



JUDICIAL COUNCIL OF CALIFORNIA

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on: July 18–19, 2019

Title

Child Support: Potential California
Department of Child Support Services
Budget Change Proposal for Increased
Funding for AB 1058 Program

Agenda Item Type

Action Required

Effective Date

July 19, 2019

Rules, Forms, Standards, or Statutes Affected

None

Date of Report

June 21, 2019

Recommended by

Judicial Branch Budget Committee
Hon. David M. Rubin, Chair

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Executive Summary

The Judicial Branch Budget Committee recommends the Judicial Council support the California Department of Child Support Service's development of a budget change proposal to request additional funding to restore program funding for the AB 1058 Child Support Commissioner and Family Law Facilitator Program to "prerecession" funding levels. The additional funding would be allocated to the courts and fund the administration of the Judicial Council's AB 1058 program, which has been flat-funded for 11 years.

Recommendation

The Judicial Branch Budget Committee (JBBC) recommends that the Judicial Council support the California Department of Child Support Service's (DCSS) development of a request for additional funding for the AB 1058 Child Support Commissioner and Family Law Facilitator Program to be allocated to the trial courts using the current funding methodology, and for additional funding for the administration of the program by the Judicial Council.

Relevant Previous Council Action

Title IV-D of the Social Security Act (42 U.S.C. § 601 et seq.) provides that each state shall establish a child support program as a condition of receiving federal funding for the Temporary Assistance for Needy Families (TANF) program. States must have a designated single statewide child support agency that prepares the state plan, administers the child support program, and receives federal funding for the program. The California Department of Child Support Services (DCSS) has been designated as the statewide agency for California's child support program. States are also permitted to enter into cooperative agreements to reimburse other government entities such as state courts for costs associated with providing title IV-D child support-related services.

The title IV-D child support program was created in 1975 to establish paternity and collect child support for parents who received welfare benefits in order to reduce the costs of welfare to the states and federal government. Child support collected from noncustodial parents reimbursed the states for the welfare grants. Services were also provided to nonwelfare families that requested child support assistance, with the idea that the collection of child support for those families might help them avoid having to seek public assistance. Title IV-D services include (1) establishment of parentage and child support orders, (2) modifying the support orders when there is a change of circumstances that affects the amount of support that should be paid, (3) enforcing support orders, and (4) distributing support collected to families and to the government entities as reimbursement for welfare payments provided to the children. Each state must meet federally imposed performance-based standards. Failure to maintain these minimum performance standards jeopardizes the continued receipt of federal funding for the program.

In 1996, Assembly Bill 1058 (Stats. 1996, ch. 957) was enacted, which established the Child Support Commissioner and Family Law Facilitator Program. The purpose of this legislatively mandated program was to provide a cost-effective, expedited, and accessible process in the courts for establishing and enforcing child support orders in cases being enforced by local child support agencies. This program was also able to leverage federal and state funding for the courts to enable courts to provide these services. AB 1058 requires each superior court to have a child support commissioner to hear title IV-D child support cases and an Office of the Family Law Facilitator to provide legal assistance to litigants who are navigating the court process in title IV-D child support cases.

The two major elements of the AB 1058 program are the child support commissioners (CSC) who resolve issues of parentage and child support and family law facilitators (FLF) who help self-represented litigants navigate the court process. Each court has a child support commissioner and family law facilitator program. This program provides an expedited process in the courts that is both accessible and cost-effective to families involved in child support cases. The CSC component of the program provides judicial officers to hear child support cases, plus court staff to support them. The FLF component assists parents with child support issues by gaining meaningful access to the courts in a timely manner. The program was intended to make the processing of child support cases in the courts more efficient by making sure that parents

obtained all the necessary forms and documentation before the hearing. When parents come better prepared to their hearings, judicial officers can process more cases in the time allotted.

Funds for this program are provided through a cooperative agreement between the DCSS and the Judicial Council. The agreement requires the council to annually approve the funding allocation for each court for the CSCs and FLFs. Two-thirds of the funds are provided from the U.S. Department of Health and Human Services Administration for Children and Families, Office of Child Support Enforcement, through the 1996 Federal Personal Responsibility and Work Opportunity Recovery Act (PRWORA); one-third of the funds come from the state General Fund non-Trial Court Trust Fund court funding. This funding is commonly referred to as “base funding.”

In fiscal year (FY) 2007–08, during the state’s financial crisis, funding for the state portion of the AB 1058 program was reduced. To assist in covering the cost of maintaining program service levels, the DCSS and the Judicial Council of California provided a mechanism for the courts to voluntarily participate in the federal drawdown option whereby courts could receive two-thirds of federal program funding by paying one-third of program costs from local trial court funds and receiving two-thirds from federal matching funds. This option was intended to be temporary until California’s economy improved and program funding could be restored. During improved financial circumstances, the AB 1058 program has remained flat-funded since 2008.

