



## JUDICIAL COUNCIL OF CALIFORNIA

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# REPORT TO THE JUDICIAL COUNCIL

For business meeting on: November 14, 2019

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Title	Agenda Item Type
Allocations and Reimbursements to Trial Courts: Extension on Receipt of Children's Waiting Room Funds During Temporary Closure	Action Required
	Effective Date
	November 14, 2019
Rules, Forms, Standards, or Statutes Affected	Date of Report
None	October 23, 2019
Recommended by	Contact
Trial Court Budget Advisory Committee	Michele Allan, 916-263-1374
Hon. Jonathan B. Conklin, Chair	michele.allan@jud.ca.gov

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### Executive Summary

The Trial Court Budget Advisory Committee recommends that the Judicial Council approve an extension for the Superior Court of Contra Costa County to continue receiving Children's Waiting Room (CWR) funds through June 30, 2020. The court closed its CWR in Pittsburg on October 1, 2018, in order to relocate to Martinez. The court received approval to continue receiving CWR funds during the closure and one extension due to project delays and is now having difficulty securing a vendor to operate the new location. This recommendation will allow more time to identify a vendor for its new location and start operations at its CWR.

### Recommendation

The Trial Court Budget Advisory Committee (TCBAC) recommends that the Judicial Council, effective November 15, 2019, approve the continuation of the distribution of CWR funds through June 30, 2020, to the Superior Court of Contra Costa County, to allow the court to accumulate funding while it secures a vendor to operate the CWR full time at its new location in Martinez.

## Relevant Previous Council Action

The Judicial Council's Children's Waiting Room Distribution and Fund Balance Policy was last revised by the council at its business meeting on March 24, 2017 (see Attachment A).

The Superior Court of Contra Costa County received approval from the Judicial Council at its business meeting on May 17, 2019, to continue receiving CWR funds during the temporary closure in anticipation of reopening the CWR by July 2019.<sup>1</sup> At its business meeting on September 24, 2019, the council approved an extension through October 1, 2019.<sup>2</sup>

## Analysis/Rationale

Per Government Code 70640, "it is the policy of the state that each court shall endeavor to provide a children's waiting room in each courthouse for children whose parents or guardians are attending a court hearing as a litigant, witness, or for other court purposes as determined by the court."

The statute also states that after January 1, 2006, a court may apply to the Judicial Council for a CWR distribution between \$2 and \$5, inclusive, from applicable filing fees (see Attachment B). CWR distributions to trial courts from first paper filing fee revenues deposited into the Trial Court Trust Fund (TCTF) can be spent only on costs associated with operating a CWR.

Standard 10.24 of the California Rules of Court also states that "[e]ach court should endeavor to provide a children's waiting room located in the courthouse for the use of minors under the age of 16 who are present on court premises as participants or who accompany persons who are participants in court proceedings"; that "[t]he waiting room should be supervised and open during normal court hours"; and "if a court does not have sufficient space in the courthouse for a children's waiting room, the court should create the necessary space when court facilities are reorganized or remodeled or when new facilities are constructed."

The approval of this request is consistent with Government Code section 70640 and standard 10.64, and would allow the Superior Court of Contra Costa County to accumulate sufficient funding to reopen and operate its CWR full time at its Martinez location, which also houses its family law operations.

The Judicial Council's policy requires the TCBAC to make a recommendation to the council on a court's request. At its October 9, 2019, meeting, the TCBAC recommended that the Judicial

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<sup>1</sup> Judicial Council of Cal., *Allocations and Reimbursements to Trial Courts: Continued Children's Waiting Room Funds Distribution* (May 17, 2019), <https://jcc.legistar.com/View.ashx?M=F&ID=7187354&GUID=2EAFDE3B-3019-4334-B783-D717623CC794>.

<sup>2</sup> Judicial Council of Cal., *Allocations and Reimbursements to Trial Courts: Extension on Receipt of Children's Waiting Room Funds During Temporary Closure* (Sept. 24, 2019), <https://jcc.legistar.com/View.ashx?M=F&ID=7675716&GUID=827BAB7A-ED8C-4122-A4C1-3AFC8416E2EA>.

Council approve the continued distribution request of the Contra Costa court. The Contra Costa court's request for a continued CWR distribution is provided in Attachment C.

Attachment D provides the current distribution amount and total distributions for fiscal years 2015–16, 2016–17, 2017–18, and 2018–19 for the 18 courts that currently have a CWR distribution.

Attachment E provides the distribution from the First Paper General Civil Unlimited Uniform Filing Fee (Gov. Code, § 70611) for the Contra Costa court. There is no change in the distribution for this request because the court is already receiving a CWR distribution.

### **Policy implications**

None.

### **Comments**

This item was not circulated for public comment.

### **Alternatives considered**

No alternatives were considered.

