



JUDICIAL COUNCIL OF CALIFORNIA

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CIRCULATING ORDER MEMORANDUM TO THE JUDICIAL COUNCIL

Circulating Order Number: CO-22-07

Title

Criminal Law: Judicial Council Appointment
to Sex Offender Management Board

Action Requested

VOTING MEMBERS ONLY: Submit votes
by responding to the transmittal email.

Rules, Forms, Standards, or Statutes Affected

None

Please Respond By

December 23, 2022

Recommended by

Executive and Planning Committee
Hon. Marsha G. Slough, Chair

Date of Report

December 7, 2022

Contact

Judicial Council Support,
judicialcouncil@jud.ca.gov

California Rules of Court, rules 10.5(h) and 10.13(d), allow the Judicial Council to act on business between meetings, including urgent matters, by circulating order. This memorandum is not a Judicial Council meeting; circulating orders are conducted via electronic communications. Prior public notice of a proposed circulating order is not required.

Executive Summary

The Executive and Planning Committee recommends appointing Judge Marian F. Gaston, Superior Court of San Diego County, to the Sex Offender Management Board. Enactment of Assembly Bill 1015 (Stats. 2006, ch. 338) created the board, under the jurisdiction of the Department of Corrections and Rehabilitation. The board is composed of 19 members and includes “[o]ne California state judge, appointed by the Judicial Council.” (Pen. Code, § 9001(b)(1)(D).)

Recommendation

The Executive and Planning Committee recommends that the Judicial Council appoint Judge Marian F. Gaston, Superior Court of San Diego County, to the Sex Offender Management Board effective immediately.

Relevant Previous Council Action

The Legislature directed that appointees to the board have the following characteristics:

- (1) Substantial prior knowledge of issues related to sex offenders, at least insofar as related to the appointee's own agency's practices.
- (2) Decisionmaking authority for, or direct access to those who have decisionmaking authority for, the agency or constituency represented.
- (3) A willingness to serve on the board and a commitment to contribute to the board's work.

(Pen. Code, § 9001(a).)

The council appointed Kimberly J. Nystrom-Geist, Superior Court of Fresno County, to the board effective September 11, 2020. Judge Nystrom-Geist completed her service on November 7, 2022.

Analysis/Rationale

Mission and responsibilities

The mission of the board includes:

- (a) [Addressing] any issues, concerns, and problems related to the community management of sex offenders. The main objective of the board, which shall be used to guide the board in prioritizing resources and use of time, is to achieve safer communities by reducing victimization.
- (b) [Conducting] public hearings, as it deems necessary, to provide opportunities for gathering information and receiving input regarding the work of the board from concerned stakeholders and the public.

(Pen. Code, § 9002(a)–(b).)

Membership

The board consists of 19 members, as defined in Penal Code section 9001(b). This proposed appointment is to fulfill the statute requiring “[o]ne California state judge appointed by the Judicial Council.” (Pen. Code, § 9001(b)(1)(D).)

Judge Gaston was selected because of her extensive leadership experience within the judicial branch and knowledge of sex offender issues. She currently presides over criminal trials and civil mental health calendars. She previously served as presiding judge of the Juvenile Court division and presided over a collaborative court serving commercially sexually exploited children. Before her appointment to the bench, she served as a public defender for the San Diego County Public Defender Office for 19 years, where she led multiple trainings on sex offenses. Judge Gaston served as chair of the California Judges Association Ethics Committee and as a member of the Center for Judicial Education and Research Advisory Committee's Juvenile Law Curriculum Committee. She currently serves on Superior Court of San Diego County committees responsible for judicial education, collaborative courts, and juvenile courts.

Policy implications

None.

Comments

This proposal was not circulated for comment.

Alternatives considered

Because the nomination serves to meet the legal obligation under Penal Code section 9001(b)(D), the alternative not to appoint a judge for the Sex Offender Management Board was not considered.

Fiscal and Operational Impacts

The board members serve without compensation. (Pen. Code, § 9001(d).)

Attachments and Links

1. Link A, Pen. Code, § 9000–9003,
[https://leginfo.ca.gov/faces/codes_displayText.xhtml?lawCode=PEN&division=
&title=9.&part=3.&chapter=3.&article=](https://leginfo.ca.gov/faces/codes_displayText.xhtml?lawCode=PEN&division=&title=9.&part=3.&chapter=3.&article=)
2. Voting instructions, at page 4
3. Vote and signature pages, at pages 5-6

Instructions for Review and Action by Circulating Order

Voting members

- Please reply to the email message with “I approve,” “I disapprove,” or “I abstain,” by December 23, 2022.
- If you are unable to reply by December 23, 2022, please do so as soon as possible thereafter.

Advisory members

The circulating order is being emailed to you for your information only. There is no need to sign or return any documents.

**CIRCULATING ORDER
Judicial Council of California
Voting and Signature Pages**

Effective immediately, the Judicial Council approves the appointment of Judge Marian F. Gaston to the Sex Offender Management Board.

My vote is as follows:

Approve Disapprove Abstain

Tani G. Cantil-Sakauye, Chair

_____/s/
Marla O. Anderson

_____/s/
Maria Lucy Armendariz

_____/s/
C. Todd Bottke

_____/s/
Kevin C. Brazile

_____/s/
Kyle S. Brodie

_____/s/
Jonathan B. Conklin

_____/s/
Carol A. Corrigan

_____/s/
Samuel K. Feng

_____/s/
David D. Fu

_____/s/
Carin T. Fujisaki

Brad R. Hill

Rachel W. Hill

_____/s/
Harold W. Hopp

My vote is as follows:

Approve Disapprove Abstain

_____/s/
Ann C. Moorman

_____/s/
Gretchen Nelson

_____/s/
Maxwell V. Pritt

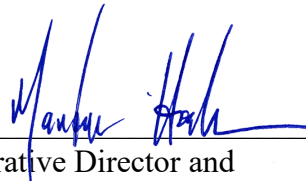
_____/s/
David M. Rubin

_____/s/
Marsha G. Slough

_____/s/
Thomas J. Umberg

Date: 12/27/22

Attest:



Administrative Director and
Secretary of the Judicial Council