



# Judicial Council of California

455 Golden Gate Ave.  
San Francisco, CA 94102

## Meeting Minutes

### Judicial Council

Meeting materials are  
available through the  
hyperlinked reports  
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(Cal. Rules of Court, rule 10.6(a))*

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Thursday, September 14, 2017

1:20 PM

San Francisco

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

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

##### **Attendance**

##### **Council Members**

**Present:** 26 - Chief Justice Tani G. Cantil-Sakauye, Justice Harry E. Hull Jr., Justice Harry E. Hull Jr., Justice James M. Humes, Justice Douglas P. Miller, Justice Marsha G. Slough, Presiding Judge C. Todd Bottke, Presiding Judge Daniel J. Buckley, Presiding Judge Dean T. Stout, Judge Marla O. Anderson, Judge Brian J. Back, Judge Stacy Boulware Eurie, Judge Stacy Boulware Eurie, Judge Kyle S. Brodie, Judge Samuel K. Feng, Judge Scott M. Gordon, Judge Dalila Corral Lyons, Assistant Presiding Judge Gary Nadler, Judge Kenneth K. So, Commissioner David E. Gunn, Mr. Jake Chatters, Mr. Patrick M. Kelly, Mr. Richard D. Feldstein, Ms. Kimberly Flener, Ms. Audra Ibarra, and Ms. Donna D. Melby

**Absent:** 6 - Justice Ming W. Chin, Presiding Judge Jeffrey B. Barton, Judge David M. Rubin, Assembly Member Richard Bloom, Senator Hannah-Beth Jackson, and Ms. Debra Elaine Pole

##### **Others Present**

Mr. Tony Agullar, Mr. Daniel Osborn, Ms. Nancy Ruzicka, and Ms. Gail Johnson Vaughn.

##### **Call to Order**

Chief Justice Tani G. Cantil-Sakauye, chair of the Judicial Council, called the open session to order at 1:40 p.m. in the Judicial Council Board Room.

##### **Opening Remarks**

Chief Justice Tani G. Cantil-Sakauye acknowledged outgoing Judicial Council members and noted the swearing-in of new members who will take office on September 15. She expressed her deep gratitude for the outgoing council members'

work and noted that she gives each member a copy of “The Federalist Papers” as a token of appreciation for their service, symbolizing the importance of their role in the statewide Judicial Council and their lasting contributions as Judicial Council members. The Chief Justice thanked the following members for their service on the council: Judge Brian J. Back, 2014-2017; Judge Jeffrey B. Barton, 2016-2017; Presiding Judge Daniel J. Buckley, 2014-2017; Commissioner David E. Gunn, 2014-2017; Presiding Judge Dean T. Stout, 2013-2017; Mr. Richard D. Feldstein, 2014-2017; Ms. Donna D’Angelo Melby, 2014-2017; and Ms. Debra Elaine Pole, 2014-2017.

## **Chief Justice’s Report**

The Chief Justice reported on her activities since the previous council meeting. She attended the 51st annual Bernard E. Witkin Judicial College in San Ramon, where she was cross-examined by the dean, Judge Patricia Lucas, Superior Court of Santa Clara County, and the vice-dean, Judge Michael Groch, Superior Court of San Diego County, as part of a lunchtime Q&A. Some of the topics covered with the 82 participants included diversity, federalism, the Commission on Judicial Performance, race and gender, public opinion, civics education and engagement, immigration, judicial administration, the Futures Commission, the budget, and the critical transitions and learning necessary to become an effective bench officer.

In Philadelphia, at the annual meeting of the Conference of Chief Justices in August, the Chief Justice reported that the focus was again on federalism. She noted that it was the topic of conversations and educational programs, which included “Federalism: Sharing Power, Securing Liberty”; “Who Cares What the Federalist Papers Say About Federalism-I Do!”; “The Role of State Courts in Developing Federal Constitutional Law”; and “Promoting Cooperation Between State and Federal Courts.” On the topic of cooperation between state and federal courts in California, the Chief Justice remarked that California is fortunate to have a robust State-Federal Judicial Council that shares information and promotes a collegial environment among state and federal colleagues. She added that they have education sessions and programs with federal and state judges, and from time to time vacancies come up that are solicited on the California Courts website for those who are interested in applying. They meet twice a year, once in Northern California and once in Southern California.

The Chief Justice reported that federal judges including Judge Connie Callahan, U.S. Court of Appeals for the Ninth Circuit; retired Judge Frank Damrell, U.S. District Court for the Eastern District of California; Senior Judge Raymond Fisher, U.S. Court of Appeals for the Ninth Circuit; and Judge Kimberly Mueller, U.S. District Court for the Eastern District of California, have joined the Power of Democracy Steering Committee. They work with state judges, Secretary of State Alex Padilla, and leaders in education like State Superintendent of Public Instruction Tom Torlakson to promote civic learning and engagement in California.

The Chief Justice commented that Martin Hoshino, Administrative Director, attended the Conference of State Court Administrators meeting, which was held in conjunction with the Conference of Chief Justices. They examined the right to counsel in matters of court-imposed financial obligations, ability-to-pay determinations, and alternatives to payment. The Judicial Council's Administrative Presiding Justices Advisory Committee also looked at the issue of fee authorization for e-filing and service in the appellate courts at their regular meeting. The committee also considered a pilot program dealing with privacy in appellate opinions.

The National Association of Women Judges hosted a Women in the Court Legislative Day at the state capital where the Chief Justice participated in a fireside chat with Senator Hannah-Beth Jackson (D-Santa Barbara), who chairs both the Legislative Women's Caucus and the Senate Judiciary Committee, and is also a Judicial Council member. They discussed many issues of interest to the audience as well as current events. The Chief stated that she is pleased to join Governor Jerry Brown, Senator Robert Hertzberg (D-Van Nuys), and Senator Rob Bonta (D-Oakland) in a statement committing to continuing to move forward the discussion and action on bail reform, and addressing public safety, fairness, the rights of the accused, and equal access for all Californians.

The Chief Justice also continued regular ongoing meetings with sister branches of government to convene and connect on issues of mutual interest and concern and to share the judiciary's experience, knowledge, and information. She met with Senator Henry Stern (D-Canoga Park) to discuss his bill (SB 596) regarding youth participation in civic engagement. Along with Judge Kenneth So; Mr. Hoshino; Ms. Shelley Curran, Director of Criminal Justice Services; and other judicial council staff, the Chief Justice met with Attorney General Xavier Becerra and his staff as part of their liaison meeting program. Lastly, as the Supreme Court of California moved to mandatory e-filing, already in use by nearly all of the appellate courts, she joined 150 judges, court managers, and IT professionals at the Judicial Branch Technology Summit in Sacramento to find new ways to harness technology to offer better service and access. She noted that if the Supreme Court can adapt, much can be accomplished for the public served by the courts.

## Judicial Council Members' Statewide Updates

[17-147](#)

### Judicial Council Member Statewide Updates

**Summary:** Judicial Council members present an update on statewide judicial branch initiatives outside of internal committee or other advisory body work.

Judge Brian J. Back reported on his participation in the State Advisory Committee on Juvenile Justice and Delinquency Prevention.

## Judicial Council Members' Liaison Reports

[17-125](#)

### Judicial Council Members' Liaison Reports

Judge Dean T. Stout reported on his visit to the Superior Court of Calaveras County.  
Judge Brian J. Back reported on his visit to the Superior Court of Tulare County.

### Public Comment

Mr. Ted Mermin, Ms. Andrea S. Warren, and Ms. Vivian Wang presented comments on item 17-146.

## DISCUSSION AGENDA

[17-146](#)

### Civil Practice and Procedure: Request for Entry of Default (Action Required)

**Summary:** The Civil and Small Claims Advisory Committee recommends adopting a new mandatory form for requesting entry of default and default judgment in cases subject to the Fair Debt Buying Practices Act, which imposes a number of requirements that debt buyers who purchase charged-off consumer debt must meet in order to pursue collection efforts and seek a default judgment against the debtor. The committee also recommends revising the current form for requesting entry of default and default judgment in all other civil cases, and amending the rule regarding default judgment to include references to the new form. The new form will assist litigants and courts by listing the extensive statutory requirements for a default judgment under the act. Both forms also include a revised declaration of nonmilitary service.

**Recommendation:** The Civil and Small Claims Advisory Committee recommends that the Judicial Council, effective January 1, 2018:

1. Amend California Rules of Court, rule 3.1800, which currently provides that form CIV-100 must be submitted in support of a default judgment on declarations, to authorize and require the use of new form CIV-105 in actions subject to the Fair Debt Buying Practices Act;
2. Adopt *Request for Entry of Default (Fair Debt Buying Practices Act)* (form CIV-105) to provide a form for requesting a default judgment in cases subject to the Fair Debt Buying Practices Act; and
3. Revise *Request for Entry of Default (Application to Enter Default)* (form CIV-100) to provide notice that the form is not for use in actions subject to the Fair Debt Buying Practices Act, and to clarify the declaration of nonmilitary service by revising the language of the declaration and including the state law definition of military service.

## Speakers

A motion was made by Ms. Ibarra, seconded by Judge Lyons, that this proposal be approved. The motion carried by a unanimous vote.

[17-060](#)

### **Court Adoption and Permanency Month: Judicial Council Resolution (Action Required)**

**Summary:** The Family and Juvenile Law Advisory Committee recommends adopting a resolution proclaiming November to be Court Adoption and Permanency Month. As it has since 1999, in observance of National Adoption Month, the Judicial Council can recognize the ongoing efforts of California's juvenile courts and their justice partners to provide children and families with access to fair, understandable judicial proceedings leading to timely, well-informed, and just permanency outcomes. The resolution will also give courts the opportunity to hold special events finalizing adoptions from foster care and raising community awareness of the importance of finding safe, stable, and permanent homes for every child or youth in foster care.

**Recommendation:** The Family and Juvenile Law Advisory Committee recommends that the Judicial Council adopt the attached resolution, effective September 14, 2017, proclaiming November 2017 to be Court Adoption and Permanency Month.

A motion was made by Presiding Judge Stout, seconded by Judge Boulware Eurie, that this proposal be approved. The motion carried by a unanimous vote.

## **Swearing in of New and Reappointed Judicial Council Members**

The Chief Justice administered the oath of office to new and reappointed members. Nine new Judicial Council members include:

- Hon. Kevin C. Brazile, Assistant Presiding Judge, Superior Court of Los Angeles County
- Hon. Harold W. Hopp, Judge, Superior Court of Riverside County
- Hon. Patricia M. Lucas, Presiding Judge, Superior Court of Santa Clara
- Hon. Stuart M. Rice, California Judges Association President, and Judge, Superior Court of Los Angeles County
- Hon. Shama H. Mesiwala, Commissioner, Superior Court of Sacramento County
- Ms. Rachel W. Hill, Attorney, Law Office of Rachel Hill
- Ms. Gretchen M. Nelson, Attorney, Nelson & Fraenkel LLP
- Mr. Michael M. Roddy, Court Executive Officer, Superior Court of San Diego County
- Ms. Andrea K. Wallin-Rohmann, Clerk/Executive Officer, Court of Appeal,

## Third Appellate District

One reappointed member includes:

- Hon. C. Todd Bottke, Presiding Judge, Superior Court of Tehama County

**Adjournment**

With the meeting's business completed, the Chief Justice adjourned the meeting at approximately 2:45 p.m.