### **Fiscal and Operational Impacts**

Approving the court's request for a continued CWR distribution would reduce by approximately \$126,000 the total amount of uniform, first paper civil filing fee revenues that would otherwise support all courts' TCTF base allocations for court operations.

### **Attachments and Links**

1. Attachment A: Children's Waiting Room (CWR) Distribution and Fund Balance Policy
2. Attachment B: Gov. Code, § 70640
3. Attachment C: Superior Court of Contra Costa County's Request to Extend CWR Distribution
4. Attachment D: Children's Waiting Room—Distribution Amount and Total Distribution
5. Attachment E: Distribution from First Paper General Civil Unlimited Uniform Filing Fee (Gov. Code, § 70611) in Contra Costa County

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

### **A. Applying for a New CWR Distribution**

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

### **B. Requesting a Decreased CWR Distribution Amount**

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

### **C. Temporarily or Permanently Ceasing CWR Operations**

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

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

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

### **D. Cap on CWR Fund Balance**

- Courts shall monitor the CWR distribution amount per filing to ensure it is adequate to meet the CWR needs of the court without accumulating an amount in excess of the cap described below.
- Effective July 1, 2015, there shall be a cap on the amount of CWR fund balance that courts can carry forward from one fiscal year to the next. The cap shall be the amount of the highest annual distribution within the three most recent fiscal years.
- Courts that have a CWR fund balance greater than the cap (as described above) at the end of the every other fiscal year (beginning with fiscal year 2016–2017) will be required to return to the TCTF the amount above the cap in the subsequent fiscal year.
- For courts that are required to return the portion of their CWR fund balance above the cap to the TCTF, the return of the CWR fund balance will occur on the August trial court distribution.
- If there is a dispute between a court and JC staff over the amount of CWR fund balance that should be returned to the TCTF, the dispute will be brought before the TCBAC and the Judicial Council if the two parties cannot come to a resolution within 90 days of the cessation date.
- The cap applies only to courts that have received at least 12 months of distributions in a fiscal year while operating a CWR.
- If a court wants a cap adjustment, it must submit a request explaining the extenuating circumstance and including its CWR expenditure plan to the director of the JC Finance Office for consideration by the TCBAC and the Judicial Council. The request must be received by the Finance Director within 60 days of the end of the fiscal year for which the adjustment is being requested.
- JC staff will report any return of CWR fund balance through the trial court distribution process to the TCBAC and the Judicial Council.
- For courts that have Judicial Council–approved adjustments to their CWR caps, annual reporting will be required 60 days after the end of each fiscal year for courts that have an adjustment to their CWR cap approved by the Judicial Council, using a template provided by Judicial Council staff.

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

- Courts that received distributions between January 1, 2006 and June 30, 2014 but did not operate a CWR during that time period must either apply for a continued distribution by

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

September 26, 2015 or have their distributions stopped on January 1, 2016 and return to the TCTF any CWR fund balance.

- For courts that are required to return all of their remaining CWR fund balance to the TCTF, the return will occur on the October 2015 trial court distribution.
- If there is a dispute between a court and JC staff over the amount of CWR fund balance that should be returned to the TCTF, the dispute will be brought before the TCBAC and the Judicial Council if the two parties cannot come to a resolution within 90 days of the cessation date.

**Government Code Section 70640**

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

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

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

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

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

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

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

Kate Bieker  
Court Executive Officer

*Superior Court of California*

COUNTY OF CONTRA COSTA  
725 COURT STREET  
P.O. BOX 911  
MARTINEZ, CA 94553-0091



September 30, 2019

Zlatko Theodorovic  
Director of Budget Services  
Judicial Council of California  
2850 Gateway Oaks Drive, Suite 300  
Sacramento, CA 95833-4353

Re: Second Request to Extend Receiving CWR Distribution During Temporary CWR Closure

Dear Mr. Theodorovic:

The Contra Costa Superior Court (Court) received approval to continue receiving its Children's Waiting Room (CWR) distribution during a temporary closure of its CWR through July 1, 2019, and then received approval for an extension through October 1, 2019. The Court closed the CWR in its Pittsburg Courthouse on October 1, 2018 and has relocated its CWR to the Martinez Family Law Center where there is significant public demand and need for a CWR. Construction of the new CWR in Martinez was completed in July 2019.

The Court has faced tremendous difficulty in identifying a vendor to operate the Martinez CWR. Specifically, we issued a Request for Proposal (RFP) in April 2019 and received one bid. The prospective vendor's cost proposal to operate a CWR for 9 hours per day, 5 days per week was approximately \$220,000 per year, which was 57 percent higher than the annual operating cost of our previous CWR vendor in the Pittsburg Courthouse. The prospective vendor was unwilling to reduce its cost proposal, so we decided it would be financially prudent to reject the proposal and re-issued the RFP in hopes of finding a vendor that would operate more within our budget. We reissued the RFP in July 2019 and have had to extend the due date twice. We also actively reached out to several vendors who provide childcare services within our region.

