



JUDICIAL COUNCIL OF CALIFORNIA

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

www.courts.ca.gov

REPORT TO THE JUDICIAL COUNCIL

For business meeting on July 27–28, 2017

Title	Agenda Item Type
Budget: Fiscal Year 2018–2019 Budget Change Proposals for Supreme Court, Courts of Appeal, Judicial Council, Judicial Branch Facilities Program, Trial Courts, and Habeas Corpus Resource Center	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
None	July 28, 2017
Recommended by	Date of Report
Judicial Branch Budget Committee Hon. David M. Rubin, Chair	July 20, 2017
	Contact
	Zlatko Theodorovic, 916-263-1397 zlatko.theodorovic@jud.ca.gov

Executive Summary

The branch's fiscal year 2018–2019 budget change proposals (BCP) aim to alleviate financial pressures on the judicial branch due to continued underfunding. The BCPs seen as a whole demonstrate that the branch's current budget challenges disproportionately impact our most vulnerable populations such as the poor, people with limited English proficiency, children, and the elderly. The 2018–2019 BCPs below therefore reflect a branch-wide effort to improve the public's access to justice through adequate staffing, expanded language access, safe, secure courthouses, and modern case filing and management technology. Each of the 2018–2019 BCPs should be fully funded, but given the state's limited available resources, the Judicial Branch Budget Committee recognizes there must be prioritization. The Committee recommends adoption of the list in the order provided for submission to the Department of Finance by its September 1, 2017, deadline.

Further, to make our BCP advocacy efforts as successful as possible, the Committee recommends delegating authority to the Administrative Director to make technical changes to any BCP as necessary.

Recommendations:

The Committee recommends that the Council approve the following BCPs in the order shown for fiscal year 2018–2019. Although the Committee recommends BCPs be approved as listed below, it understands that all of these proposals are vital to furthering the goal of providing access to justice more effectively and efficiently. While all of these BCPs are important, the Committee also understands that the Council is obligated to prioritize its BCPs and, given the state’s limited available resources, the Branch’s efforts to obtain additional funding will be enhanced by sending a clear message about the Branch’s most critical needs. The Committee reviewed recommendations from the Judicial Council’s advisory committees and suggests the Judicial Council approve and prioritize 2018–2019 BCPs for submission to the state Department of Finance as follows:

1. Support for Trial Court Operations
2. Stabilization of Civil Assessment Revenue
3. Sustainability of the Immediate and Critical Needs Account
4. Trial Court Facilities Operations Costs/Statewide Security System and Equipment—Maintenance and Replacement
5. Court-Appointed Dependency Counsel
6. New Judgeships (AB 159) and Appellate Court Justices
7. Case Management System Replacement
8. Information Technology Projects
9. General Fund Support of Essential Statewide Programs and Services
10. Implementation of Language Access Plan
11. Supreme Court and Appellate Courts—Court-Appointed Counsel Projects
12. Appellate Court Facility Maintenance Program
13. Appellate Court Security
14. Self-Help Centers in Trial Courts
15. Self-Represented Litigants Statewide e-Services Solution
16. Court Appointed Special Advocate (CASA) in Juvenile Dependency Counsel
17. Single Sign-on Solution
18. Habeas Corpus Resource Center (HCRC)—Case Teams Staffing. Although the Judicial Council submits requests on behalf of the HCRC it was not prioritized, as the HCRC operates as an independent entity.
19. Funding for New Mandates (Trial Court Workload). This request is a placeholder, as a portion of the request has not gone into effect.

Further, the Committee recommends that the Judicial Council:

- Delegate authority to the Administrative Director to make technical changes to BCPs as necessary.

Previous Council Action

Under California Rules of Court, rule 10.101(b)(3), the Judicial Council must “[d]evelop the budget of the judicial branch based on the priorities established and the needs of the courts.” To that end, the council submits BCPs on behalf of the Supreme Court, Courts of Appeal, Judicial Council, Judicial Branch Facilities Program, trial courts, and Habeas Corpus Resource Center to the Department of Finance. The recommendations in this report are consistent with the council’s past practice under this authority.