*Respectfully submitted by Administrative Director Martin Hoshino, Secretary to the Judicial Council, on November 17, 2017.*



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Friday, September 15, 2017

9:00 AM

San Francisco

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

### Attendance

#### Council Members

- Present:** 27 - Justice Ming W. Chin, Justice Harry E. Hull Jr., Justice James M. Humes, Justice Douglas P. Miller, Justice Marsha G. Slough, Presiding Judge Patricia M. Lucas, Presiding Judge C. Todd Bottke, Assistant Presiding Judge Kevin C. Brazile, Assistant Presiding Judge Gary Nadler, Judge Marla O. Anderson, Judge Stacy Boulware Eurie, Judge Kyle S. Brodie, Judge Samuel K. Feng, Judge Scott M. Gordon, Judge Harold W. Hopp, Judge Dalila Corral Lyons, Judge Stuart M. Rice, Judge Kenneth K. So, Commissioner Shama Hakim Mesiwala, Mr. Jake Chatters, Ms. Kimberly Flener, Ms. Rachel W. Hill, Ms. Audra Ibarra, Mr. Patrick M. Kelly, Ms. Gretchen Nelson, Mr. Michael M. Roddy, and Ms. Andrea K. Wallin-Rohmann
- Absent:** 4 - Chief Justice Tani G. Cantil-Sakauye, Judge David M. Rubin, Assembly Member Richard Bloom, and Senator Hannah-Beth Jackson

#### Others Present

Ms. Zeny Agullana, Mr. Chad Finke, Ms. Amanda Jean, Ms. Nephertiti Murphy, Ms. Kimberly Russell, and Ms. Connie Valentine.

### Call to Order

Justice Ming W. Chin, vice-chair of the Judicial Council, called the open session to order at 9:00 a.m. in the Judicial Council Board Room.

### Public Comment

Ms. Barbara Bartoshuk, Ms. Catherine Campbell, Ms. Alison Madden, Ms. Nancy Ruzicka, and Ms. Kimberly Sweidy presented comments on general judicial administration. Mr. Joseph Silvos III presented comments on Consent Agenda Item 17-135--Procedure: Firearms Relinquishment.

## Approval of Minutes

[17-122](#)

### **Minutes of the July 27-28, 2017, Judicial Council meeting**

A motion was made by Ms. Ibarra, seconded by Assistant Presiding Judge Nadler, that the minutes be approved. The motion carried by a unanimous vote.

## Administrative Director's Report

[17-123](#)

### **Administrative Director's Report**

Martin Hoshino, Administrative Director, reported on his activities since the previous council meeting. At the joint annual meeting of the Conference of Chief Justices and the Conference of State Court Administrators, Mr. Hoshino provided input as a member of the National Task Force on Fines, Fees and Bail Practices. Although the conference focused on federalism given the current issues facing the nation, bail reform was equally on the radar. There was concern and discussion about policy reform in bail practices and changes in litigation. Mr. Hoshino participated in a working group that developed a toolkit to gather experiences from other states to create a clearinghouse of information. He added that more products in bail reform are becoming available and he will ensure they are provided to California's courts.

Turning to the judicial branch budget, Mr. Hoshino reported that 16 Judicial Council-approved budget change proposals had been submitted to the Department of Finance by September 1 for the 2018-19 state budget. He explained that the top priority each year is the augmentation of discretionary funding for the operations of California's trial courts. Mr. Hoshino will provide updates during the fall development budget that culminates in the Governor's proposal, usually published around January 10 of each year.

Mr. Hoshino informed the council of a project underway between the Department of Finance, the Legislative Analyst's Office, and the courts. The project is spearheaded by an amalgam of council staff and court executive officers (CEOs), primarily under the leadership of the Court Executive Officers Advisory Committee. He explained that the effort, led by CEOs Jake Chatters, Kimberly Flener, and Michael Roddy, is to elevate the understanding of the structural deficit problems and issues that the courts face at the ground level. He noted that it is particularly important at this time because the administration is transitioning next year, including a brand-new staff team at the Department of Finance, so it is an opportunity to provide more on-the-ground education. The team selected six courts for site visits that were then joined by other neighboring courts to provide a well-rounded sampling. The court sites include San Bernardino County (joined by Los Angeles and San Diego Counties), Ventura and Santa Barbara Counties (joined by Orange County), Glenn County (joined by Lake and Shasta Counties), El Dorado County (joined by Merced and San Joaquin Counties), and San Francisco County (joined by Contra Costa and Santa Clara



Counties). They delved into topics including the origin of the Trial Court Funding Act and the Resource Allocation Study; the Workload Allocation Funding Methodology and the one percent funding cap; fines, fees, civil assessments, and collections; and court facilities. Mr. Hoshino noted that this project is not without precedent--the state prisons, state hospitals, veterans affairs, and other government operations have also engaged in this type of exercise. He remarked that the feedback they have gotten, not just from trial court leaders but also from the Department of Finance, is that they find it to be productive and valuable. He added that he hopes there is sympathy to some of the constraints before the judicial branch; the key is to translate that into actions that result in additional funding for court base operations.

Mr. Hoshino provided a legislative update marking September 15 as the last day of the first year of the current Legislature's two-year session. At midnight, the remaining bills will start a new cycle in which the Governor will have 30 days to either sign, veto, or allow the bills to become law without signature. Mr. Hoshino took a moment to recognize the significant work that goes on and to create awareness about all of the bills that directly or indirectly impact court operations. At any given time, in any session, he noted, there are typically 2,000 to 3,000 bills introduced. In 2017, there were 2,495 bills for which tracking began to some level. The Governmental Affairs office boils that down to a subset of approximately 600 bills annually. This includes bills that may have a direct or indirect impact on the operations of the judicial branch by creating new causes of action or new or expanding crimes, he reported. The council generally takes positions on about 50 to 60 of those bills each year, but also provides technical assistance and amendments on many more bills (300 to 400) that have a potential impact on the branch's ability to deliver and maintain access to justice. Mr. Hoshino explained that this work is channeled from the Governmental Affairs office through the Policy Coordination and Liaison Committee chaired by Judge Kenneth K. So. It then may get channeled to other advisory committees depending on subject matter, and to the Court Executives Advisory Committee as well as the Presiding Judges Advisory Committee to get their sense on what the bills might portend. As the cycle begins to accelerate and deadlines start to approach, Governmental Affairs may consult subject matter experts, who may or may not be part of a committee, who act as a virtual rapid response team. Mr. Hoshino reported that there were currently 623 bills pending in the Legislature but only two or three of the bills in that subset would have a dramatic impact on the judicial branch; last year there were 12. Mr. Hoshino recognized Governmental Affairs for the immense coordination and effort of their work during this time.

Mr. Hoshino highlighted one bill they are following, Senate Bill 10, the California Money Bail Reform Act of 2017. Authored by Senator Robert M. Herzberg (D-Van Nuys), it was converted to a two-year bill near the end of the session on September 6. The Judicial Council committed to working collectively with legislative members and the administration this fall on bail reform that prioritizes public safety, cost

efficiency, and fairness in a balanced way. He noted that the effort will be informed by the Chief Justice's Pretrial Detention Reform Workgroup, co-chaired by former council member Judge Brian Back and Judge Lisa Rodriguez. The workgroup is developing a set of recommendations and guidelines on the issues of right to counsel, court-imposed financial obligations, and ability-to-pay determinations and alternatives and will deliver those recommendations to the Chief before the end of the year. Mr. Hoshino explained that the Conference of Chief Justices and the Conference of State Court Administrators are also working to provide recommendations for the courts, but their final reports won't be available until later in 2018.

Lastly, Mr. Hoshino highlighted the Judicial Fellowship Program that has been operating for 21 years. He had the pleasure of visiting a group of 10 young college graduates with a demonstrated interest in policy, judicial administration, or law. They will spend 10 months in the trial courts partnered with high-ranking executives in the court or with the CEOs themselves. The participating courts this year were in Alameda, Butte, Los Angeles, Merced, Orange, Placer, San Bernardino, and San Francisco Counties, as well as the Judicial Council's Governmental Affairs office. Mr. Hoshino had an opportunity to meet the fellows at their orientation, where they also heard from CEOs Jake Chatters and Kimberly Flener about what to expect in the courts. Mr. Hoshino noted that Ms. Jamel Jones, who is now a member of the council's Information Technology staff, is a former fellow of that program. He is encouraged by the caliber of the fellows, who are positive, engaged, and enthusiastic; and he recognized Ms. Laura Speed, who manages the program, for the high caliber of the incoming group of fellows.

## Judicial Council Committee Presentations

[17-124](#)

### Judicial Council Committee Reports

**Summary:** Executive and Planning Committee  
Hon. Douglas P. Miller, Chair  
Policy Coordination and Liaison Committee  
Hon. Kenneth K. So, Chair  
Rules and Projects Committee  
Hon. Harry E. Hull, Jr., Chair  
Judicial Council Technology Committee  
Hon. Marsha G. Slough, Chair  
Judicial Branch Budget Committee  
Hon. David M. Rubin, Chair

#### Executive and Planning Committee

Justice Douglas P. Miller, chair of the Executive and Planning Committee (E&P), explained that one of the oversight roles of E&P is to direct the nomination process for Judicial Council membership. The committee solicits and reviews nominations and then forwards its recommendations to the Chief Justice for her consideration, he

explained. Earlier in the week the Chief announced new members of the Advisory Committee on Audits and Financial Accountability for the Judicial Branch, which will be chaired by former council member Judge David Rosenberg, with Justice Peter J. Siggins as the vice-chair. Justice Miller noted that the advisory committee reports to E&P and will review audits of the superior courts and the Courts of Appeal and make recommendations to the Judicial Council on promoting the best financial practices to further fiscal responsibility and efficiency. On behalf of himself and Judge Marla Anderson, vice-chair of E&P, Justice Miller also welcomed and thanked the following new E&P members for their willingness to serve on the committee: Justice Harry E. Hull, Jr., Presiding Judge Patricia M. Lucas, Assistant Presiding Judge Gary Nadler, Judge Stacy Boulware Eurie, Judge Samuel K. Feng, Judge David M. Rubin, Ms. Kimberly Flener, and Ms. Gretchen Nelson.

