



JUDICIAL COUNCIL OF CALIFORNIA

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REPORT TO THE JUDICIAL COUNCIL

Item No.: 20-073

For business meeting on: May 15, 2020

Title

Sargent Shriver Civil Counsel Act: Selection of Pilot Projects

Agenda Item Type

Action Required

Effective Date

October 1, 2020

Rules, Forms, Standards, or Statutes Affected

None

Date of Report

April 7, 2020

Recommended by

Shriver Civil Counsel Act Implementation

Committee

Hon. Earl Johnson, Jr., (Ret.) Chair

Contact

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Executive Summary

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. These grants are awarded every three years and recommendations are to be made to the council by the Shriver Civil Counsel Act Implementation Committee.

Recommendation

The Shriver Civil Counsel Act Implementation Committee recommends that the Judicial Council, effective October 1, 2020, approve Sargent Shriver Civil Counsel Act grants in an amount not to exceed \$11,813,025 per year for the period beginning October 1, 2020, and ending September 30, 2023. It also recommends deferring two applications and one request for additional funding pending further information on projected revenue based on the uncertainty created by the COVID-19 pandemic. The committee will make further recommendations to the Judicial Council once there is more certainty regarding funding. The committee is making initial recommendations at this time to allow ongoing programs sufficient time to make informed

decisions regarding staffing and services to clients, and for new programs to begin to make preparations.

The following partnerships between legal services agencies and superior courts are recommended for funding at the following annual level for three years to provide legal representation and improved court services to eligible low-income litigants:

Central California Legal Services Superior Court of Fresno County Housing Pilot Project	\$386,858
Centro Legal de la Raza Superior Court of Alameda County Housing Pilot Project	\$640,323
Greater Bakersfield Legal Assistance Superior Court of Kern County Housing Pilot Project	\$813,579
Legal Access Alameda Superior Court of Alameda County Child Custody Pilot Project	\$93,342
Legal Aid Foundation of Santa Barbara County Superior Court of Santa Barbara County Northern Santa Barbara County Housing and Probate Guardianship/Conservatorship Pilot Project.....	\$1,072,239
Legal Aid Society of San Diego Superior Court of San Diego County Housing and Child Custody Pilot Project	\$3,047,856
Legal Services of Northern California Superior Court of Yolo County Housing Pilot Project	\$423,789
Los Angeles Center for Law and Justice Superior Court of Los Angeles County Child Custody Pilot Project	\$882,598
Neighborhood Legal Services of Los Angeles County Superior Court of Los Angeles County Housing Pilot Project	\$3,125,555

San Diego Voluntary Legal Services Program

Superior Court of San Diego County

Child Custody Pilot Project\$409,352

Domestic Violence Pilot Project.....\$231,135

San Luis Obispo Legal Assistance Foundation

Superior Court of San Luis Obispo County

Housing, Elder Abuse, Guardianship, Probate\$686,399

Total: \$11,813,025

A chart of all the proposals submitted is included in this report as Attachment A, and a roster of the Shriver Civil Counsel Act Implementation Committee is included as Attachment B.

Relevant Previous Council Action

On April 29, 2011, the Judicial Council approved Sargent Shriver Civil Counsel Act grants in an amount not to exceed \$9.5 million 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. On August 21, 2014, the Judicial Council renewed those grants to six legal services agencies and their superior court partners. On July 17, 2017, the Judicial Council approved grants to seven legal services agencies and their superior court partners. On November 15, 2019, the Judicial Council approved distributing an additional \$2.5 million of general funds on a pro rata basis to the projects.

Analysis/Rationale

The Sargent Shriver Civil Counsel Act (Assem. Bill 590; Stats. 2009, ch. 457) provided that, commencing in fiscal year (FY) 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 will 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 Judicial 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 detailed summary of projects recommended by the committee for funding follows this report in Attachment A, and a roster of committee members is included in Attachment B.

Purpose of 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.

Funding

Government Code section 68651(b)(2) states that pilot projects that provide legal representation in child custody cases should be given the highest priority for funding. Up to 200% of available funds must be designated for these types of child custody actions. The committee recommends that three child custody projects be funded at this time for an amount of \$1,385,292 annually, which is 12% of available funding. It is also recommending deferral of refunding for one custody program at this time.

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 in order to maximize available services efficiently and economically.

