



JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue · San Francisco, California 94102-3688

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on April 14–15, 2016

| | |
|--------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------|
| Title | Agenda Item Type |
| Trial Court Allocations: Children’s Waiting Room Distribution Request | Action Required |
| Rules, Forms, Standards, or Statutes Affected | Effective Date |
| None | July 1, 2016 |
| Recommended by | Date of Report |
| Trial Court Budget Advisory Committee Hon. Jonathan B. Conklin, Chair | March 18, 2016 |
| | Contact |
| | Steven Chang, 415-865-7195 steven.chang@jud.ca.gov |

Executive Summary

The Trial Court Budget Advisory Committee recommends approving the request of the Superior Court of California, County of San Bernardino, for a children’s waiting room (CWR) distribution of \$5 per applicable paid first-paper civil fee for filings within the county to defray the operating costs associated with two CWRs scheduled to open in fall 2016.

Recommendation

The Trial Court Budget Advisory Committee recommends that the Judicial Council, effective July 1, 2016, approve the request of the Superior Court of San Bernardino County for a \$5 distribution to defray children’s waiting room operating costs.

Previous Council Action

The Judicial Council’s *Children’s Waiting Room Distribution and Fund Balance Policy*, which, among other things, provides the procedures for courts to apply for a new CWR distribution, was last revised by the council on June 26, 2015 (see Attachment A).

Rationale for Recommendation

At its March 10, 2016, meeting, the Trial Court Budget Advisory Committee (TCBAC) unanimously recommended that the Judicial Council approve the distribution request of the Superior Court of San Bernardino County.

The estimated annual CWR operating costs for the court will likely exceed the annual total distribution that it will receive from a \$5 distribution per applicable paid first-paper civil filing fee. According to Government Code section 70640 (see Attachment B), after January 1, 2006, a court may apply to the Judicial Council for a CWR distribution of between \$2 and \$5, inclusive, from applicable filing fees. The Judicial Council's policy requires the TCBAC to adopt a recommendation related to a court's request for council consideration. The court's request is provided in Attachment E.

Attachment C provides the current distribution amount and total distributions for calendar years 2013–2015 for the 21 courts that currently have or had a CWR distribution. It also provides the estimated total distribution that the Superior Court of San Bernardino County would have received in calendar years 2013–2015 if the court had received a distribution of \$5.

Attachment D provides the current distributions from the \$435 first-paper general civil unlimited fee for filings in San Bernardino County, and also provides the requested distribution change: a \$5 CWR distribution and a corresponding \$5 decrease to the distribution that supports all courts' base allocations for court operations.

Comments, Alternatives Considered, and Policy Implications

No public comments were received when the court's request was considered by the TCBAC at its March 10, 2016, open meeting.

Attachments

1. Attachment A: *Children's Waiting Room Distribution and Fund Balance Policy*
2. Attachment B: Government Code section 70640
3. Attachment C: Children's Waiting Room—Distribution Amount and Total Distribution
4. Attachment D: Distributions from First Paper General Civil Unlimited Uniform Filing Fee (Gov. Code, § 70611) in San Bernardino County
5. Attachment E: Correspondence from Superior Court of California, San Bernardino County, to Judicial Council, Children's Waiting Room Distribution (Feb. 25, 2016)

Children's Waiting Room (CWR) Distribution and Fund Balance Policy

A. Applying for a New CWR Distribution

- A court's presiding judge or executive officer must submit a request to the director of the Judicial Council Finance Office 45 days prior to the date of the council meeting at which the court is requesting consideration.
- The request must include the following information:
 - Date of the council meeting at which the court is requesting consideration.
 - Requested effective date of the distribution (July 1 or January 1). If a court wants to begin receiving distributions more than one year in advance of the planned opening date of a CWR, the request should include an explanation of the extenuating circumstance(s).
 - The scheduled opening date of the CWR(s).
 - Description of the CWR(s).
 - The date when the court intends to make expenditures related to operating its CWR(s).
 - The requested distribution amount between \$2 and \$5. Courts can request the Judicial Council Finance Office to provide an estimate of annual distributions.
- The Trial Court Budget Advisory Committee (TCBAC) will make a recommendation to the council on each court's request.
- If the council approves that distributions begin prior to the operating of a CWR but the court does not operate a CWR six months after their planned opening date, the court must apply for a continued distribution.

B. Requesting a Decreased CWR Distribution Amount

- Any court's request to decrease its existing CWR distribution is approved by the Judicial Council and the request can be implemented by Judicial Council staff, effective either January 1 or July 1.