#### **Policy Coordination and Liaison Committee**

Judge Kenneth K. So, chair of the Policy Coordination and Liaison Committee (PCLC), reported that the committee had met four times since the last council meeting. Their most recent meeting, this past week, included an orientation for new PCLC members including Judge C. Todd Bottke, Ms. Gretchen Nelson, and Mr. Michael Roddy. At that meeting the committee reviewed six proposals for legislation for 2018 that will be presented to the full council in November. At their August 10 meeting, Judge So noted they reviewed policy in the areas of drug courts, sex offender registration, and convictions; a complete report of positions the PCLC has taken is listed on the committee's webpage on the California Courts website. Judge So reported that on August 15, the committee reviewed Assembly Bill 103 and the issue of which specific judgeship vacancies may be transferred between counties; their proposal is agenda item 17-149. PCLC also approved sponsorship of a legislative proposal from the Facilities Policies Working Group for disposition of the West Los Angeles Courthouse, which is agenda item 17-171, and approved a legislative proposal, to be distributed for comment from the Language Access Plan Implementation Task Force regarding interpreters and small claims cases. The item will be presented to the Judicial Council in January of next year. Lastly, Judge So reported that the Governor signed into law council-sponsored measure AB 1433 regarding court records, and noted that other council-sponsored bills had turned into two-year bills.

#### **Rules and Projects Committee**

Justice Harry E. Hull Jr., chair of the Rules and Projects Committee (RUPRO), reported that the committee had met twice since the last council meeting. RUPRO reviewed a proposal for revisions to the criminal jury instructions and recommended approval of consent agenda item 17-130. RUPRO also approved an amended proposal from the Civil and Small Claims Advisory Committee regarding forms for requesting entry of default judgments in Fair Debt Buying Practices Act cases. Originally placed on the consent agenda, item 17-146 was moved to the discussion

agenda and was approved by the council at the September 14 meeting. Justice Hull, on behalf of Justice Chin and himself, welcomed the following new members to the Rules and Projects Committee: Assistant Presiding Judge Kevin C. Brazile, Judge Harold W. Hopp, Judge Stuart M. Rice, Commissioner Shama Mesiwala, and Ms. Rachel W. Hill. He also noted that due to the departure of Judge Brian Back from the council, who was vice-chair of the RUPRO, Judge Dalila Lyons agreed to serve as the new vice-chair. Justice Hull commented that he appreciates the work of the Rules and Projects Committee and looks forward to all of the contributions from new members.

### **Judicial Council Technology Committee**

Justice Marsha G. Slough, chair of the Judicial Council Technology Committee (JCTC), reported on the activities of the committee during this period. The Technology summit took place on August 23 and 24, with over 150 members from the branch including justices, judges, CEOs, and court staff. The summit included presentations how expectations of government related to technology are changing exponentially, embracing change in the judicial branch, and service-focused web design. There were also updates on workstream efforts and ever-present cyber security issues. Justice Slough commented that the committee received positive feedback from the attendees, and the information they received will help them in improving their technology initiatives so they can better serve the citizens of California.

Justice Slough reported that the Information Technology and Advisory Committee (ITAC) approved the self-represented litigant e-services workstream to move forward with the request for information that has now been posted. ITAC received a directive from the Chief Justice related to the report of the Futures Commission. The directive asked the committee to report on the feasibility and resources necessary for three pilot projects: first, to allow remote appearances for most noncriminal court proceedings; second, voice-to-text language interpretation services at court filing service counters and self-help centers; and third, intelligent chat technology to help with self-help services. ITAC reached out to chief information officers throughout the state to host a webinar in which they gathered information for a work plan that was approved by JCTC. Justice Slough reported that at their September 11 meeting they received updates from ITAC on the workstreams and their progress on the Chief's directive. The Sustain Justice Edition courts have started replacing their legacy case management systems; new case management systems are being funded by the most recent budget change proposal in the Governor's budget. Recipients include the Superior Courts of Humboldt, Lake, Madera, Modoc, Plumas, Sierra, San Benito, Trinity, and Tuolumne Counties. Justice Slough acknowledged that these courts have worked hard and diligently in getting to this stage, and they are excited to move into the next stage of the process.

Justice Slough reported that she attended the Court Technology Conference in Salt

Lake City along with Justice Chin and others from around the state. The nationwide conference addressed technology issues within the courts. She was pleased to see so many important presentations from the California judicial branch, including those of Mr. Robert Oyung, Chief Information Officer of the Judicial Council of California; Ms. Heather Peddit, Chief Information Officer for the Superior Court of Contra Costa County; Mr. Snorri Ogata, Chief Information Officer of the Superior Court of Los Angeles County; and Judge Sheila Hansen of the Superior Court of Orange County and chair of ITAC. The conference was well-attended with 150 participants, approximately 30 of whom were from California. Justice Slough remarked that while some states have progressed in some ways, California is a leader when it comes to having the energy, effort, and desire to continue to improve services for citizens through the use of technology.

#### **Judicial Branch Budget Committee**

Justice James M. Humes, vice-chair of the Judicial Branch Budget Committee (JBBC), reported that the committee had met once since the last council meeting, where they discussed issues related to budget change proposals (BCPs). JBBC submitted their BCPs to the Department of Finance to secure new funds for the budget. The Judicial Council submits BCPs on behalf of the Supreme Court, Courts of Appeal, the council itself, the facilities program, the trial courts, and the Habeas Corpus Resource Center. One of the responsibilities of the committee, he noted, is to assist the council by reviewing and coordinating proposed BCPs and by ensuring their timely submission. Last year the Judicial Council established a new internal process for submitting BCPs to the Department of Finance. The purpose of the committee's meeting on September 3, Justice Humes reported, was to collaborate with and get feedback from other advisory bodies about the new process to explore ways for improvement, if necessary. They also reviewed the status of the BCPs for the current fiscal year 2018-19, which were approved by the council and sent to the Department of Finance. Justice Humes noted that next month they will already be considering BCPs for the 2019-20 fiscal year. He welcomed two new members to the budget committee: Presiding Judge Patricia M. Lucas and CEO Michael M. Roddy.

### **Judicial Council Members' Liaison Reports**

[17-172](#)

#### **Judicial Council Members' Liaison Reports**

Judge C. Todd Bottke reported on his visits to the Superior Courts of Alpine and Sierra Counties.

### **CONSENT AGENDA**

#### **Approval of the Consent Agenda**

**A motion was made by Justice Miller, seconded by Judge Lyons, to approve**

all of the following items on the Consent Agenda. The motion carried by a unanimous vote.

[17-130](#)

**Jury Instructions: Additions and Revisions to Criminal Jury Instructions (Action Required)**

**Summary:** The Advisory Committee on Criminal Jury Instructions recommends approval of the proposed revisions and additions to the *Judicial Council of California Criminal Jury Instructions (CALCRIM)*. These changes will keep CALCRIM current with statutory and case authority.

**Recommendation:** The Advisory Committee on Criminal Jury Instructions recommends that the Judicial Council, effective September 15, 2017, approve for publication under rule 2.1050 of the California Rules of Court the criminal jury instructions prepared by the committee. Once approved, the revised instructions will be published in the next official edition of the *Judicial Council of California Criminal Jury Instructions*.

[17-132](#)

**Equal Access Fund: Distribution of Funds for Partnership Grants and IOLTA-Formula Grants (Action Required)**

**Summary:** The Legal Services Trust Fund Commission of the State Bar reports in Equal Access Fund: Distribution of Funding for IOLTA-Formula Grants and Partnership Grants under the Budget Act of 2017 that the Budget Act of 2017 includes an estimated \$25,599,900 in the Equal Access Fund for distribution to legal services providers and support centers. Equal Access Fund monies are distributed primarily in two parts: IOLTA (Interest on Lawyer Trust Accounts)-formula grants and partnership grants (with a small amount also distributed for administration). The commission requests Judicial Council approval to distribute \$23,152,904 in IOLTA-formula grants for fiscal year 2017-2018, according to the statutory formula in the state Budget Act, and \$2,856,479 in partnership grants for 2018. It further requests approval of the commission's findings that the proposed budget for each individual grant complies with statutory and other relevant guidelines.

**Recommendation:** The Legal Services Trust Fund Commission recommends that the Judicial Council approve the distribution of \$23,152,904 in IOLTA-formula grants for 2017-2018 according to the terms of the state Budget Act, and approve the commission's determination that the proposed budget of each individual grant complies with statutory and other guidelines. In addition, the commission recommends that the council approve the distribution of \$2,856,479 in Equal Access Fund partnership grants for distribution to the legal services agencies for programs conducted jointly with courts to provide legal assistance to self-represented litigants.

[17-135](#)

**Criminal Procedure: Firearms Relinquishment (Action Required)**

**Summary:** The Criminal Law Advisory Committee recommends that the Judicial Council approve optional form CR-210, *Prohibited Persons Relinquishment Form*

*Findings.* Form CR-210 is a form that courts may use to make appropriate findings concerning firearms relinquishment in criminal cases under Penal Code section 29810, which was amended by Proposition 63.

**Recommendation:** The committee recommends that the Judicial Council, effective January 1, 2018, approve optional form CR-210.

### [17-136](#)

#### **Criminal Law: Felony Sentencing (Action Required)**

**Summary:** The Criminal Law Advisory Committee proposes amendments to specified criminal sentencing rules of the California Rules of Court to (1) reflect amendments and updates related to changes in California's Determinate Sentencing Law, indeterminate sentences, and sentencing enhancements; (2) reflect statutory amendments enacted as part of the Criminal Justice Realignment Act; (3) provide guidance to courts on the referral of cases to probation for investigation reports; (4) clarify the use of risk/needs assessments in a probation officer's presentence report; (5) add the reporting requirements of Penal Code section 29810(c)(2) to the contents of a probation officer's presentence report; and (6) make nonsubstantive technical amendments.

**Recommendation:** The Criminal Law Advisory Committee (CLAC) recommends that the Judicial Council, effective January 1, 2018:

1. Amend rules 4.405, 4.406, 4.408, 4.410, 4.420, 4.421, 4.423, 4.428, and 4.452 and/or the corresponding advisory committee comments to reflect changes to California's Determinate Sentencing Law (DSL) after the U.S. Supreme Court's decision in *Cunningham v. California* (2007) 549 U.S. 270 and the legislative responses to that decision, and provide further guidance to judges in exercising sentencing discretion under the DSL.
2. Amend the title of division 5 from "Sentencing Determinate" to "Felony Sentencing Law."
3. Amend rules 4.403, 4.405, and 4.451 and/or the corresponding advisory comments to expand the application of the rules to certain indeterminate sentences.
4. Add subdivision (b) to rule 4.428 to clarify the court's authority to strike an enhancement or the punishment for an enhancement under section 1385(a) and (c), and to identify factors a court may consider in determining whether to strike the entire enhancement or only the punishment for the enhancement.
5. Add subdivision (b) to rule 4.447 to provide guidance to courts for when a defendant is convicted of multiple enhancements of the same type.
6. Amend rule 4.447's advisory committee comment to provide that a court may stay an enhancement if section 654 applies.
7. Amend rules 4.405, 4.411.5, 4.412, 4.435, and 4.451 and/or the corresponding advisory committee comments to incorporate terms relevant to the Criminal Justice Realignment Act (mandatory supervision,

