



Judicial Council of California

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on November 14, 2019

Title

Sargent Shriver Civil Counsel Act:
Distribution of Increased Funding

Agenda Item Type

Action Required

Effective Date

November 15, 2019

Rules, Forms, Standards, or Statutes Affected

None

Date of Report

September 29, 2019

Recommended by

Shriver Civil Counsel Act Implementation
Committee

Contact

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Hon. Earl Johnson, Jr. (Ret.), Chair
Hon. Laurie D. Zelon, Vice-Chair

Executive Summary

The state Budget Act of 2019 allocated an additional \$2.5 million of general funds for the Sargent Shriver Civil Counsel program. The Shriver Civil Counsel Act Implementation Committee recommends allocating the new funds pro rata to the existing programs for the final year of the current three-year grant cycle, as approved by the Judicial Council on July 27, 2017.

Recommendation

The Shriver Civil Counsel Act Implementation Committee recommends that the Judicial Council, effective November 15, 2019, approve an augmentation of Sargent Shriver Civil Counsel Act grants in an amount not to exceed \$2,500,000 for distribution to the following legal service agencies and superior courts, for pilot projects to provide legal representation and improved court services to eligible low-income litigants:

1. Central California Legal Services

Superior Court of Fresno County

Housing Pilot Project \$105,975

2.	Greater Bakersfield Legal Assistance Superior Court of Kern County Housing Pilot Project	\$171,482
3.	Justice and Diversity Center of the Bar Association of San Francisco Superior Court of San Francisco Child Custody Pilot Project	\$115,561
4.	Legal Aid Society of San Diego San Diego Voluntary Legal Services Program Superior Court of San Diego County Housing and Child Custody Pilot Project	\$736,990
5.	Legal Aid Society of Santa Barbara County Superior Court of Santa Barbara County Northern Santa Barbara County Housing and Probate Guardianship/Conservatorship Pilot Project.....	\$241,936
6.	Legal Services of Northern California Superior Court of Yolo County Housing Pilot Project	\$100,657
7.	Los Angeles Center for Law and Justice Superior Court of Los Angeles County Child Custody Pilot Project	\$225,270
8.	Neighborhood Legal Services of Los Angeles County Superior Court of Los Angeles County Housing Pilot Project	\$802,129
		Total: \$2,500,000

Relevant Previous Council Action

Government Code section 68651 provides that Sargent Shriver Civil Counsel Act funds are to be allocated to eligible legal services programs in partnership with trial courts to provide representation to low-income persons in civil cases with critical need, including housing and child custody, in three-year grant cycles. On July 27, 2017, the Judicial Council approved Sargent Shriver Civil Counsel Act grants in an amount not to exceed \$7,244,437 for distribution to seven legal services agencies and superior courts for pilot projects to provide legal representation and improved court services to eligible low-income litigants. The council further approved the recommendation that, “[i]f designated fee revenues are higher than projected, or if there are any encumbered and unspent funds from previous years, the committee also recommends that the project budgets be increased proportionately.”

Analysis/Rationale

The Sargent Shriver Civil Counsel Act (Assem. Bill 590; Stats. 2009, ch. 457) provided that, commencing in fiscal year 2011–12, one or more pilot projects selected by the Judicial Council are to be funded to provide legal representation and improved court services to low-income parties on critical legal issues affecting basic human needs. The pilot projects are to be operated by legal services nonprofit corporations working in collaboration with their local superior courts.

Government Code section 68651(b)(5) requires the Judicial Council to appoint a committee to select pilot projects to recommend to the council for funding. The Shriver Civil Counsel Act Implementation Committee, chaired by Justice Earl Johnson, Jr. (Ret.), was appointed by Chief Justice Ronald M. George on September 1, 2010. A roster of committee members follows this report in Attachment A.

Pilot projects

The purpose of the pilot projects is to improve timely and effective access to justice in civil cases. Doing so will avoid undue risk of erroneous court decisions resulting from the nature and complexity of the law in the specific proceeding or the disparities between parties in legal representation, education, sophistication, language proficiency, and access to self-help or alternative dispute resolution services.

