law also permits any party or attorney of record to be physically present with the deponent during the deposition, and the proposed rule amendment requires notice for a party or attorney to make such an appearance at a remote deposition.

[21-052](#)**Rules and Forms | Commitment Orders for Sexually Violent Predators (Action Required)****Summary:**

The Criminal Law Advisory Committee recommends revising Order for Commitment (form CR-173) and revoking Order for Extended Commitment (form CR-174) to incorporate changes to the statutes governing sexually violent predator proceedings (Welf. & Inst. Code, § 6600 et seq.), replace gender-specific pronouns, and incorporate revisions for procedural efficiency, accuracy, and clarity.

[21-156](#)**Rules and Forms | Domestic Violence: Forms That Implement New Laws (Action Required)****Summary:**

The Family and Juvenile Law Advisory Committee recommends revising a collection of Domestic Violence forms to implement changes to the Domestic Violence Prevention Act. Senate Bill 1141 (Stats. 2020, ch. 248) elaborates on the definition of “disturbing the peace,” and Assembly Bill 2517 (Stats. 2020, ch. 245) allows the court to make a finding that certain debts were incurred as a result of domestic violence and made without the petitioner’s consent. In addition to the revisions needed to implement these new laws, the committee recommends a number of changes to the forms to make them easier to understand and complete.

[21-158](#)**Rules and Forms | Family Law: Reenactment of Family Code section 4007.5 (Action Required)****Summary:**

The Family and Juvenile Law Advisory Committee proposes revising several forms to provide court users and the public with information regarding relief available to incarcerated or involuntarily institutionalized child support obligors. The proposed revisions are needed to reflect new law under recently reenacted Family Code section 4007.5.

[21-053](#)**Rules and Forms | Incarcerated Individual Hand Crew Conviction Relief (Action Required)****Summary:**

The Criminal Law Advisory Committee recommends four new optional forms to implement the provisions of Assembly Bill 2147 (Stats. 2020, ch. 60), which authorizes conviction relief for a petitioner who successfully participated as an incarcerated individual hand crew member in a fire camp program operated by a county or the California Department of Corrections and Rehabilitation, and has been released from custody.

[21-159](#)**Rules and Forms | Indian Child Welfare Act: Implementation of Assembly Bill 3176 in Probate Guardianships and Conservatorships (Action Required)****Summary:**

The Probate and Mental Health Advisory Committee and the Tribal Court-State Court Forum recommend amending four rules of court and revising two forms to clarify the procedures required in probate guardianship and specified conservatorship proceedings involving Indian children. The proposed amendments and revisions update the rules and forms to conform to the requirements of the 2016 federal Indian Child Welfare Act regulations and guidelines, California statutory changes, and recent amendments to the California Rules of Court governing all proceedings in which a court is asked to order the removal of an Indian child from the custody of the child’s parent or Indian custodian and placement of the child in the custody of a nonparent or to the termination of parental rights. Additional proposed form revisions clarify the information to be provided to the court, promote conformity with existing law, and make technical changes.

[21-146](#)**Rules and Forms | Judicial Branch Technology: Electronic Filing and Electronic Service in Criminal Cases (Action Required)****Summary:**

The Information Technology Advisory Committee recommends the Judicial Council amend rules 2.251, 2.252, 2.253, 2.255, 2.258, and 2.259 of the California Rules of Court, effective January 1, 2022. The purpose of the amendments is to meet Penal Code section 690.5's requirement that the Judicial Council adopt rules for the electronic filing and service of documents in criminal cases in the trial courts.

[21-160](#)**Rules and Forms | Juvenile Law: Sealing of Records (Action Required)****Summary:**

The Family and Juvenile Law Advisory Committee recommends amending a rule of court, revising three forms, and approving three new optional forms to implement recent legislative changes concerning the sealing of juvenile records. The legislative changes allow access to sealed records for two additional purposes, and expand sealing of records for youth diverted from the juvenile courts.