- postrelease community supervision, term of imprisonment, and supervision).
8. Further amend rule 4.435 to (1) provide that in determining whether to permanently revoke supervision, a judge may consider the nature of the violation and the defendant's past performance on supervision; and (2) amend the advisory committee comment to explain that the holding in *People v. Griffith* (1984) 153 Cal.App.3d 796 refers only to probation, but likely applies to any form of supervision.
  9. Amend rule 4.411 to (1) identify when a court must refer to probation for investigations and reports, and (2) rephrase the statement in subdivision (d) addressing the purpose of presentence investigation reports and move it to the advisory committee comment. Upon further review post-circulation, the chairs recommend amending the Advisory Committee Comment around uses of probation officer reports to also include "the probation department in supervising the defendant."
  10. Further amend rule 4.411 to (1) strike the statement in subdivision (a) that reads, "Waivers of the presentence report should not be accepted except in unusual circumstances"; (2) strike the statement in the advisory committee comment discouraging waivers; (3) state how parties may waive the report; (4) identify criteria a court should consider in deciding whether to consent to a waiver; and (5) clarify that a waiver does not affect the requirement under section 1203c that probation create a report whenever the court commits a person to state prison.
  11. Amend subdivision (a)(5) of rule 4.111.5 to provide that the presentence investigation report must include information about "[a]ny physical or psychological injuries suffered by the victim" and to clarify that the amount of a victim's loss refers to monetary losses.
  12. Further amend rule 4.411.5 to include reporting requirements under Penal Code section 29810(c)(2).
  13. Amend rules 4.405, 4.411.5, 4.413, and 4.415 and/or corresponding advisory committee comments to address risk/needs assessments and their use by courts.
  14. Further amend rules 4.405, 4.408, 4.409, 4.410, 4.412, 4.413, 4.420, 4.425, 4.427, 4.428, 4.437, and 4.447 and/or relevant portions of advisory committee comments for technical and nonsubstantive amendments. Upon further review post-circulation, the chairs recommend an additional technical and nonsubstantive amendment to rule 4.420.

### [17-137](#)

### **Criminal Procedure: Motion and Order to Vacate Conviction or Sentence (Action Required)**

**Summary:** The Criminal Law Advisory Committee recommends two new optional forms to assist selfrepresented individuals and the courts in implementing recent legislation that permits criminally convicted individuals no longer in custody to file a motion to vacate a conviction or sentence and withdraw the plea of guilty or nolo



contendere. The legislation provides for motions based on prejudicial errors related to immigration consequences or newly discovered evidence of actual innocence. The forms also provide for a motion under an existing statute that offers similar relief for a comparable judicial error related to immigration consequences.

**Recommendation:** The Criminal Law Advisory Committee recommends that the Judicial Council, effective January 1, 2018, approve:

1. *Motion to Vacate Conviction or Sentence* (proposed form MC-245) for use by individuals who have been criminally convicted and are no longer in custody to file a motion to vacate a conviction or sentence and withdraw the plea of guilty or nolo contendere based on (1) prejudicial error related to immigration consequences, or (2) newly discovered evidence of actual innocence; and
2. *Order on Motion to Vacate Conviction or Sentence* (proposed form MC-246), for use by courts to grant or deny the motion to vacate the conviction or sentence of individuals who have been criminally convicted and allege prejudicial error related to immigration consequences or newly discovered evidence of actual innocence.

#### [17-138](#)

#### **Collaborative Justice: Recommended Allocations of Fiscal Year 2017-2018 Substance Abuse Focus Grants (Action Required)**

**Summary:** The Collaborative Justice Courts Advisory Committee recommends funding court programs using grants from the Collaborative Justice Courts Substance Abuse Focus Grant Program, through the California Collaborative and Drug Court Projects in the Budget Act of 2017 [item 0250-101-0001], and the Dependency Drug Court Augmentation to the grants of the Substance Abuse Focus Grant Program, through the federal Court Improvement Program funds for fiscal year (FY) 2017-2018 [item 0250-101-0890]. The committee recommends funding programs in 49 courts for FY 2017-2018 with these annual grants distributed by the Judicial Council to expand or enhance promising collaborative justice programs around the state.

**Recommendation:** The Collaborative Justice Courts Advisory Committee recommends that the Judicial Council, effective September 15, 2017, approve the distribution of grants from the Collaborative Justice Courts Substance Abuse Focus Grant Program and the Dependency Drug Court Augmentation for fiscal year 2017-2018.

#### [17-139](#)

#### **Criminal Procedure: Plea Form, with Explanations and Waiver of Rights-Felony (Action Required)**

**Summary:** The Criminal Law Advisory Committee recommends revising the optional form for taking guilty pleas in felony cases, which includes advisements of criminal defendants' rights. The proposed revisions (1) respond to recent case law that confirmed the scope of the advisement regarding the court's approval of the plea agreement and underscored the importance of accurately conveying the

advisement on form CR-101, and (2) add an advisement regarding the effect of a violation of the terms and conditions of mandatory supervision. These proposed revisions circulated for public comment during the spring 2017 comment cycle. In response to recent case law issued after the comment cycle, the committee also recommends revising the form to enhance the advisement of waiver of right to jury trial. To ensure that a form reflecting each of the legal developments is available to courts as soon as possible, the committee seeks approval of all of the proposed revisions, without a prior period of public comment for the additional revisions to the advisement of waiver of right to jury trial. The committee will seek circulation of the form for public comment on revisions to the advisement of waiver of right to jury trial in the winter 2018 cycle and propose any further revisions based on comments received, to be effective September 1, 2018.

**Recommendation:** The Criminal Law Advisory Committee recommends that the Judicial Council, effective January 1, 2018, revise *Plea Form, with Explanations and Waiver of Rights-Felony* (form CR-101) as follows:

1. Revise item 2.c. to include an advisement that if the defendant violates any of the terms or conditions of mandatory supervision, he or she may be remanded into custody for a period up to the total of the unserved portion of the sentence.
2. Revise item 6.e. by changing the title of the item to “Court Approval of Plea Agreement.” Retain the first sentence of the item that confirms the defendant understands the plea agreement is based on the facts before the court. Substitute for the remainder of the item a statement confirming that the approval of the court is not binding, the court may withdraw its approval of the plea agreement upon further consideration of the matter, and if the court withdraws its approval the defendant understands that he or she will be allowed to withdraw the plea. Add a citation to Penal Code section 1192.5.
3. Revise item 5.a. regarding waiver of trial by jury to indicate that the rights being waived include (1) a jury trial in which 12 impartial jurors chosen from the community must be unanimously convinced beyond a reasonable doubt in order to render a guilty verdict, and (2) the defendant’s right to participate, through counsel, in jury selection.

#### [17-140](#)

#### **Civil Protective Orders: Requests for Immediate Orders (Action Required)**

**Summary:** The Civil and Small Claims Advisory Committee proposes revisions to all civil protective order request forms to clarify that any “immediate order” being sought on those forms is a temporary restraining order (TRO) and to allow parties requesting TROs to indicate whether the request is being made “with notice” to the other party.

**Recommendation:** The Civil and Small Claims Advisory Committee recommends that the Judicial Council revise the civil protective order request forms, effective January 1, 2018,

as follows:

1. Revise forms CH-100, item 11; EA-100, item 15; GV-100, item 9; SV-100, item 12; and WV-100, item 12, so the petitioner may indicate affirmatively if he or she is requesting a temporary order “with notice”; and
2. Revise the titles of the items in recommendation 1-“Immediate Orders” on the CH and EA forms, “Request for Immediate Temporary Order” on the GV form, and “Request for Immediate Orders Without Notice” on the SV and WV forms-to read “Temporary Restraining Order.”

#### [17-141](#)

### **Criminal Procedure: Court-Appointed Expert’s Report in Mental Competency Proceeding (Action Required)**

**Summary:** The Criminal Law Advisory Committee recommends amending rule 4.130 of the California Rules of Court relating to mental competency proceedings in criminal cases to implement recommendations from the Judicial Council’s mental health task forces. The proposal amends this rule to identify the information that must be included in a court-appointed expert’s report on a criminal defendant’s competency to stand trial.

**Recommendation:** The Criminal Law Advisory Committee recommends that the Judicial Council, effective January 1, 2018 amend:

1. Rule 4.130(d)(2) of the California Rules of Court to require that competency evaluations include:
  - a. A brief statement of the examiner’s relevant training and previous experience;
  - b. A summary of the examination, including a current diagnosis, if possible, of the defendant’s mental disorder and a summary of the defendant’s mental status;
  - c. A detailed analysis of the defendant’s competence to stand trial;
  - d. A summary of an assessment conducted for malingering or feigning symptoms, if clinically indicated;
  - e. A statement on whether treatment with antipsychotic medication is medically appropriate, or a recommendation that a psychiatrist examine the defendant if the examining psychologist is of the opinion that referral to a psychiatrist is necessary to address medication issues;
  - f. A list of all sources of information considered by the examiner; and
  - g. A recommendation, if possible, for a placement or type of placement or treatment program that is most appropriate for restoring the defendant to competency; and
2. Rule 4.130(a) to clarify that the above amendments apply only to formal competency evaluations, not to brief preliminary evaluations, under certain conditions.

[17-142](#)**Criminal Procedure: Use of Risk/Needs Assessments at Sentencing (Action Required)**

**Summary:** The Criminal Law Advisory Committee recommends approval of a new standard of judicial administration. The new standard provides guidance to judges on the appropriate uses of the results of risk/needs assessments at criminal sentencing.

**Recommendation:** The Criminal Law Advisory Committee recommends that the Judicial Council approve new standard 4.35 of the California Standards of Judicial Administration, effective January 1, 2018, to:

1. 1.State the purposes for using the results of risk/needs assessments at sentencing;
2. 2.Identify proper and improper uses of the results of risk/needs assessments at sentencing;
3. 3.Recommend the validation of risk/needs assessment instruments;
4. Provide guidance on the use of the results of a risk/needs assessment in evaluating a defendant's amenability to or suitability for supervision; and
5. Recommend education on risk/needs assessments.

[17-143](#)**Civil Practice and Procedure: Writ of Execution Forms (Action Required)**

**Summary:** The Civil and Small Claims Advisory Committee recommends revisions to two forms and approval of a new information sheet to facilitate use of the Writ of Execution (form EJ-130). The committee's recommendation responds to suggestions received over several years, including suggestions made in response to proposed revisions to form EJ-130 that were circulated for comment in 2016.

**Recommendation:** The Civil and Small Claims Advisory Committee recommends that the Judicial Council take the following actions, effective January 1, 2018:

1. Approve the new form, *Information Sheet for Calculating Interest and Amount Owed on a Judgment* (form MC-013-INFO).
2. Revise *Writ of Execution* (form EJ-130), and *Memorandum of Costs After Judgment, Acknowledgment of Credit, and Declaration of Accrued Interest* (form MC-012).

[17-144](#)**Civil Protective Orders: Modification and Termination (Action Required)**

**Summary:** The Civil and Small Claims Advisory Committee recommends the adoption of 16 new forms for requests and orders for the modification or termination of civil restraining orders. There are four sets of parallel forms to improve access to the courts in proceedings to prevent civil harassment, elder and dependent adult abuse, private postsecondary school violence, and workplace violence.