Rationale for Recommendation

Each year, the Committee presents BCPs for the council’s review. BCPs approved by the council will be finalized by staff, requiring supporting documents. All completed BCPs are submitted to the chair of the Committee.

The Recommended Budget Proposals:

Additional information about the budget proposals, in order of their recommended priority, is provided below. The current estimated budgetary need, where known, is included in the table.

#	Budget Change Proposal	Amount
1.	Support for Trial Court Operations	\$178.0 million General Fund
2.	Stabilization of Civil Assessment Revenue	\$147.0 million General Fund
3.	Sustainability of the Immediate and Critical Needs Account	\$560.3 million General Fund
4.	Trial Court Facilities Operations Costs/ Statewide Security Systems and Equipment— Maintenance and Replacement	\$21.0 to \$28.0 million General Fund
5.	Court-Appointed Dependency Counsel	\$22.0 million General Fund
6.	New Judgeships (AB 159) and Appellate Court Justices	\$10.8 million General Fund
7.	Case Management System Replacement	To be determined (TBD)
8.	Information Technology Projects	\$28.8 to \$33.8 million General Fund
9.	General Fund Support of Essential Statewide Programs and Services	\$14.4 million General Fund
10.	Implementation of the Language Access Plan	\$8.2 million General Fund
11.	Supreme Court and Appellate Courts—Court-Appointed Counsel Projects	\$1.4 million General Fund
12.	Appellate Court Facility Maintenance Program	\$1.3 million General Fund
13.	Appellate Court Security	\$1.4 million General Fund
14.	Self-Help Centers in Trial Courts	\$22.0 million General Fund

15.	Self-Represented Litigants Statewide e-Services Solution	TBD
16.	Court Appointed Special Advocate (CASA) in Juvenile Dependency	\$0.5 million General Fund
17.	Single Sign-on Solution	\$3.3 million General Fund
18.	Habeas Corpus Resource Center—Case Teams Staffing	\$2.6 million General Fund
19.	Funding for New Mandates (Trial Court Workload)	TBD

1. ***Support for Trial Court Operations.*** Proposed ongoing General Fund augmentation of \$178.0 million to support trial court operations, which will allow the trial courts to hire additional staff to address backlogs, retain existing staff, and improve the public’s access to justice. The request consists of the following components:
 - a. \$117.2 million to partially backfill the funding gap identified by the Workload-Based Allocation and Funding Methodology (WAFM) model. The WAFM model uses Resource Assessment Study data to determine the total dollars needed to fund certain court operations. This request would fund an additional 5 percent of the total WAFM need.
 - b. \$8.5 million for discretionary funding not allocated via WAFM for inflationary increases. This funding would fund discretionary projects and is based on an estimated 2.4 percent increase in the Consumer Price Index from 2017–2018 to 2018–2019.
 - c. \$41.0 million for trial court employee compensation/personal services increases. Trial courts need additional funding to fill historical compensation shortfalls in order to be more competitive in recruiting. The additional funding requested is based on the equivalent of an approximate 2.5 percent growth in salary expenditures, but is intended to be used for any personal services–based expense as deemed appropriate by each trial court in its negotiations with related employee representatives.
 - d. \$11.3 million to address the structural imbalance in the Trial Court Trust Fund (TCTF). This proposal seeks to fund a long-standing TCTF structural imbalance that has resulted from expenditure needs exceeding revenue collections. From 2009–2010 through 2014–2015 this structural imbalance was mitigated by a \$20-plus million annual transfer from the State Trial Court Improvement and Modernization Fund (IMF) to the TCTF. However, beginning in 2015–2016, \$20 million worth of the annual IMF transfer has been redirected back to the IMF. At the time of this redirection, \$8.7 million worth of TCTF expenditures were also moved to the IMF. This leaves an ongoing gap of approximately \$11.3 million that we are requesting be funded.

2. ***Stabilization of Civil Assessment Revenue.*** Proposed ongoing General Fund augmentation of \$147 million to transition the deposit of civil assessment revenue, including the \$48.3 million

in Maintenance of Effort (MOE buyout) into the General Fund instead of the TCTF, to support the base court operations and provide a stable revenue source for the courts.