C. Temporarily or Permanently Ceasing CWR Operations

- Courts that cease operating all CWRs must notify the director of the JC Finance Office within 60 days of the cessation date. Unless a court provides notification and submits an application to continue receiving distributions while not operating a CWR within 60 days of the cessation date, the court's CWR distributions will be stopped either January 1 or July 1, whichever is earlier, and the court will be required to return any CWR fund balance to the TCTF.
- For courts that are required to return all of their remaining CWR fund balance to the TCTF, the return of the CWR fund balance will occur on the February trial court distribution for those courts that the CWR distribution stopped on January 1, and on the August distribution for those courts that the CWR distributions stopped on July 1.
- If there is a dispute between a court and JC staff over the amount of CWR fund balance that should be returned to the TCTF, the dispute will be brought before the TCBAC and the Judicial Council if the two parties cannot come to a resolution within 90 days of the cessation date.

- An application for a continued distribution must include all the information required of courts applying for a new distribution (see section A above) as well as the amount of any CWR fund balance.
- The TCBAC will make a recommendation to the Judicial Council on each court's application.
- For courts that apply and whose application is denied by the Judicial Council, any CWR fund balance shall be returned to the TCTF.

D. Cap on CWR Fund Balance

- Courts shall monitor the CWR distribution amount per filing to ensure it is adequate to meet the CWR needs of the court without accumulating an amount in excess of the cap described below.
- Effective July 1, 2015, there shall be a cap on the amount of CWR fund balance that courts can carry forward from one fiscal year to the next. The cap shall be the amount of the highest annual distribution within the three most recent fiscal years.
- Courts that have a CWR fund balance greater than the cap (as described above) at the end of the fiscal year will be required to return to the TCTF the amount above the cap in the subsequent fiscal year.
- For courts that are required to return the portion of their CWR fund balance above the cap to the TCTF, the return of the CWR fund balance will occur on the August trial court distribution.
- If there is a dispute between a court and JC staff over the amount of CWR fund balance that should be returned to the TCTF, the dispute will be brought before the TCBAC and the Judicial Council if the two parties cannot come to a resolution within 90 days of the end of the applicable fiscal year.
- The cap applies only to courts that have received at least 12 months of distributions in a fiscal year while operating a CWR.
- If a court wants a cap adjustment, it must submit a request explaining the extenuating circumstance and including its CWR expenditure plan to the director of the JC Finance Office for consideration by the TCBAC and the Judicial Council. The request must be received by the Finance Director within 60 days of the end of the fiscal year for which the adjustment is being requested.
- JC staff will report any return of CWR fund balance through the trial court distribution process to the TCBAC and the Judicial Council.

E. Courts that have Received a Distribution but Never Operated a CWR

- Courts that received distributions between January 1, 2006 and June 30, 2014 but did not operate a CWR during that time period must either apply for a continued distribution by September 26, 2015 or have their distributions stopped and return to the TCTF any CWR fund balance.
- For courts that are required to return all of their remaining CWR fund balance to the TCTF, the return will occur on the October 2015 trial court distribution.
- If there is a dispute between a court and JC staff over the amount of CWR fund balance that should be returned to the TCTF, the dispute will be brought before the TCBAC and the Judicial Council if the two parties cannot come to a resolution within 90 days of the cessation date.

Government Code 70640

(a) It is the policy of the state that each court shall endeavor to provide a children's waiting room in each courthouse for children whose parents or guardians are attending a court hearing as a litigant, witness, or for other court purposes as determined by the court. To defray that expense, monthly allocations for children's waiting rooms shall be added to the monthly apportionment under subdivision (a) of Section 68085 for each court where a children's waiting room has been established or where the court has elected to establish that service.

(b) The amount allocated to each court under this section shall be equal to the following: for each first paper filing fee as provided under Section 70611, 70612, 70613, 70614, or 70670, and each first paper or petition filing fee in a probate matter as provided under Section 70650, 70651, 70652, 70653, 70654, 70655, 70656, or 70658, the same amount as was required to be collected as of December 31, 2005, to the Children's Waiting Room Fund under former Section 26826.3 in the county in which the court is located when a fee was collected for the filing of a first paper in a civil action under former Section 26820.4.

(c) Notwithstanding any other provision of law, the court may make expenditures from these allocations in payment of any cost, excluding capital outlay, related to the establishment and maintenance of the children's waiting room, including personnel, heat, light, telephone, security, rental of space, furnishings, toys, books, or any other item in connection with the operation of a children's waiting room.

(d) If, as of January 1, 2006, there is a Children's Waiting Room Fund in the county treasury established under former Section 26826.3, the county immediately shall transfer the moneys in that fund to the court's operations fund as a restricted fund. By February 15, 2006, the county shall provide an accounting of the fund to the Administrative Office of the Courts.

(e) After January 1, 2006, the court may apply to the Judicial Council for an adjustment of the amount distributed to the fund for each uniform filing fee. A court that wishes to establish a children's waiting room, and does not yet have a distribution under this section, may apply to the Judicial Council for a distribution. Applications under this subdivision shall be made according to trial court financial policies and procedures authorized by the Judicial Council under subdivision (a) of Section 77206. Adjustments and new distributions shall be effective January 1 or July 1 of any year beginning January 1, 2006.