**Recommendation:** The Civil and Small Claims Advisory Committee recommends the Judicial Council, effective January 1, 2018, adopt the following new forms:

1. Civil harassment (CH) prevention:
  - a. *Request to Modify/Terminate Civil Harassment Restraining Order* (form CH-600)
  - b. *Notice of Hearing to Modify/Terminate Civil Harassment Restraining Order* (form CH-610)
  - c. *Response to Request to Modify/Terminate Civil Harassment Restraining Order* (form CH-620)
  - d. *Order on Request to Modify/Terminate Civil Harassment Restraining Order* (form CH-630)
2. Elder or dependent adult abuse (EA) prevention:
  - a. *Request to Modify/Terminate Elder or Dependent Adult Abuse Restraining Order* (form EA-600)
  - b. *Notice of Hearing on Request to Modify/Terminate Elder or Dependent Adult Abuse Restraining Order* (form EA-610)
  - c. *Response to Request to Modify/Terminate Elder or Dependent Adult Abuse Restraining Order* (form EA-620)
  - d. *Order on Request to Modify/Terminate Elder or Dependent Adult Abuse Restraining Order* (form EA-630)
3. Private postsecondary school violence (SV) prevention:
  - a. *Request to Modify/Terminate Private Postsecondary School Violence Restraining Order* (form SV-600)
  - b. *Notice of Hearing on Request to Modify/Terminate Private Postsecondary School Violence Restraining Order* (form SV-610)
  - c. *Response to Request to Modify/Terminate Private Postsecondary School Violence Restraining Order* (form SV-620)
  - d. *Order on Request to Modify/Terminate Private Postsecondary School Violence Restraining Order* (form SV-630)
4. Workplace violence (WV) prevention:
  - a. *Request to Modify/Terminate Workplace Violence Restraining Order* (form WV-600)
  - b. *Notice of Hearing on Request to Modify/Terminate Workplace Violence Restraining Order* (form WV-610)
  - c. *Response to Request to Modify/Terminate Workplace Violence Restraining Order* (form WV-620)
  - d. *Order on Request to Modify/Terminate Workplace Violence Restraining Order* (form WV-630)

[17-145](#)**Civil Protective Orders: Response and Firearms Relinquishment Exemption (Action Required)**

**Summary:** The Civil and Small Claims Advisory Committee recommends revising civil restraining order forms to allow the court the discretion to make exceptions to the

statutory firearms relinquishment order if a firearm is required by the respondent's employment. The committee also proposes revisions to the response forms to requests for restraining orders to provide space on the forms so that if a responding party disagrees with an order requested by the petitioner, he or she may provide an explanation. The existing forms may be misleading in proceedings governed by statutes that specifically provide that the responding party may file a response with an explanation. This explanatory information would also be helpful to the judicial officer.

**Recommendation:** The Civil and Small Claims Advisory Committee recommends that the Judicial Council, effective January 1, 2018, revise the civil restraining order forms as follows:

1. Revise the following forms to include items in which the responding party may make, or the court may act on, a request under Code of Civil Procedure section 527.9(f) to grant an exception to the statutory firearm relinquishment order:
  - a. *Response to Request for Civil Harassment Restraining Orders* (form CH-120, item 6);
  - b. *Civil Harassment Restraining Order After Hearing* (form CH-130, item 8);
  - c. *Response to Request for Elder or Dependent Adult Abuse Restraining Orders* (form EA-120, item 7);
  - d. *Elder or Dependent Adult Abuse Restraining Order After Hearing*, (form EA-130, item 9);
  - e. *Response to Petition for Private Postsecondary School Violence Restraining Orders*, (form SV-120, item 7);
  - f. *Private Postsecondary School Violence Restraining Order After Hearing* (form SV-130, item 9);
  - g. *Response to Petition for Workplace Violence Restraining Orders*, (form WV-120, item 7); and
  - h. *Workplace Violence Restraining Order After Hearing* (form WV-130, item 9); and
2. Revise all the civil restraining order response forms, listed below, to include additional space so that if a responding party disagrees with the request, he or she may provide an explanation why directly on the form:
  - a. *Response to Request for Civil Harassment Restraining Orders* (form CH-120, item 1);
  - b. *Response to Request for Elder or Dependent Adult Abuse Restraining Orders* (form EA-120, item 12);
  - c. *Response to Petition for Firearms Restraining Order* (form GV-120, item 3);
  - d. *Response to Petition for Private Postsecondary School Violence Restraining Orders* (form SV-120, item 11); and
  - e. *Response to Petition for Workplace Violence Restraining*

*Orders* (form WV-120, item 11).

[17-148](#)

**Access to Visitation Grant Program: Midyear Funding  
Reallocation for Fiscal Year 2017-2018 (Action Required)**

**Summary:** The Family and Juvenile Law Advisory Committee recommends approving the reallocation and distribution of unused Access to Visitation Grant funds for the contract period of fiscal year (FY) 2017-2018 (April 1, 2017, to March 31, 2018). Under established procedures adopted by the Judicial Council and described in the standard contract agreement with each superior court, funding will be distributed to those eligible courts currently receiving Access to Visitation Grant funds through the midyear reallocation process based on a documented need for additional funding when unused funds become available through a grantee court's withdrawal from the program and/or when a court does not spend its full grant award. Family Code section 3204(b)(2) requires the Judicial Council to determine the funding allocation awards to the superior courts.

**Recommendation:** The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective September 15, 2017, reallocate and distribute unused Access to Visitation Grant funds to five of the nine eligible courts currently receiving such funds for the fiscal year 2017-2018 contract period.

[17-153](#)

**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, Judicial Council forms, and the Uniform Bail and Penalty Schedules 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.

**Recommendation:** Judicial Council staff recommend that the council, effective January 1, 2018:

1. Amend rule 8.25(c)(4) to change the text reference from "(2)" to "(3)."
2. Amend rule 4.102 to omit an inoperative telephone number, "(415) 865-7611."
3. Amend *Uniform Bail and Penalty Schedules 2017 Edition* to make the following technical changes:
  - a. In the Preface, section VIII (page x), under the column heading "Traffic Violator School and Correction Total With Proof," change the sample calculations from "(VC 27360.5(a)) (\$490)" to "(VC 27360.5(a)) (\$415)" and "TOTAL \$742" to "TOTAL \$667."
  - b. Amend Uniform Bail and Penalty Schedule: Traffic Infraction Schedule/Entry for Vehicle Code section 23153 to reflect subdivision (e) was relettered to subdivision (f) effective January

- 1, 2017.
- c. In the Traffic Infraction Fixed Penalty Schedule entry for Vehicle Code section 21655.1(a) (page 10), change the DMV Points from “0” to “1.”
  - d. In the Traffic Infraction Fixed Penalty Schedule entry for Vehicle Code section 31540(b) (page 30), change the Total Bail/Fee from “#REF!” to “197.”
  - e. In the Traffic Misdemeanor Bail and Penalty Schedule subheading (page 42), change “(\*See Preface, Section III(B))” to “(\*See Preface, Section III).”
4. Revise *Order for Victim Restitution*, forms CR-110/JV-790 (item 3(b)), and *Instructions: Order for Victim Restitution*, forms CR-112/JV-792 (item K(b)), to change the organization name from “Victim Compensation and Government Claims Board” to “California Victim Compensation Board,” effective July 1, 2016, as a result of Senate Bill 836 (Stats. 2016, ch. 31).

[17-154](#)**Appellate Procedure: Designation of the Record in Limited Civil Cases (Action Required)**

**Summary:** The Appellate Advisory Committee recommends revising the form that appellants in limited civil cases may use to designate the record on appeal. The revisions are intended to (1) clarify the consequences for an appellant of choosing not to designate a record of the oral proceedings in the trial court, (2) make it easier for the appellant to identify what portions of an electronic recording the appellant wants transcribed, and (3) provide spaces where the appellant can indicate that he or she has chosen one of the permissible alternatives to a deposit for a court reporter’s transcript. The committee also recommends making nonsubstantive revisions to the information sheet about limited civil appeals to reflect these changes.

**Recommendation:** The Appellate Advisory Committee recommends that the Judicial Council, effective January 1, 2018:

1. Revise *Appellant’s Notice Designating Record on Appeal (Limited Civil Case)* (form APP-103) to:
  - a. Reorder the provisions on the form so that the provisions addressing designation of the record of the oral proceedings comes first;
  - b. Revise the cautionary language about not designating a record of the oral proceedings to clarify that certain bases for appeal will not be available without this record (see paragraph below “Record of Oral Proceedings in Trial Court” heading);
  - c. Add information to the section about reporter’s transcripts about the fee for depositing funds with the court for a transcript (see item 4.a.(4)(a));



- d. Add places where appellants can indicate if they are using one of the permissible alternatives to making a deposit for a designated reporter's transcript (see items 4.a.(3) and 4.a.(4));
  - e. Add a place where appellants can designate what portions of an official electronic recording they are requesting be transcribed (see item 4.b.); and
  - f. Add information about the options for calculating the cost of a transcript made from an official electronic recording (see item 4.b.(1)).
2. Revise *Information on Appeal Procedures for Limited Civil Cases* (form APP-101-INFO) to reflect these changes to form APP-103.

[17-155](#)**Appellate Procedure: Payment for Partially Prepared Reporters' Transcripts (Action Required)**

**Summary:** The Appellate Advisory Committee recommends amending the rules regarding the preparation of reporters' transcripts in misdemeanor and infraction appeals to add language providing for payment of court reporters for portions of transcripts prepared at the point appeals are abandoned or dismissed out of funds deposited by appellants.

**Recommendation:** The Appellate Advisory Committee recommends that the Judicial Council, effective January 1, 2018, amend California Rules of Court, rules 8.866 and 8.919, to provide that if the appellant in a misdemeanor or infraction appeal deposited funds with the court for a reporter's transcript and the appeal is abandoned or dismissed, the clerk will pay the court reporter out of these deposited funds for any portion of the transcript that was completed before the abandonment or dismissal of the appeal and will refund any excess deposit to the appellant.

[17-156](#)**Appellate Procedure: Service of Briefs in Misdemeanor Cases (Action Required)**

**Summary:** To ensure that defendants in misdemeanor appeals are kept apprised of the arguments being made in their cases, the Appellate Advisory Committee recommends amending the rule regarding service of briefs in misdemeanor appeals. The rule would be amended to add provisions requiring the defendant's appellate counsel to send to the defendant a copy of each brief and requiring the People to serve an extra copy of their briefs on defendant's appellate counsel.

**Recommendation:** The Appellate Advisory Committee recommends that the Judicial Council, effective January 1, 2018, amend California Rules of Court, rule 8.882 to:

1. Add a provision requiring that defendant's appellate counsel send a copy of each brief to the defendant personally unless the defendant requests otherwise;
2. Add a provision requiring that the People serve two copies of their briefs on the appellate counsel for each defendant who is a party to the appeal;

and

3. Correct cross-references in subdivisions (e)(1) and (e)(4).

#### [17-157](#)

### **Appellate Procedure: Settled Statements in Unlimited Civil Cases (Action Required)**

**Summary:** The Appellate Advisory Committee recommends amending the rule regarding settled statements in Court of Appeal proceedings to remove the requirement for obtaining a court order to use this procedure in certain circumstances, approving a new optional form for appellants to use in preparing proposed statements, and revising the form for designating the record on appeal to conform to these changes. The rule amendments and new form are intended to make the settled statements procedure in unlimited civil cases less burdensome for appellants and the courts.