3. ***Sustainability of the Immediate and Critical Needs Account.*** Proposed General Fund augmentation of \$560.3 million for transfer to the Immediate and Critical Needs Account (ICNA). This request will return previously redirected funds (\$510.3 million) and eliminate the ongoing transfer of \$50 million from the ICNA to the TCTF to support trial court operations. This request will provide funding to support court construction projects and assist with the solvency of the ICNA.
4. ***Trial Court Facilities Operations Costs/Statewide Security Systems—Maintenance and Replacement.*** Proposed ongoing General Fund augmentation, estimated between \$21 and \$28 million, for transfer to the Court Facilities Trust Fund to support unfunded trial court facilities operations and maintenance costs (\$18 to \$25 million) and to refresh, maintain, and replace security equipment (\$3.0 million). This request will provide funding to support costs associated with maintaining newly constructed court facilities and transferred trial court facilities and maintenance and replacement of aging camera, access control, and duress alarm systems. The requested funding is necessary to maintain trial court facilities at an industry level of care and will allow the Judicial Council to elevate the level of service above the current run-to-failure level of care.
5. ***Court-Appointed Dependency Counsel.*** Proposed General Fund augmentation of \$22.0 million in 2018–2019, \$44.1 million in 2019–2020, and \$66.2 million in 2020–2021 and ongoing to support court-appointed dependency counsel workload. The total need, based on the current workload model to achieve the Judicial Council’s statewide caseload standard of 141 clients per attorney, is \$202.9 million; however, existing funding of \$136.7 million is provided in the annual Budget Act specifically for this purpose. This request represents 100 percent of the remaining outstanding need of \$66.2 million, spread out over three years, to fully fund the adequate and competent representation for parents and children required by Welfare and Institutions Code section 317. Inadequate funding and subsequent high caseloads lead to high attorney turnover and lack of retention of qualified advocates for children. Effective counsel will ensure that the complex requirements in juvenile law for case planning, notice, and timeliness are adhered to, thereby reducing case delays, improving court case processing and the quality of information provided to the judge, and ultimately shortening the time children spend in foster care.
6. ***New Judgeships (AB 159) and Appellate Court Justices.*** Proposed ongoing General Fund augmentation of \$10.8 million to support new judgeships (\$8.4 million) and appellate court justices (\$2.4 million). Funding will support 10 of the 50 trial court judgeships authorized by the Legislature in FY 2007–2008 (Assem. Bill 159; Stats. 2007, ch. 722). While the latest Judicial Needs Assessment (2016) shows that the branch needs just over 188 judgeships based on workload metrics, efforts to secure funding for the 50 previously authorized judgeships have been unsuccessful. This request for a more modest number of judgeships is

to address the most critical judicial shortage in the trial courts with the greatest need. The allocation of the 10 judgeships would be based on the methodology outlined in Government Code section 69614(b), which states that judges shall be allocated, in accordance with the uniform standards for factually determining additional judicial need in each county, as updated and approved by the Judicial Council, pursuant to the update of the judicial needs study.

This request also includes funding for Division Two of the Fourth District Court of Appeal to meet substantial and growing workload demands. Division Two has an annual average of 1,190 appeals becoming fully briefed. Applying the weighted formula, that results in 117 cases per justice—far exceeding all of the other divisions and far in excess of the optimal number of weighted cases per justice, which is 89. This request supports funding for two new justices and their necessary chambers staff, including three research attorneys and one judicial assistant.