Selected legal services agencies will provide legal representation to low-income Californians who are at or below 200 percent of the federal poverty level and need representation in one or more of the following areas:

- Housing-related matters;
- Domestic violence and civil harassment restraining orders;
- Elder abuse;
- Guardianship of the person;
- Probate conservatorship; and/or
- Child custody actions by a parent seeking sole legal or physical custody of a child, particularly where the opposing side is represented by counsel.

Each pilot project must be a partnership between the court, a legal services agency that serves as lead agency for case assessment and direction, and other legal services providers in the community. To the extent practical, legal services agencies must identify and make use of pro bono services from attorneys to maximize available services efficiently and economically.

Government Code section 68651(b)(4) recognizes that not all eligible low-income parties with meritorious cases can be provided with legal representation. Thus, in addition to the legal representation provided by the legal services providers, the statute provides for funds to courts to adopt innovative practices. These practices may include “procedures, personnel, training, and case management and administration practices that reflect best practices to ensure unrepresented parties’ meaningful access to justice and to guard against the involuntary waiver of rights, as

well as to encourage fair and expeditious voluntary dispute resolution, consistent with principles of judicial neutrality.”

Projected revenue for the pilots was initially approximately \$10 million. For the first three-year cycle, grants totaled \$9.5 million. However, those revenues have declined over time and in fiscal year 2017–18 were projected to be \$7,244,437. The Judicial Council issued a request for proposals on March 14, 2017, for the third three-year cycle. Eleven proposals were received, with requests totaling \$12,952,037, an amount that exceeded the available funds by \$5,707,600. Seven of those proposals were for continuing projects, and four were for new projects. After reviewing the evaluation report, the committee determined to continue the existing projects. It also considered the new applications and decided that the project proposed by Central California Legal Services in partnership with the Superior Court of Fresno County had the greatest possibility of success given the limited funding.

The committee reviewed the budgets and expenditures of each of the projects. Given the decline in revenues, the committee recommended a formula for allocation.

In the Budget Act of 2019, an additional \$2.5 million has been allocated to the Shriver project. The committee recommends that those funds be distributed pro rata to the existing programs for this last year of the grant cycle, as previously approved by the Judicial Council, and that the programs be asked to submit a revised budget and application to demonstrate how those additional funds will be used.

The committee will then proceed with an application process for the next three-year grant cycle that will reflect the changes made to the program by the passage of Assembly Bill 330 (Gabriel; see Link A). The bill modifies some of the requirements for child custody pilots and adds approximately \$11 million in funding through increased fees for certain post-judgment filings starting in January 2020. The committee will return to the Judicial Council with recommendations for the next cycle in spring 2020.

Policy implications

This recommendation helps implement Goal I (Access, Fairness, and Diversity) of the judicial branch’s strategic plan by increasing representation and court services for low-income persons.

Comments

The recommendation for the selection of the pilot projects has been made by the Shriver Civil Counsel Act Implementation Committee as provided by Government Code section 68651(b)(5). The statutory scheme does not contemplate public comment.

Alternatives considered

The council may select pilot projects other than the ones recommended by the implementation committee, provided that the pilot projects are selected based on the statutory criteria, and the funding for the pilot projects does not exceed the amount of available funding.

Fiscal and Operational Impacts

Grant conditions require courts that have elected to participate in the pilot projects to cooperate with the local legal services providers and provide court services in the manner specified in the grant proposals. Courts will receive funding for the services that they provide through intrabranch agreements between the Judicial Council and each court.

Judicial Council staff will administer the Sargent Shriver Civil Counsel Act pilot project funding, including fulfillment of the statutory requirements for an evaluation of the pilot projects and a report to the Legislature. Staff will provide oversight and technical assistance for the selected pilot projects to ensure that funds are expended for the purposes intended by the legislation. Staff will also provide support to the Shriver Civil Counsel Act Implementation Committee. Costs for Judicial Council staff support and the evaluation will be covered by the provision for administrative costs in the budget act appropriation.

Attachments and Links

1. Attachment A: Shriver Civil Counsel Act Implementation Committee roster
2. Link A: Sargent Shriver Civil Counsel Act, as amended by Assembly Bill 330 (Gabriel), http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB330

Shriver Civil Counsel Act Implementation Committee

As of February 6, 2018

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ACLU California Center for Advocacy & Policy

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Legal Aid Association of California (LAAC)

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Second Appellate District, Division Seven

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