**Recommendation:** The Appellate Advisory Committee recommends that the Judicial Council, effective January 1, 2018:

1. Amend California Rules of Court, rule 8.137, to:
  - a. Permit an appellant to use the settled statement procedure without filing a motion either if the trial court proceedings were not recorded by a court reporter or if the appellant received a fee waiver;
  - b. Allow the respondent to pay for a reporter's transcript in cases in which a court reporter recorded the proceedings but an appellant elects or moves to use a settled statement;
  - c. Eliminate the option of using a settled statement to provide the record of the documents from the trial court proceeding;
  - d. Encourage self-represented appellants to use the new optional statement-on-appeal form, recommended below, in preparing their proposed statements;
  - e. Add provisions specifying the required contents of proposed statements;
  - f. Add provisions detailing the procedure for the trial court's review of proposed statements; and
  - g. Add a provision clarifying that when the statement is finalized, it must immediately be transmitted to the clerk for filing of the record;
2. Approve new *Proposed Statement on Appeal (Unlimited Civil Case)* (form APP-014) to help appellants prepare their initial proposed statement; and
3. Revise *Appellant's Notice Designating Record on Appeal (Unlimited Civil Case)* (form APP-003) to reflect the amendments to rule 8.137 and the availability of new form APP-014.

#### [17-158](#)

### **Appellate Procedure: Verification of Writ Petitions (Action Required)**

**Summary:** To clarify that, under statute, all petitions for writs of mandate, certiorari, prohibition, and habeas corpus must be verified, the Appellate Advisory Committee recommends adding a provision indicating verification is required to all of the rules in title 8 of the California Rules of Court relating to such writ petitions that do not already include such a provision.

**Recommendation:** The Appellate Advisory Committee recommends that the Judicial Council, effective January 1, 2018, amend California Rules of Court, rules 8.380, 8.384, 8.452, 8.456, 8.495, 8.931, and 8.972 to add provisions indicating that writ petitions must be verified.

### [17-159](#)

#### **Court Interpreters: Noncertified and Nonregistered Spoken Language Interpreter Qualifications (Action Required)**

**Summary:** The Court Interpreters Advisory Panel (CIAP) recommends repealing the rule that establishes the procedures for provisional qualification and temporary use of noncertified and nonregistered interpreters in criminal and juvenile cases and revoking the information form that describes these procedures. CIAP recommends replacing them with a new rule that generally addresses the appointment of spoken language interpreters in all cases and a new information form that addresses the procedures for appointment of provisionally qualified and temporary interpreters in all cases. Additional changes to the rule and revisions to the form regarding the qualifications of noncertified and nonregistered interpreters would encourage noncertified and nonregistered interpreters to pursue certified and registered status. CIAP also recommends adopting a new form regarding the temporary use of such interpreters. These changes would implement legislation that took effect January 1, 2015, clarify existing processes, and effectuate provisions in the *Strategic Plan for Language Access in the California Courts* (the Language Access Plan).

**Recommendation:** CIAP recommends that the Judicial Council, effective January 1, 2018:

1. Repeal California Rules of Court, rule 2.893 and adopt a new rule 2.893 that:
  - a. Addresses appointment of spoken language interpreters in all case types;
  - b. Establishes that the provisional qualification of interpreters in civil case types should follow the same rules and procedures, and be subject to the same standards, as provisional qualification in criminal and juvenile proceedings;
  - c. Defines the various types of interpreters and separately addresses their use;
  - d. Requires specified findings be made on the record when an interpreter is used to implement recent legislation;
  - e. Clarifies that interpreters in both certified and registered languages are subject to the same rules and procedures for provisional qualification or temporary use;

- f. Clarifies the requirements and limitations for the temporary use of an interpreter; and
  - g. Encourages prospective interpreters to become certified or registered without making it impossible for courts to get interpreters in hard-to-find, other-than-Spanish languages.
2. Revoke current *Procedures and Guidelines to Appoint a Noncertified or Nonregistered Interpreter in Criminal and Juvenile Delinquency Proceedings* (form INT-100-INFO) and adopt new *Procedures to Appoint a Noncertified or Nonregistered Spoken Language Interpreter as Either Provisionally Qualified or Temporary* (form INT-100-INFO) to reflect and implement the changes to rule 2.893
3. Revise *Qualifications of a Noncertified or Nonregistered Interpreter (Provisional Qualifications by Order of Presiding Judge)* (form INT-110) to:
  - a. Reflect and implement the changes to rule 2.893; and
  - b. Clarify the difference between a provisionally qualified interpreter and a temporary interpreter.
4. Adopt *Temporary Use of a Noncertified or Nonregistered Spoken Language Interpreter* (form INT-140), to clarify and separately address the use of temporary interpreters when a certified, registered, or provisionally qualified interpreter is not available.

[17-160](#)**Indian Child Welfare Act: Tribal Access to Court Records (Action Required)**

**Summary:** The Family and Juvenile Law Advisory Committee and Tribal Court-State Court Forum jointly recommend amending the rule regarding the confidentiality of juvenile court records to conform to the current statutory language in the Welfare and Institutions Code. These amendments will eliminate discrepancies between the rule and statutory requirements that practitioners and court staff advised were causing confusion.

**Recommendation:** The Family and Juvenile Law Advisory Committee and Tribal Court-State Court Forum recommend that the Judicial Council, effective January 1, 2018, amend rule 5.552 of the California Rules of Court as follows:

1. Delete subdivision (b) of the rule, which is duplicative of section 827(a) of the Welfare and Institutions Code. This deletion also addresses the inconsistency between the rule and section 827(f);
2. Reletter and amend subdivision (c) of the rule in light of the removal of subdivision (b);
3. Change references to “juvenile court records” in subdivision (c) to “juvenile case files” to be consistent with the rest of the rule. Effective 2009, this language was changed throughout the rule except in subdivision (c), which inadvertently remained unchanged;
4. Revise and reletter subdivision (d)(1)(C) of the rule to require notice to a

child only when the child is 10 years of age or older, in conformity with sections 290.1 through 295;

5. Revise and reletter subdivision (f) of the rule to remove language that is duplicative of section 828;
6. Delete subdivision (g) of the rule, which is duplicative of section 827(b) (2); and
7. Revise and reletter subdivision (h) in light of the deletion of other subdivisions and to remove reference to Government Code section 13968 which was repealed.

#### 17-161

#### **Juvenile Law: Title IV-E Findings and Orders (Action Required)**

**Summary:** The Family and Juvenile Law Advisory Committee proposes amending three rules of court and revising 18 juvenile law forms designed to assist the courts in documenting required findings and orders in out-of-home placement cases. The proposed changes are designed to bring these rules and forms into compliance with recent legislation.

**Recommendation:** The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective January 1, 2018:

1. Revise forms JV-320 (item 16a), JV-432 (item 8), JV-433 (item 13), JV-438 (item 10), JV-442 (item 9), JV-446 (item 28), JV-457 (item 8), JV-674 (item 15), and JV-678 (item 14) to include the newly implemented permanent plan options.
2. Revise forms JV-433 (item 14), JV-438 (item 11), JV-442 (item 10), JV-446 (item 29), JV-457 (item 9), JV-674 (item 17), and JV-678 (item 17) to include the new findings related to children 16 and older.
3. Revise form JV-672 (item 14) to reflect new plan options.
4. Amend the reference to Welfare and Institutions Code section 366.21(e) in rule 5.710 to refer to the correct code sections, which are sections 366.22(e) and (g).
5. Amend the reference to Welfare and Institutions Code section 366.21(f) in rule 5.715 to refer to the correct code sections, which are sections 366.22(f) and (g).
6. Revise forms JV-433 (item 9), JV-445 (item 14a), JV-674 (item 14b(4)), and JV-678 (item 10) to include the relative search finding.
7. Revise forms JV-440 (item 11), JV-445 (item 13), JV-446 (item 17), JV-455 (item 11), JV-674 (item 10a), and JV-678 (item 11a) to include an ongoing and intensive efforts finding for children 16 years of age and older.
8. Revise form JV-443 (item 6a(3)) to require the court to consider barriers to reunification faced by minor and nonminor dependent parents.
9. Revise forms JV-320 (item 20), JV-421 (item 32), JV-430 (item 20), JV-435 (item 20), JV-440 (item 21), JV-445 (item 20), JV-446 (item 26), and JV-455 (item 21) to change references to “independence” and

“independent living” to “successful adulthood.”

10. Revise form JV-678 to include the new permanent plan options and associated findings.
11. Revise forms JV-445 (item 24) and JV-446 (item 23) to include a check box that indicates whether a postadoption sibling contact agreement has been developed and, if not, specifies that the court inquired about the development of a voluntary postadoption contact agreement for the siblings.
12. Revise forms JV-674 (item 14) and JV-678 (item 5) to clarify when services are continued or terminated.
13. Revise forms JV-421 (item 29), JV-430 (item 17), JV-435 (item 17), JV-440 (item 18), JV-445 (item 17), JV-446 (item 27), JV-672 (item 21), JV-674 (item 24), and JV-678 (item 23) to include a check box that indicates whether or not the child has a psychotropic medication order and documents the date of the next hearing on that order.
14. Revise form JV-443 (item 6c) to include a finding that allows the court to continue the 18-month review hearing if it finds that reasonable services have not been provided.
15. Revise forms JV-415, JV-430, JV-435, JV-440, and JV-455 to include a notice section that informs parents they will not be advised of their appellate rights if they fail to appear at a future hearing.
16. Amend rule 5.810(c)(2)(A) to clarify that the new findings and orders set forth in Welfare and Institutions Code section 727.3(a)(5) should also be made at postpermanency hearings.

## [17-162](#)

### **Family & Juvenile Law: Stepparent Adoption and Postadoption Contact by Siblings (Action Required)**

**Summary:** The Family and Juvenile Law Advisory Committee recommends amending rule 5.451 of the California Rules of Court and revising five Judicial Council forms for use in adoption proceedings. The proposed changes conform them to new legislation relating to postadoption contact by siblings of dependent children or youth in delinquency and stepparent adoptions. Other proposed changes correct inaccuracies and outdated material in the forms.