7. ***Case Management System Replacement.*** Proposed General Fund augmentation (amount TBD) for the procurement and deployment of a modern case management system (CMS) for the next wave of courts in need of a replacement for their aging systems. There are a number of courts still relying on CMSs developed with older technology. These legacy systems do not have the ability to integrate with document management systems and e-filing services—foundations for modern CMSs. The courts, the subject of this proposal, will select and procure a new, modern CMS using the existing master services agreement for CMSs or they will issue a request for proposal. Funding will address deployment costs such as hosting, software licensing, hardware, data conversion, and professional services. It is anticipated that this request will be submitted in the spring of 2018 for the 2018–2019 Governor’s May Revision.
8. ***Information Technology Projects.*** Proposed General Fund augmentation, estimated between \$28.8 and \$33.8 million, to the following information technology projects:
 - a. ***Upgrade Phoenix System.*** \$7.8 million in 2018–2019 and additional ongoing costs to maintain the Phoenix enterprise resources management system, deploy the requisite upgrade of the Phoenix System’s software and infrastructure, and add critical day-to-day business functional improvements. This request also includes funding for 3.0 positions in the Phoenix Program Center of Excellence to support compulsory functional improvements to the system. The Phoenix Project was established to meet administrative infrastructure needs for trial courts separating from county administration as a result of the Lockyer-Isenberg Court Funding Act of 1997, the Court Employment Protection and Governance Act of 2000, and the Judicial Council’s subsequent directive to “develop a comprehensive administrative infrastructure for the trial courts.” The Phoenix System manages the finances of all 58 trial courts, including vital personnel and payroll services for 12 trial courts.

- b. *Digitize Paper and Filmed Case Files.* \$20 to \$25 million to fund the first phase of the digitization of paper and filmed case files for the superior and appellate courts. After the first phase, an assessment will be conducted to determine the funding needed for the next phase and to submit a subsequent funding proposal as appropriate. It is anticipated that this request will be submitted in the spring of 2018 for the 2018–2019 Governor’s May Revision.
 - c. *Deploy California Courts Protective Order Registry (CCPOR).* \$1.0 million in 2018–2019 and ongoing to provide a stable funding source to deploy the CCPOR program to the remaining five courts and provide support for the ongoing program operations. The program delivers support for deployment, onboarding, enhancements, defect fixes, legislative changes, and modifications required by the Department of Justice to provide a central repository of restraining and protective orders. This request includes funding to support a Business Systems Analyst to support the increased workload.
9. ***General Fund Support of Essential Statewide Programs and Services.*** Proposed ongoing General Fund augmentation of \$14.4 million to support essential statewide programs and services:
- a. *Programs supporting trial courts statewide.* \$7.8 million to shift costs supporting programs that provide services to trial courts statewide, currently funded from the IMF, to the General Fund. This request also includes the conversion of 14 consultants to permanent Judicial Council positions. Impacted Judicial Council programs include staffing for Treasury Services Cash Management; Trial Court Procurement; Audit Services; Data Integration; California Courts Technology Center; Civil, Small Claims, Probate and Mental Health (V3) CMS staff; Uniform Civil Fees; and Telecom, Enterprise Policy and Planning, and Regional Office Assistance Group units. This proposal will ensure that the statewide operations costs of the judicial branch are funded from the General Fund rather than from the IMF, and would provide a stable funding source to serve the branch’s needs.
 - b. *Judicial Branch Litigation Management Program.* \$5.8 million to support the legal defense of all judicial branch entities, including trial court operations. Increasing and consolidating litigation management expenditures within the General Fund will assist with the long-term solvency of the IMF as well as centralize the Litigation Management Program into a single pool of available funds. The Litigation Management Program is dedicated to the defense and indemnification of all judicial branch entities for claims and litigation alleging acts arising in the course and scope of judicial employment, as well as various risk reduction expenditures. Providing an augmentation to the General Fund, increasing total funding to address rising costs of litigation, broadening the use of the funds, and permitting the Judicial Council to encumber funds through June 30, 2020, will provide Legal Services the flexibility to better serve the branch’s litigation needs.
 - c. *Judicial officer orientation programs.* \$0.8 million to support the costs of faculty and trial court participants at required education courses. These courses are for newly appointed or elected judges, newly hired subordinate judicial officers, and judges and judicial officers

assigned to adjudicate a substantive law assignment in which they have not worked before. Additionally, this request includes provisional language to provide additional augmentation authority during the fiscal year (upon approval of the Department of Finance) to the extent that existing authority is insufficient.