[21-161](#)**Rules and Forms | Juvenile Law: Short-Term Residential Therapeutic Program Placement (Action Required)****Summary:**

To coincide with the effective date of recently passed legislation, the Family and Juvenile Law Advisory Committee proposes that the Judicial Council adopt a new rule of court, amend a rule, adopt or approve 5 new Judicial Council forms, and revise 19 Judicial Council forms, effective October 1, 2021. Assembly Bill 153 (Stats. 2021, ch. 86) implements part IV of the federal Family First Prevention Services Act, with an effective date of October 1, 2021. For short-term residential therapeutic programs to be eligible for federal funding, states will need to implement part IV of the act, which California has done through AB 153. The bill creates a new court hearing in which the juvenile court will be required to approve or disapprove any new placement of a child or nonminor dependent in a short-term residential therapeutic program. The bill also requires that the Judicial Council amend or adopt rules of court and develop or amend appropriate forms, as necessary.

[21-139](#)**Rules and Forms | Miscellaneous Technical Changes (Action Required)****Summary:**

Various members of the judicial branch, members of the public, and Judicial Council staff have identified errors in the California Rules of Court and Judicial Council forms resulting from typographical errors and changes resulting from legislation, and previous rule amendments and form revisions. Judicial Council staff recommend making the necessary corrections to avoid causing confusion for court users, clerks, and judicial officers.

[21-163](#)**Rules and Forms | Unlawful Detainer, Small Claims, and Pleading Forms to Implement New Laws (Action Required)****Summary:**

The Civil and Small Claims Advisory Committee proposes the adoption, approval, and revision of 13 forms to implement statutory changes in Senate Bill 91 (Stats. 2021, ch. 2), enacted January 29, 2021, and Assembly Bill 832 (Stats. 2021, ch. 27), enacted June 28, 2021. Assembly Bill 832 establishes new procedures for bringing unlawful detainer actions based on nonpayment of rent, and for judgments in such cases, effective October 1, 2021. Provisions in SB 91, as amended by AB 832, allow parties, effective November 1, 2021, to litigate claims for nonpayment of COVID-19 rental debt in small claims court regardless of the amount demanded, and mandates new pleading requirements for such actions whether filed in small claims court or in general civil court. In addition, AB 832 requires the council to develop forms for parties to use in actions to recover COVID-19 rental debt. The proposed forms address these statutory changes.

DISCUSSION AGENDA[21-108](#)**Judicial Branch Technology | Court Modernization Funding, Fiscal Year 2020-21, and Fiscal Year 2021-22 (Action Required)****Summary:**

The Budget Act of 2020 (Stats. 2020, ch.7) and Budget Act of 2021 (Stats. 2021, ch. 69) each appropriated \$25 million for the continued modernization of trial court operations for a total of \$50 million over two fiscal years. The Judicial Council directed the Technology Committee to recommend allocations of funding and provide regular updates on approved allocations. The Technology recommends that the Judicial Council approve the allocations for fiscal year 2021-22, itemized in the attached summary.

Speakers:

Hon. Kyle S. Brodie, Chair, Technology Committee
Ms. Heather L. Pettit, Information Technology

30 minutes

[21-134](#)**Trial Court Budget | \$60 Million One-Time COVID-Driven Caseload Backlog Funding (Action Required)****Summary:**

The Judicial Branch Budget Committee recommends approval of two separate allocations from the \$60 million one-time COVID-driven caseload backlog funding included in the 2021 Budget Act based on the most recent filings and disposition data available for identifying backlog. This funding is for trial courts to specifically address backlogs and workload delays resulting from the COVID-19 pandemic, with the funding available for expenditure or encumbrance through the 2022-23 fiscal year.

Speakers:

Hon. David M. Rubin, Chair, Judicial Branch Budget Committee
Hon. Jonathan B. Conklin, Chair, Trial Court Budget Advisory Committee
Mr. Zlatko Theodorovic, Budget Services
Ms. Leah Rose-Goodwin, Business Management Services

10 minutes

[21-141](#)**Report to the Legislature | Final Report on the Court Innovations Grant Program (No Action Required)****Summary:**

The Budget Act of 2016 (Stats. 2016, ch. 318) allocated \$25 million to the judicial branch to promote court innovations and efficiencies through the Court Innovations Grant Program. The act directs the Judicial Council to report to the Legislature on the progress of that program and its grant projects no later than September 30 each year. The Budget Act of 2020 (Stats. 2020, ch. 7) authorized encumbrances or expenditures until December 31, 2020, extending the timeline from the program's original sunset date of June 30, 2020. The Court Innovations Grant Program provided not only an opportunity for trial and appellate courts to innovate, but for the branch to establish a framework for encouraging, supporting, and replicating innovations across the California courts. This final report to the Legislature, included as Attachment A to this report, discusses the implemented innovations, the project teams' learning experiences, and how these projects are informing branchwide opportunities.