**Recommendation:** The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective January 1, 2018:

1. Amend rule 5.451 (Contact after adoption agreement) to comply with Senate Bill 1060 (Stats. 2016, ch. 719), which encourages, where appropriate, postadoption and other permanent-plan contact by siblings of dependent children or youth in delinquency;
2. Revise *Adoption Request* (form ADOPT-200) to comply with Assembly Bill 2872 (Stats. 2016, ch 702), allowing the adopter to specify who will do the investigation or written report and addressing payment thereof; and
3. Revise *Contact After Adoption Agreement* (form ADOPT-310);

*Request to: Enforce, Change, End Contact After Adoption Agreement (form ADOPT-315); Answer to Request to: Enforce, Change, End Contact After Adoption Agreement (ADOPT-320); and Judge's Order to: Enforce, Change, End Contact After Adoption Agreement (ADOPT-325) to appropriately facilitate contact with a child after adoption by birth parents, siblings, or other relatives, or with an Indian tribe in an ICWA case.*

[17-163](#)

**Family Law: Transfers of Title IV-D Child Support Cases  
Between State and Tribal Court (Action Required)**

**Summary:** The Family and Juvenile Law Advisory Committee (committee) and the Tribal Court-State Court Forum (forum) propose amendments to rule 5.372 governing discretionary transfer of title IV-D child support cases between state courts and tribal courts in cases of concurrent jurisdiction. The amendments would allow transfers from the tribal court to the state court, clarify the contents and procedures for motions to transfer, and modify the factors and procedures for ruling on motions to transfer. These proposed amendments are based on suggestions received from those involved in transfers between the state courts in Humboldt and Del Norte Counties and the Yurok Tribal Court.

**Recommendation:** The Family and Juvenile Law Advisory Committee and the Tribal Court-State Court Forum recommend that effective January 1, 2018, the Judicial Council amend rule 5.372 to:

1. Provide by the language in the title and subdivision (a) that a title IV-D child support case may be transferred between tribal and state courts in both directions. When adopted, the current rule had only envisioned a title IV-D child support case being transferred from the state court to the tribal court. However, the goal is to ensure that a title IV-D child support case will be in the jurisdiction (tribal or state) that is best able to serve the family and protect the best interests of the child.
2. Add new subdivision (i), which describes the state court procedure when a tribal court with concurrent jurisdiction decides it is in the child's best interest for the case to be heard in state court and stipulates that such transfers are exempt from the payment of any filing fees that might otherwise apply.
3. Revise subdivision (h) to add the exception in new subdivision (i), which authorizes the filing of a motion to transfer a case back to state court when a tribal court determines that it is not in the best interest of the child or the parties to retain jurisdiction.
4. In (e):
  - a. Allow the state court to suggest transfer to tribal court on its own motion should circumstances suggest to the court that tribal court jurisdiction may be in the child's best interest.
  - b. Require that certain information be included in the motion to



- transfer to tribal court. This information is fundamental to the court's determination of concurrent jurisdiction.
- c. Specify the forms of evidence that the court may rely on when making its ruling on a transfer motion.
  - d. Recognize a presumption of tribal court jurisdiction if the child involved in the case is a tribal member or eligible for tribal membership. This is consistent with legal principles that generally recognize tribal subject matter jurisdiction over children who are members or eligible for membership in the tribe.
  - e. Specify the time limit within which any objection to the transfer to tribal court must be brought.
  - f. Provide that the objecting party has the burden of proof to establish that there is good cause not to transfer the matter to tribal court. This is consistent with state implementation of the Indian Child Welfare Act of 1978 (ICWA).
5. In (f) to:
- a. Remove some of the factors to be considered in making a determination to transfer to tribal court.
  - b. Specify that the court may not consider the perceived adequacy of the tribal justice system in determining whether to transfer the case. This is consistent with state and federal law under the ICWA.
  - c. Permit the state court judge to contact the tribal court judge to resolve procedural issues consistent with procedures contained in the Uniform Child Custody Jurisdiction and Enforcement Act and the Tribal Court Civil Money Judgment Act.
6. Add an Advisory Committee Comment to address the issue of filing fees when a case is transferred from tribal court.

[17-164](#)**Juvenile Law: Court Appointed Special Advocates (Action Required)**

**Summary:** The Family and Juvenile Law Advisory Committee recommends amending the rule that establishes requirements for Court Appointed Special Advocate (CASA) programs to clarify the relationship between these programs and the court and to comply with legislation which authorized appointment of CASAs for delinquent youth and nonminor dependents. The committee also recommends approval of a new form to enable CASA programs to obtain consent from the nonminor dependent before reviewing the nonminor dependent's court file.

**Recommendation:** The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective January 1, 2019:

- 1. Amend rule 5.655 of the California Rules of Court to:
  - a. Clarify that the local court is the entity that designates a CASA program;



- b. Delete the references to the creation of a policies and procedures manual and clearly state that CASA programs must comply with this rule to be eligible to receive Judicial Council funding;
  - c. Repeal subdivision (b) and incorporate the definition of CASA program that was previously contained in subdivision (b) into current subdivision (a);
  - d. Move current subdivisions (k), (l), and (m) up to become subdivisions (b), (c), and (d), respectively and reletter the remaining subdivisions of the rule;
  - e. State that the relationship between the court and the CASA program must be clearly defined in a memorandum of understanding (MOU);
  - f. Specify that a CASA program may serve more than one court as long as it executes MOUs with each court;
  - g. Define the role of an advisory council for a CASA program serving under the auspices of a public agency or umbrella nonprofit organization;
  - h. Delete the requirement that the presiding juvenile judge participate in the CASA volunteer selection process;
  - i. Include nonminor dependents among the population of young people served by CASA volunteers;
  - j. Include the training topics stated in rule 5.664 among the optional training requirements for CASA volunteers;
  - k. Include the nonminor dependent as a person who should receive information about the roles and responsibilities of the CASA volunteer; and
  - l. Specify that the nonminor dependent must consent to the CASA volunteer accessing his or her nonminor dependent court file.
2. Approve new Nonminor Dependent-Consent to Copy and Inspect Nonminor Dependent Court File (form JV-474) to enable CASA programs to obtain consent from the nonminor dependent before reviewing the nonminor dependent's court file.

[17-165](#)

**Court Facilities: Report Back on Utility and Maintenance Costs Reduction and Revised Energy Conservation Guidelines (Action Required)**

**Summary:** The action plan adopted by the Judicial Council in May 2017-to address the Court Facilities Trust Fund's (CFTF) funding shortfall of \$10.3 million in fiscal year 2017-2018-targeted cutting 10 percent of operations and maintenance costs and utility costs in trial court facilities statewide. Progress toward realizing a 10 percent reduction in operations and maintenance costs continues as council staff negotiate with onsite service providers, delegated trial courts, and counties. Progress continues toward a 10 percent reduction in utility costs through energy efficiency projects and behavioral changes. As part of the effort to affect

behavioral changes that quickly impact utility costs and realize savings, the Trial Court Facility Modification Advisory Committee (TCFMAC) recommends that the Judicial Council adopt the revised energy conservation guidelines. As every dollar saved in utility costs can be applied to trial court facilities operations and maintenance, the TCFMAC advocates for quick action on energy conservation and efficiency in order to protect CFTF funds.

**Recommendation:** The Trial Court Facility Modification Advisory Committee recommends that the Judicial Council, effective September 15, 2017, adopt the revised energy conservation guidelines

#### [17-166](#)

#### **Juvenile Law: Psychotropic Medication (Action Required)**

**Summary:** The Family and Juvenile Law Advisory Committee recommends that the Judicial Council amend California Rules of Court, rule 5.640, relating to the administration of psychotropic medications to children who are dependents or wards of the court; adopt one form; and revise nine forms to address suggestions received from stakeholders who assisted with the implementation of recent statutory changes to the requirements for court authorization of psychotropic medication for foster children and others affected by this rule and these forms.

**Recommendation:** The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective January 1, 2018:

1. Amend rule 5.640(b) of the California Rules of Court to clarify when a juvenile court judicial officer is authorized to make orders regarding the administration of psychotropic medication;
2. Amend rule 5.640(c)(1) to clarify when proof of notice must be filed;
3. Amend rule 5.640(c)(6) to clarify the items that must be completed on *Application for Psychotropic Medication* (form JV-220);
4. Amend rule 5.640(c)(7) to clarify what forms may be used when a physician is requesting to continue psychotropic medication;
5. Amend rule 5.640(c)(9) to clarify that the court's order must be on *Order on Application for Psychotropic Medication* (form JV-223);
6. Amend rules 5.640(c)(10) and 5.640(h)(4) to include different potential placement types;
7. Further amend rule 5.640(c)(10) to clarify how notice should be provided;
8. Amend rule 5.640(e) to clarify the process for parental authorization of psychotropic medication;
9. Amend rule 5.640(h) to include the correct Judicial Council forms that must be provided to caregivers;
10. Approve *Order Delegating Judicial Authority Over Psychotropic Medication* (form JV-216) as an optional form to document the court's findings and order when the court orders that a parent is authorized to approve or deny the administration of psychotropic medication;
11. Revise *Guide to Psychotropic Medication Forms* (form JV-217)

- INFO) to make the instructions consistent with the changes in this report;
12. Revise *Application for Psychotropic Medication* (form JV-220) to use the correct terminology for a child's placement type;
  13. Further revise form JV-220 to clarify which items a physician, social worker, or probation officer must complete;
  14. Revise *Physician's Statement-Attachment* (form JV-220(A)) and *Physician's Request to Continue Medication-Attachment* (form JV-220(B)) to shorten the form and remove duplicative questions;
  15. Revise *Proof of Notice of Application* (form JV-221) to indicate when information on how to obtain copies of a form can be provided;
  16. Revise *Input on Application for Psychotropic Medication* (form JV-222) to clarify it is an optional form;
  17. Further revise form JV-222 so the identifying information about the person filling out the form mirrors the other forms in this proposal.
  18. Revise *Order on Application for Psychotropic Medication* (form JV-223) to increase the number of potential forms the court relied on as evidence; and
  19. Revise *County Report on Psychotropic Medication* (form JV-224) to remove references to public health nurses.

[17-169](#)**Rules and Forms: Technical Changes to Title of Supreme and Appellate Court Clerks (Action Required)**

**Summary:** Recent legislation changes the title of the clerk or clerk/administrator of the Supreme Court and courts of appeal to "clerk/executive officer." Judicial Council staff recommends making conforming revisions to the clerk's title everywhere it appears in the rules of court.

**Recommendation:** Judicial Council staff recommends that the council, effective January 1, 2018, amend Cal. Rules of Court, rules 8.36, 8.100, 8.212, 8.248, 8.256, 8.264, 8.272, 8.278, 8.336, 8.500, 8.508, 8.512, 8.528, 8.532, 8.540, 8.857, 8.600, 8.619, 8.630, 8.634, 8.887, 8.1005, 8.1007, 8.1018, 10.40, 10.62, 10.67, 10.102, 10.104, 10.452, 10.471, 10.472, 10.481, 10.1004, 10.1008, 10.1020, and 10.1028, to change the title "Court of Appeals clerk" or "Court of Appeals clerk/administrator" to "clerk/executive officer of the Court of Appeal," and to change the title "Supreme Court clerk" or "Supreme Court clerk/administrator" to "clerk/executive officer of the Supreme Court" everywhere they appear in these rules.