The Judicial Council is mandated to establish procedures for distributing funds to the courts for CSCs and FLFs. Funds are allocated to the local courts via standard agreements between the Judicial Council and the courts. The allocation amounts are based on a formula that has been approved by the Judicial Council. Separate contracts are executed for the CSC and the FLF components of the program. Funds allocated to the FLF component may not be transferred to the CSC component and vice versa. The funding and contract cover a state fiscal year, which runs from July 1 through June 30. Under the federal guidelines, any funds left unspent during the fiscal year revert to the state General Fund and cannot be used in subsequent years.

AB 1058 mandates that the Judicial Council establish procedures to distribute funding and offer technical assistance to the courts to ensure the successful implementation and operation of the CSC and FLF Program. The Judicial Council is also required to establish minimum qualifications for commissioners, caseload standards for commissioners, minimum standards for the Office of Family Law Facilitator, and to adopt uniform rules of court.

Analysis/Rationale

Because DCSS is the designated administrator of the state’s child support plan, requests for additional program funds must be made through a budget change proposal (BCP) by DCSS. Funding available for the AB 1058 Child Support Commissioner and Family Law Facilitator Program is provided via an interagency agreement between the DCSS and the Judicial Council. The funding is 66 percent federal title IV-D funds and 34 percent state general funds included in the DCSS budget, subject to annual budget appropriation. The Judicial Council allocates funding

to each court for the operation of the program, and funding is provided to each via a contract for CSC and FLF services through two contracts between the Judicial Council and the courts.

Assembly Bill 1058 funding for both local court operations and the administration of the program has been flat since 2008. Operational costs for the program over the last 10 years, including costs of labor, supplies, training, technology, etc., have continued to rise. Funding made available through the “federal drawdown” option has assisted courts in meeting contractual and federal performance requirements. However, as courts have indicated the need for increased funding due to increased costs, a reduction in funding reserves, and the implementation of a new trial court funding methodology, they have been less able to continue to contribute trial court funds to participate in the federal drawdown option. Courts have been left struggling to continue to provide adequate child support court services.

In addition, in the FY 2019–20 Governor’s budget, there is a proposal to increase funding to local child support agencies who have similarly been flat-funded since 2008. Additional funding to local child support agencies will likely cause additional filings that will create increased workload for the courts, including processing filings, increased court calendars, and more parents to assist in navigating the court process. The failure of courts to timely respond to this increased workload creates a real risk that local child support agencies and courts—and therefore California as a whole—will be unable to comply with the minimum federal performance standards required for continued federal funding. Although it is not possible to predict the additional workload the new local child support agency funding will create for the courts and the additional funds the courts will need to meet this workload, increased funding must be requested to ensure courts can be responsive.

Policy implications

The potential BCP would restore the state’s share of AB 1058 funding that is currently funded using trial court funds to match the drawdown federal funds. This will allow the courts’ AB 1058 program to be fully funded from federal and state funds as originally intended without the courts needing to use trial court funds to ensure basic service levels. Additionally, the trial court funds will be available to support other court services currently underfunded due to courts diverting these funds to meet basic program needs.

Funding for the Judicial Council to administer the AB 1058 program has also been flat-funded since 2008. As a result, the number of staff working on the program has been reduced, thereby reducing technical assistance and training available to local courts. In addition, DCSS audits of local courts’ AB 1058 programs show that additional data collection, financial evaluation, compliance review, and technical assistance is needed to ensure the courts understand the correct methodology for tracking time working on the program and seeking reimbursement for the work provided.

The Judicial Branch Budget Committee recommends the Judicial Council support a potential DCSS budget change proposal (BCP) that would include a request to increase funding to the Judicial Council for the administration of the AB 1058 program as well as additional funding for

the courts. The additional funding for the administration of the program includes full funding for current program administration and funding for a senior analyst. Funding for the courts would potentially fully fund the current match portion of the federal drawdown.

Comments

This proposal was not circulated for comment.

Alternatives considered

Based on questionnaires received by courts on an annual basis as part of the midyear reallocation process for AB 1058 funding, courts have indicated that although there is a need for additional program funding to meet the federal performance measures and the needs of local communities, courts no longer have sufficient trial court funds to continue to subsidize the AB 1058 program. Without the courts' ability to contribute matching funds to draw down the federal funds, there will be a substantial reduction in the ability to provide access to AB 1058 courts and services.

If the Judicial Council does not support a potential BCP from DCSS to restore program funding, it is unlikely that DCSS will move forward with a funding request. This would result in the need for courts to use increased trial court funds or reduce services, thereby jeopardizing statewide program funding.

Fiscal and Operational Impacts

To draw down federal funds, federal provisions require payment of a state share of one-third of total expenditures. A request for additional funding to restore program funding for the AB 1058 Child Support Commissioner and Family Law Facilitator Program would eliminate the need for the courts to contribute the matching one-third funds and allow courts to use trial court funds to support other court services.

Attachments and Links

None.