(f) The distribution to a court under this section per each filing fee shall be not less than two dollars (\$2) and not more than five dollars (\$5).

(Amended by Stats. 2007, Ch. 130, Sec. 135. Effective January 1, 2008.)

**Attachment C -- Children's Waiting Room --
Distribution Amount and Total Distribution**

| Court | Distribution Amount as of 3/1/2016 | Total Distribution | | |
|-----------------|------------------------------------|--------------------|------------------|------------------|
| | | 2013 | 2014 | 2015 |
| Alameda | \$5 | 184,373 | 164,577 | 165,671 |
| Butte | \$5 | - | 11,390 | 19,972 |
| Contra Costa | \$5 | 132,591 | 112,116 | 105,044 |
| El Dorado | | 20,888 | 8,072 | |
| Fresno | \$3 | 109,563 | 103,094 | 97,948 |
| Los Angeles | \$5 | 957,583 | 884,665 | 820,348 |
| Merced | | 23,759 | 21,550 | 11,856 |
| Monterey | \$5 | - | 17,554 | 34,189 |
| Orange | \$5 | 432,761 | 401,059 | 367,444 |
| Riverside | \$5 | 302,681 | 271,766 | 250,294 |
| Sacramento | \$4 | 294,715 | 273,822 | 431,307 |
| San Diego | \$5 | 402,888 | 365,724 | 338,943 |
| San Francisco | \$5 | 117,133 | 99,517 | 115,430 |
| San Luis Obispo | \$5 | 27,394 | 25,764 | 24,615 |
| San Mateo | \$5 | 78,854 | 72,059 | 64,646 |
| Santa Barbara | \$5 | 44,012 | 42,350 | 39,858 |
| Santa Clara | \$5 | 182,305 | 164,445 | 149,204 |
| Solano | \$5 | 58,200 | 51,974 | 45,978 |
| Sonoma | \$5 | 54,527 | 52,473 | 46,342 |
| Stanislaus | \$2 | 61,382 | 46,493 | 20,094 |
| Ventura | \$5 | 94,585 | 88,852 | 83,257 |
| Total | | 3,580,193 | 3,279,316 | 3,232,441 |

| Court | Requested Distribution Amount | Total distribution that would have occurred from a \$5 CWR distribution | | |
|----------------|-------------------------------|-------------------------------------------------------------------------|---------|---------|
| | | 2013 | 2014 | 2015 |
| San Bernardino | \$5 | 290,345 | 245,712 | 234,120 |

**Attachment D -- Distributions from First Paper General Civil
Unlimited Uniform Filing Fee (GC 70611) in San Bernardino
County**

| Distribution | State vs. Local | Curren | Requested |
|--------------------------------------------|------------------------|---------------|------------------|
| Trial Court Trust Fund Base Allocation | State | \$323 | \$318 |
| Children's Waiting Room | State | \$0 | \$5 |
| Automated Record-Keeping and Micrographics | State | \$3 | \$3 |
| Judges' Retirement Fund | State | \$3 | \$3 |
| State Court Facilities Construction Fund | State | \$0 | \$0 |
| Immediate & Critical Needs Account | State | \$30 | \$30 |
| Local Courthouse Construction Surcharges | | \$35 | \$35 |
| Equal Access Fund | Local | \$5 | \$5 |
| Dispute Resolution | Local | \$8 | \$8 |
| Law Library | Local | \$29 | \$29 |
| Fee Amount | | \$435 | \$435 |



**Superior Court of California
County of San Bernardino**

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February 25, 2016

Zlatko Theodorovic
Director of Finance
Members of the California Judicial Council
455 Golden Gate Avenue
San Francisco, California 94102-3688

Re: Children's Waiting Room Distribution

Dear Mr. Theodorovic and Members:

We respectfully request your consideration at the April 14/15 Judicial Council meeting to consider providing the Superior Court of California, County of San Bernardino distribution for Children's Waiting Room (CWR) services, pursuant to Government Code § 70640. Listed below is additional information relating to this request:

- Requested effective date of distribution: July 1, 2016 and monthly thereafter
- Scheduled opening date of CWR: September 2016
- Description of CWRs: The first CWR will be located in a room specifically designed for this service at the new San Bernardino Justice Center. The second CWR will be located in the Historic Courthouse. The distribution will be utilized for contracted services, furnishings, toys, and books.
- Anticipated date of CWR expenditures: Fall 2016
- Requested distribution amount: \$5 per filing fee, translating to an annual distribution of \$217,643 (Court will revisit funding needs after first year of services)

If approved, this distribution will help facilitate CWR services for the first time in San Bernardino County.

Sincerely,

A handwritten signature in black ink that reads "Christina M. Volkers".

Christina M. Volkers
Court Executive Officer