[17-170](#)**Court Facilities: Delegation of Authority for Disposition of Equity Interests (Action Required)**

**Summary:** Following the completion of construction of new courthouses, and at other times for operational reasons, courts vacate court facilities that are no longer suitable to the needs of the judicial branch. Often the vacated court facilities are located in buildings where the counties are the owner of record, but the Judicial Council

remains liable for, and obligated to pay its share of the cost of operations and maintenance of its equity interest in the closed court facilities. To eliminate the continuing liability and cost associated with permanently closed court facilities in county-owned buildings, the Facilities Policies Working Group recommends delegating to the Administrative Director the authority to dispose of the Judicial Council's equity interest in such facilities where the counties are the owner of record.

**Recommendation:** The Facilities Policies Working Group recommends that the Judicial Council, effective September 15, 2017, delegate to the Administrative Director or his designee the authority to:

1. Take all steps necessary to permanently dispose of, in fair market rate transactions, the Judicial Council's equity interests in court facilities in county-owned facilities that have been or will be permanently closed;
2. Sign equity disposition agreements and any other related documents needed to complete the transactions; and
3. Report back to the Judicial Council annually on such permanent equity dispositions.

#### 17-171

#### **Court Facilities: Disposition of West Los Angeles Courthouse (Action Required)**

**Summary:** The West Los Angeles Courthouse facility has been permanently closed and is unsuitable to the needs of the judicial branch. The City of Los Angeles has expressed an interest in acquiring the closed court facility while the County of Los Angeles has previously notified the Judicial Council that it is not interested in acquiring it. The local court supports the disposition of this facility. To eliminate the council's continuing liability and expense in holding this facility and to realize the value of those assets in a fair market value sales transaction, the Facilities Policies Working Group recommends that the Judicial Council authorize the sale of this facility as nonsurplus property and direct council staff to take all actions necessary to dispose of it.

**Recommendation:** The Facilities Policies Working Group recommends that the Judicial Council, effective September 15, 2017:

1. Authorize and approve the sale of the West Los Angeles Courthouse as nonsurplus property in a fair market value transaction subject to obtaining statutory authorization for the disposition of the facility;
2. Direct council staff to take all actions necessary to:
  - a. Obtain statutory authorization to dispose of the facility with the proceeds to be directed to the Immediate and Critical Needs Account of the State Court Facilities Construction Fund established by Senate Bill 1407 (Perata; Stats. 2008, ch. 311) or any other Judicial Council facilities fund authorized by the Legislature, and
  - b. Draft and negotiate a real property disposition agreement and any

- other related necessary documents for the disposition of this facility, which agreement and documents may be contingent on legislative authorization for the disposition of the property; and
3. Delegate to the Administrative Director or his designee the authority to sign a real property disposition agreement and any other related necessary document for the facility, which agreement and documents may be contingent on legislative authorization for the disposition of the property.

## DISCUSSION AGENDA

### [17-133](#)

#### **Judicial Branch Administration: FI\$Cal Deployment for Judicial Council of California (Action Required)**

**Summary:** Staff of the Judicial Council recommend moving forward with the deployment of the Financial Information System for California (FI\$Cal) to replace the existing Oracle Financial System for budget, accounting, and procurement. Funding for the project was included in the Budget Act of 2017. The planned date that the system will be available for use is July 1, 2018.

**Recommendation:** Judicial Council staff recommend that the Judicial Council, effective September 15, 2017, approve staff's moving forward with the deployment of the FI\$Cal to replace the existing Oracle Financial System used by staff for budgeting, accounting, and procurement. The planned date that the system will be available for use is July 1, 2018.

**A motion was made by Justice Slough, seconded by Assistant Presiding Judge Nadler, that this proposal be approved. The motion carried by a unanimous vote.**

### [17-149](#)

#### **Judicial Service Implementation of Assembly Bill 103 (Stats. 2017, ch. 17); Reallocation of Vacant Judgeships (Action Required)**

**Summary:** The Policy Coordination and Liaison Committee recommends approving the reallocation of two judgeships in the Superior Courts of Santa Clara and Alameda Counties-those that have been vacant for the longest period of time-so that they may be transferred to the Superior Courts of San Bernardino and Riverside Counties, respectively, in accordance with Assembly Bill 103.

**Recommendation:** The Policy Coordination and Liaison Committee recommends that the Judicial Council approve the reallocation of the judicial vacancies under Assembly Bill 103 (Stats. 2017, ch. 17), effective September 15, 2017, as follows:

1. Judicial Council position identification numbers 9330 and 9101 from the Superior Court of Alameda County to the Superior Court of San Bernardino County.
2. Judicial Council position identification numbers 5601 and 5039 from the Superior Court of Santa Clara County to the Superior Court of Riverside County.

A motion was made by Justice Miller, seconded by Justice Slough, that this proposal be approved. The motion carried by a unanimous vote.

[17-167](#)

**Trial Court Allocations: Trial Court Trust Fund Funds Held on Behalf of the Trial Courts (Action Required)**

**Summary:** The Fiscal Planning Subcommittee of the Trial Court Budget Advisory Committee recommends that the Judicial Council approve four new requests and five amended requests for Trial Court Trust Fund (TCTF) funds to be held on behalf of the trial courts. Under the Judicial Council-adopted process, a court may request that funding reduced as a result of a court exceeding its 1 percent fund balance cap be retained in the TCTF for the benefit of that court. The total estimated amount requested by the trial courts that would be reduced from their 2017-2018 allocations for exceeding the cap is \$771,409. The council will be informed of any final adjustments to the estimated amounts after 2016-2017 year-end.

**Recommendation:** Based on actions taken at its August 10, 2017, meeting, the Fiscal Planning Subcommittee of the Trial Court Budget Advisory Committee recommends that the Judicial Council, effective September 15, 2017:

1. Allocate and designate \$723,059 in Trial Court Trust Fund fund balance to be held on behalf of the following courts:
  - a. \$120,000 to be held for the Superior Court of Butte County;
  - b. \$77,325 to be held for the Superior Court of Kern County;
  - c. \$107,734 to be held for the Superior Court of Merced County; and
  - d. \$418,000 to be held for the Superior Court of Napa County.
2. These funds will be reduced from the courts' allocations as a result of those courts exceeding the 1 percent fund balance cap. The funds would be distributed back to the courts in 2017-2018, as delineated in Attachment A.
3. Approve the amended request of the Superior Court of Sacramento, which adds an additional \$48,350 in Trial Court Trust Fund fund balance to be held on behalf to its original request. The funds would be distributed back to the court over two fiscal years, as delineated in Attachment F.
4. Approve the amended requests of the Superior Court of Kern County, the Superior Court of Napa County, and the Superior Court of Sacramento County. These funds have been reduced and reallocated from the courts' allocations in 2016-2017 as a result of those courts exceeding the 1 percent fund balance cap. The funds would be adjusted and distributed back to the courts in 2017-2018, as delineated in Attachment F.

A motion was made by Mr. Chatters, seconded by Judge Lyons, that this proposal be approved. The motion carried by a unanimous vote.

**INFORMATION ONLY ITEMS (NO ACTION REQUIRED)**

[17-094](#)

**Judicial Council Report to the Legislature: 18-month Statewide Infraction Amnesty Program**

**Summary:** Judicial Council's Budget Services has submitted the attached report on the

*18-Month Statewide Infraction Amnesty Program to the Legislature* on August 31, 2017. This one-time report provides amnesty information as filed by the 58 court or county collection programs on the number of cases resolved, the amount of money collected, and the operating costs of the amnesty program, as required by Vehicle Code section 42008.8 (Sen. Bill 85; Stats. 2015, ch. 26).

[17-096](#)**Judicial Council Report to the Legislature: Cash Flow Loans Made to Courts in Fiscal Year 2016-2017**

**Summary:** Government Code section 68502.6 requires that the Judicial Council report to the Legislature annually on all cash flow loans made to the courts. On August 30, 2017, Judicial Council staff submitted to the Legislature the report entitled *Cash Flow Loans Made to Courts Pursuant to Government Code Section 68502.6 in Fiscal Year 2016-2017*. The information in the report to the Legislature was reported to the Judicial Council by the superior courts. The report was not circulated for comment.

[17-099](#)**Trial Courts: Court Realignment Data for Calendar Year 2016**

**Summary:** Penal Code section 13155 requires the Judicial Council, 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 fourth annual court realignment data report to the DOF, BSCC, and JLBC. The report, *Court Realignment Data (Calendar Year 2016)*, is included as Attachment A to this report.

[17-100](#)**Judicial Branch Semiannual Contract Reporting Requirement: Executed Contracts and Vendor Payments for the Period of January 1 through June 30, 2017**

**Summary:** Public Contract Code section 19209 and the Judicial Branch Contracting Manual require that the Judicial Council submit a report semiannually to the Joint Legislative Budget Committee and the State Auditor listing (1) all vendors or contractors receiving payments from any judicial branch entity and their associated distinct contracts, and (2) for every vendor or contractor receiving more than one payment, the amount of the payment, type of good or service provided, and judicial branch entity receiving the good or service. Therefore, the Judicial Council staff submitted this 12th semiannual report on August 1, 2017, which listed all judicial branch entity contracts that were amended during the reporting period covering January 1 through June 30, 2017.

[17-126](#)**Trial Courts: Annual Investment Report for Fiscal Year 2016-2017**

**Summary:** This Trial Courts: Annual Investment Report for Fiscal Year 2016-2017 covers the period of July 1, 2016, through June 30, 2017, 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.

[17-134](#)**Court Security: Report on Trial Court Screening Equipment Replacement for Fiscal Year 2016-2017**

**Summary:** Each year, the Administrative Director approves the list of entrance screening equipment to be funded that year through the Screening Equipment Replacement Program, which provides funding 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 2016-2017 using that funding.

[17-152](#)**Court Facilities: Trial Court Facility Modification Quarterly Activity Report for Quarter 4 of Fiscal Year 2016-2017**

**Summary:** The Trial Court Facility Modification Advisory Committee (TCFMAC) has completed its facility modification funding for the third quarter of fiscal year 2016-2017. In compliance with the *Trial Court Facility Modifications Policy*, the advisory body is submitting its *Trial Court Facility Modification Quarterly Activity Report: Quarter 4, Fiscal Year 2016-2017* as information for the council. This report summarizes the activities of the TCFMAC from April 1, 2017, to June 30, 2017.

[17-168](#)**Government Code Section 68106: Public Notice by Courts of Closures or Reduced Clerks' Office Hours (Gov. Code, § 68106-Report No. 43)**

**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 also relay them to the Legislature. This is the 43rd report to date listing the latest court notices received by the council under this statutory requirement; since the previous report, four superior courts-San Francisco, San Diego, Ventura, and Fresno Counties-have issued new notices.

## Appointment Orders

[17-150](#)**Appointment Orders since the last business meeting.**

## In Memoriam

Justice Chin concluded the meeting with a remembrance of the following judicial colleagues recently deceased, honoring their service to their courts and to the cause of justice:

- Hon. James J. Alfano (Ret.), Superior Court of California, County of Orange
- Hon. Wesley R. Mason (Ret.), Superior Court of California, County of San



Diego

- Hon. Roy L. Wonder (Ret.), Superior Court of California, County of San Francisco

## Adjournment

With the meeting's business completed, the Justice Chin adjourned the meeting at approximately 11:10 a.m.