Speakers:

Hon. David M. Rubin, Chair, Judicial Branch Budget Committee
Mr. Robert Oyung, Operations & Programs Division
Ms. Marcela Eggleton, Special Projects

15 minutes

INFORMATION ONLY ITEMS (NO ACTION REQUIRED)[21-148](#)**Child Support | Midyear Funding Reallocation for Fiscal Year 2020-21****Summary:**

Effective January 17, 2020, the Judicial Council approved the Family and Juvenile Law Advisory Committee's recommendation to combine the previous two Assembly Bill 1058 midyear funding reallocation processes into one administrative process to maximize program efficiencies. The new administrative process for midyear reallocation delegates ongoing authority to the Administrative Director on an annual basis. This report details the midyear reallocation of funding for the Child Support Commissioner and Family Law Facilitator Program for fiscal year 2020-21.

[21-013](#)**Court Facilities | Trial Court Facility Modifications Report for Quarter 4 and Annual Summary for Fiscal Year 2020-21****Summary:**

This informational report to the Judicial Council outlines (1) allocations of facility modification funding made to improve trial court facilities in the fourth quarter (April through June) of fiscal year 2020-21, and (2) a summary of all funding allocations during the fiscal year. To determine allocations, the Trial Court Facility Modification Advisory Committee reviews and approves facility modification requests from across the state in accordance with the council's *Trial Court Facility Modifications Policy*.

[21-165](#)**Court Security | Trial Court Screening Equipment Replacement for Fiscal Year 2020-21****Summary:**

Each year, the Administrative Director approves the list of entrance screening equipment to be funded that year through the Screening Equipment Replacement Program. This funding is provided from the Trial Court Trust Fund to replace outdated or malfunctioning screening equipment in the trial courts. This report updates the council on the equipment that was replaced in fiscal year (FY) 2020-21 using that funding.

[21-051](#)**Report to the Legislature | 2020-21 Trial Court Trust Fund Backfill Report, Quarter 4****Summary:**

Pursuant to the Budget Act of 2020, Item 0250-113-0001, Provision 3, the Judicial Council is required to submit quarterly reports to the Joint Legislative Budget Committee on the estimated amount of General Fund required to backfill the Trial Court Trust Fund due to shortfalls in revenue to support trial court operations. This report is for the reporting period of April through June 2021. On or before July 30, 2021, the Judicial Council's Budget Services staff submitted the *2020-21 Trial Court Trust Fund Backfill Report, Quarter 4*.

[21-049](#)**Report to the Legislature | Cash Flow Loans Made to Courts in 2020-21****Summary:**

Pursuant to Government Code section 68502.6(d), the Judicial Council is required to report to the Legislature annually on all cash flow loans made to the courts. On August 30, 2021, Judicial Council staff submitted the report *Cash Flow Loans Made to Courts in 2020-21*.

[21-137](#)**Report to the Legislature | Standards of Timely Disposition published in the 2021 Court Statistics Report****Summary:**

Government Code section 68604 requires the Judicial Council to report biennially regarding the standards of timely disposition for the processing and disposition of civil and criminal actions that were adopted pursuant to section 68603. On October 1, 2021, Judicial Council staff will submit to the Legislature the already published 2021 Court Statistics Report, which contains case processing and time-to-disposition statistics that meet the reporting requirements of Government Code section 68604.

[21-050](#)**Trial Courts | Annual Investment Report for Fiscal Year 2020-21****Summary:**

This Trial Courts Annual Investment Report for Fiscal Year 2020-21 covers the period of July 1, 2020, through June 30, 2021, and provides the financial results for the funds invested by the Judicial Council on behalf of the trial courts as part of the judicial branch treasury program. The report is submitted under agenda item 10, Resolutions Regarding Investment Activities for the Trial Courts, approved by the Judicial Council on February 27, 2004.

[21-140](#)**Trial Courts | Public Notice by Courts of Closures or Reduced Clerks' Office Hours****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 relay them to the Legislature. This report lists the latest court notices received by the council under this statutory requirement. Since the previous report, three superior courts-the Superior Courts of Colusa, Mariposa, and El Dorado Counties-have issued new notices.

Appointment Orders[21-169](#)**Appointment Orders since the last business meeting.****Adjournment**