10. ***Implementation of the Language Access Plan.*** Proposed ongoing General Fund augmentation of \$8.2 million and 2.0 positions to advance the implementation of the *Strategic Plan for Language Access in the California Courts*, adopted in January 2015. The funding will implement the following provisions of the plan: (1) expand interpreter services into all civil proceedings; (2) establish a grant program for signage in courthouses in multiple languages; (3) establish a grant program for infrastructure support and non-video remote interpreting equipment in support of courts' language access expansion efforts; (4) maintain the branch's online Language Access Toolkit and develop multilingual videos; and (5) provide staff to administer the grant programs and maintain the online Language Access Toolkit.
11. ***Supreme Court and Appellate Courts—Court-Appointed Counsel Projects.*** Proposed ongoing General Fund augmentation of \$1.4 million to support an increase in the contracts with the five Court of Appeal Court-Appointed Counsel Projects (\$1.1 million) and the Supreme Court Court-Appointed Counsel Project, San Francisco (CAP-SF) (\$0.3 million). These six projects provide assistance and oversight to the panel of private attorneys appointed in criminal Court of Appeal cases, capital appeals, and habeas corpus and clemency proceedings for indigent defendants. California's Court-Appointed Counsel Program fulfills the constitutional mandate of providing adequate representation for indigent appellants in the Courts of Appeal on noncapital cases. The objectives of California's appellate court-appointed counsel system are to (1) ensure the right of indigent clients to receive the effective assistance of appointed appellate counsel as guaranteed to them by the U.S. Constitution, and (2) provide the Courts of Appeal with useful briefings and arguments that allows the courts to perform their function efficiently and effectively. CAP-SF is also responsible for assisting unrepresented death row inmates by collecting and preserving records and evidence for later postconviction use, and by providing the advocacy needed before counsel is appointed. The funding would support significant increases in the cost of rent and staff benefits, new staff, salary increases, training, and increased costs for record collection and preservation.
12. ***Appellate Court Facility Maintenance Program.*** Proposed ongoing General Fund augmentation of \$1.3 million to perform an in-depth building assessment of the two state-owned, court-managed appellate court facilities and to establish and support an Appellate Court Facility Maintenance Program. The facility assessment will document the current condition of the two state-owned, court-managed buildings and create project and cost estimates for identified deficiencies. The Appellate Court Facility Maintenance Program will support facility maintenance requests for the two court-managed facilities based on Building Owners and Managers Association standards, and will include preventative and routine

maintenance. The request will also provide funding to the remaining seven appellate court facilities for minor facility modifications and demand maintenance not covered by the building owner. The appellate courts occupy a total of just over 500,000 square feet of space in nine facilities.

13. ***Appellate Court Security.*** Proposed ongoing General Fund augmentation of \$1.4 million to support security services provided by the California Highway Patrol Judicial Protection Section at the Courts of Appeal.
14. ***Self-Help Centers in Trial Courts.*** Proposed ongoing General Fund augmentation of \$22 million to support self-help centers in trial courts. Self-help centers enable courts to more effectively meet the needs of the 4.3 million Californians who come to court each year without an attorney. Self-help centers are a valuable method for providing services to people who need access to legal education and information and for improving the quality of justice for litigants. They facilitate a litigant's ability to participate effectively in the legal process, improve court efficiency, and help the court design systems to better serve self-represented litigants, promote public trust and confidence in the court system, meet a great need for service in their community, and have the capacity to meet the needs of many non-English speakers. Providing needed assistance outside the courtroom, including additional assistance for litigants in settling cases, would significantly increase court efficiency while expanding access to justice for the public. Fully functioning self-help centers provide real cost savings to courts by reducing the number of court hearings and staff time at the public counter.
15. ***Self-Represented Litigants Statewide e-Services Solution.*** Proposed General Fund augmentation (amount TBD) to envision, design, and deploy a statewide Self-Represented Litigants (SRL) e-services portal. This request also includes 2.0 positions to support the deployment of the e-services portal. While several counties across the state offer some degree of virtual or online assistance, a statewide e-services portal would serve *all* Californians and deliver state-of-the-art interactive educational content, online diagnostic tools, real-time chat and call centers to help Californians successfully resolve legal issues without an attorney. At this time, the cost to develop and implement a statewide e-services litigant portal/website solution is unknown. The workgroup charged with envisioning, designing, and implementing this solution intends to post a request for information to better understand anticipated one-time and ongoing costs. It is anticipated that this request will be submitted in the spring of 2018 for the 2018–2019 Governor's May Revision.
16. ***Court Appointed Special Advocate (CASA) in Juvenile Dependency.*** Proposed ongoing General Fund augmentation of \$0.5 million to support the Court Appointed Special Advocate grants program. \$2.2 million is currently authorized in the annual Budget Act to support CASA programs. The CASA programs are nonprofit organizations that provide trained volunteers assigned by a juvenile court judge to a child in foster care. CASA volunteers have been found to be effective at reducing placement changes, increasing the child or youth's involvement in the dependency process, improving the quality of information the judge