We are currently in discussion with one potential bidder on submitting a bid to our RFP. If we accept this bid, then we anticipate entering into a contract with the vendor by January 1, 2020, and to start operations by March 1, 2020. If we are unable to enter into a contract by January 1 and decide to reissue the RFP yet again, then we anticipate the RFP and contracting process to take another six months. Therefore, we are requesting a second extension through June 30, 2020 to accommodate both these scenarios.

The Court requests the Judicial Council to approve an extension of the continued CWR distribution to the Court at the next council meeting. The Court currently receives a CWR distribution at the \$5 level and currently has a fund balance of \$269,138. It is anticipated that the



annual cost to operate the CWR will exceed the Court's CWR distribution of approximately \$125,000 annually. The ability for the Court to continue receiving its CWR distribution will allow it to continue building its reserve to fund these anticipated annual shortfalls.

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink, appearing to be 'KB', with a long horizontal stroke extending to the right.

Kate Bieker  
Court Executive Officer

KB/FL

cc: Hon. Barry Baskin, Presiding Judge  
Hon. Rebecca Hardie, Assistant Presiding Judge  
Fae Li, Director of Finance

Children's Waiting Room  
Distribution Amount and Total Distribution

Attachment D

	Court	Distribution Amount	2015-16 Total Distribution	2016-17 Total Distribution	2017-18 Total Distribution	2018-19 Total Distribution
	A	B	C	D	E	F
1	Alameda	\$5	\$ 162,487	\$ 188,819	\$ 169,579	\$ 174,451
2	Butte	\$5	\$ 19,372	\$ 27,096	\$ 11,227	\$ -
3	Contra Costa	\$5	\$ 104,333	\$ 129,349	\$ 116,444	\$ 126,445
4	Fresno	\$5	\$ 98,469	\$ 121,401	\$ 110,504	\$ 117,334
5	Los Angeles	\$5	\$ 830,421	\$ 1,295,100	\$ 1,480,168	\$ 1,603,832
6	Monterey	\$5	\$ 32,856	\$ 40,826	\$ 20,230	\$ -
7	Orange	\$5	\$ 369,617	\$ 466,843	\$ 421,645	\$ 447,379
8	Riverside	\$5	\$ 253,815	\$ 317,869	\$ 287,070	\$ 328,848
9	Sacramento	\$5	\$ 504,807	\$ 373,901	\$ 348,234	\$ 314,540
10	San Bernardino	\$5	\$ -	\$ 297,239	\$ 288,108	\$ 299,668
11	San Diego	\$5	\$ 336,581	\$ 430,649	\$ 380,780	\$ 407,575
12	San Francisco	\$5	\$ 115,160	\$ 140,230	\$ 124,923	\$ 130,501
13	San Joaquin	\$5	\$ -	\$ -	\$ 91,233	\$ 94,255
14	San Luis Obispo	\$5	\$ 23,484	\$ 29,250	\$ 25,681	\$ 28,232
15	San Mateo	\$5	\$ 64,791	\$ 81,204	\$ 71,715	\$ 76,285
16	Santa Barbara	\$5	\$ 39,686	\$ 48,354	\$ 43,675	\$ 45,150
17	Santa Clara	\$5	\$ 147,497	\$ 174,867	\$ 162,279	\$ 172,182
18	Solano	\$5	\$ 46,724	\$ 56,083	\$ 54,379	\$ 59,359
19	Sonoma	\$5	\$ 45,987	\$ 55,979	\$ 49,926	\$ 54,341
20	Stanislaus	\$2	\$ 19,924	\$ 24,371	\$ -	\$ -
21	Ventura	\$5	\$ 84,342	\$ 103,657	\$ 92,008	\$ 97,711
	<b>Total</b>		<b>\$ 3,302,071</b>	<b>\$ 4,403,087</b>	<b>\$ 4,349,806</b>	<b>\$ 4,578,087</b>

Distribution from First Paper General Civil Unlimited  
Uniform Filing Fee (GC 70611)  
Contra Costa County

Attachment E

Distribution	State vs. Local	Current
Trial Court Trust Fund Base Allocation	State	\$311.70
Children's Waiting Room	State	\$5.00
Automated Recored-Keeping and Micrographics	State	\$3.00
Judges' Retirement Fund	State	\$2.50
State Court Facilities Construction Fund	State	\$35.00
Immediate & Critical Needs Account	State	\$30.00
Local Courthouse Construction Surcharges		\$0.00
Equal Access Fund	Local	\$4.80
Dispute Resolution	Local	\$8.00
Law Library	Local	\$35.00
<b>Total Fee Amount</b>		<b>\$435.00</b>