receives, and advocating for services in school or health and mental health services that are often difficult for foster children to access. This request will provide funding to increase the number of children served by 20 percent or 2,200 and will reduce the backlogs of children in local courts waiting for a volunteer assignment.

17. ***Single Sign-on Solution.*** Proposed General Fund augmentation of \$3.3 million General Fund to acquire, design, and deploy an enterprise single sign-on system for the branch. The request includes \$2.5 million to modify CMSs from the three major case management software vendors in order to take advantage of the unique identifier assigned by the single sign-on solution. It also includes \$800,000 in one-time and ongoing costs for software licenses for judicial branch employees. This system will assign a unique identifier to members of the judicial branch, attorneys, members of the public, and justice partners who access judicial branch computer systems and electronic services. It is envisioned that this system will be deployed using the software-as-a-service model so that there are no direct costs such as hardware, in-house support, or operational costs.

18. ***Habeas Corpus Resource Center—Case Teams Staffing.*** Proposed General Fund augmentation of \$2.6 million (\$2.6 million in 2018–2019, \$5.4 million in 2019–2020, and \$5.2 million in 2020–2021 and ongoing) to create four additional legal case teams to accept additional appointments in death penalty postconviction cases. This proposal is necessary to reduce the increasing backlog of inmates on California’s death row who lack counsel for state habeas corpus proceedings, and will ultimately result in cost saving to the State of California. As of July 1, 2016, 350 inmates are without counsel necessary to pursue postconviction relief. Nearly half of those inmates have waited for more than 10 years. Not only has this untoward delay in the appointment of counsel rendered California’s capital punishment system arbitrary and thus unconstitutional, the delay in appointment of counsel costs the taxpayers hundreds of thousands of dollars in additional and unnecessary costs each year.

19. ***Funding for New Mandates (Trial Court Workload).*** Proposed ongoing General Fund augmentation (amount TBD) to support trial court operations resulting from mandated but unfunded workload tied to propositions and recently chaptered legislation. The requested funding for workload tied to new propositions includes \$1.5 million for Proposition 57 (expands a youth’s ability to be tried in adult court); \$11.4 million for Proposition 63 (requires new court processes around firearm and ammunition sales); \$9.7 million for Proposition 64 (legalizes marijuana in the state of California); and amount TBD for Proposition 66 (amends death penalty procedures). The requested funding for workload tied to legislation chaptered in 2016 includes \$26.0 million for AB 2013 (establishes a new court pilot project for defendants out of custody who are charged with misdemeanors); \$26.2 million for AB 813 (extends the rights to a person to seek postconviction relief); \$13.8 million for AB 2765 (extends the time period for convicted individuals to submit an application to have a sentence reduced); \$16.4 million for AB 2839 (changes the method by

which custody credits are applied); and \$4.6 million for SB 1134 (establishes a lower standard of review in habeas corpus petitions).

Comments, Alternatives Considered, and Policy Implications

An alternative to delegating authority to the Administrative Director to make technical changes to BCPs is for staff to attempt to return to the Committee and Council for approval every time technical adjustments are necessary, unanticipated issues arise, or reactions to responses from another branch are needed. This alternative approach would likely cause delays in timely updating and submitting proposals.

Implementation Requirements, Costs, and Operational Impacts

Not applicable.

Relevant Strategic Plan Goals and Operational Plan Objectives

The recommended budget proposals address the strategic plan goals of Goal I, Access, Fairness, and Diversity; Goal III, Modernization of Management and Administration; and Goal IV, Quality of Justice and Service to the Public.