Government Code section 68641(b)(4) recognizes that even with the new funding available under the legislation, 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 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 involuntary waiver of rights, as well as to encourage fair and expeditious voluntary dispute resolution, consistent with principles of judicial neutrality.”

In the Budget Act of 2016, the Legislature extended the statutory authority for the pilot projects beyond the end of FY 2016–17. In the Budget Act of 2019, the Legislature allocated an additional \$2.5 million in general funds for the programs.

Total available funding for the projects was initially expected to be approximately \$11 million per year, funded by a \$10 fee increase on certain postjudgment court services. However, that revenue decreased over time due to fewer court filings. Assembly Bill 330 (Gabriel; see Link A),

which was enacted on September 4, 2019, increased fees that fund the Shriver projects by 150 percent. The new anticipated revenue, at the time of passage of AB 330, was \$18 million per year. The new fees started on January 1, 2020.

Request for proposals

The Judicial Council issued a request for proposals (RFP) on January 6, 2020. Fourteen proposals were received with requests totaling \$15,240,868 in the first year. Nine of those proposals requested continuing their projects and five were for new projects. A chart setting out the budget and summary of requests is found at Attachment A.

In the RFP, the application stated: “In September 2019, Governor Gavin Newsom signed Assembly Bill 330 (Gabriel; Stats. 2019, ch. 217). This bill amended the language of the Government Code to increase specified fees that fund the Shriver project from \$10 to \$25 per filing. The Judicial Council anticipates that this change will increase the amount of funds available to the program by approximately \$11 million to approximately \$18 million per year. Because these amounts are estimates based on revenue projections, the Judicial Council may award amounts that are less than the full projection in the initial year and then consider increases to the grants in future years, stage implementation of new grants, or other steps to ensure sufficient funding for all awards.”

Criteria for selection

In selecting which pilot projects to recommend, the committee used the criteria set forth in Government Code section 68651(b)(5), which include:

- The likelihood that the proposed pilot project would deliver quality representation in an effective manner that would meet the critical needs of the community;
- Whether the pilot project would address the needs of the court with regards to access to justice and calendar management;
- Whether the pilot project meets unmet needs for representation in the community;
- The likelihood that representation in the proposed case types tends to affect whether a party prevails or otherwise obtains a significantly more favorable outcome in a matter in which they would otherwise frequently have judgment entered against them or suffer the deprivation of the basic human need at issue;
- The likelihood of reducing the risk of erroneous court decisions;
- The nature and severity of potential consequences for the unrepresented party regarding the basic human need at stake if representation is not provided;

- Whether the provision of legal services may eliminate or reduce the potential need for and cost of public social services regarding the basic human need at stake for the client and others in the client’s household; and
- The availability and effectiveness of other types of court services such as self-help.

Selecting the pilot projects and distributing the funding once it becomes available through the state budget will put the funds available under the Sargent Shriver Civil Counsel Act (Attachment C) into the hands of qualified legal services providers to provide legal representation to qualified low-income litigants as well as to work with local superior courts on improving court services for those who remain unrepresented. Grant funds will be provided to selected pilot projects commencing on October 1, 2020.

Policy implications

The work performed by the projects helps to 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 recommendations 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.

The counsel 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, the pilot projects have submitted appropriate applications in a timely fashion, and the funding for the pilot projects does not exceed the amount of available funding.

Alternatives considered

The committee met on March 26, 2020, to make recommendations on funding to the Judicial Council at its May 15, 2020 meeting. The committee was very mindful of the uncertainty about fee collections given the fact that these are newly increased fees and also since courts have had to significantly limit filings due to shelter-in-place requirements as a result of the COVID-19 pandemic.

Given that many projects are continuing and need to be able to alert staff if there are layoffs or other changes, and must make determinations regarding whether to take on new clients, the committee determined to make initial recommendations as planned in May, but to recommend grants totaling less than \$12 million, a much lower amount than the \$18 million initially anticipated. The committee identified additional issues for the grantees to address, and plans to meet at least quarterly by phone to monitor fee collections and potentially propose an increase in funding as additional information is received.

The committee determined to continue funding the majority of programs at the levels requested with some minor adjustments. Three projects were deferred and will be reconsidered by the committee for recommendations at a future meeting:

Justice and Diversity Center of the Bar Association of San Francisco	
Superior Court of San Francisco County	
Child Custody Pilot Project	\$452,698
Los Angeles Center for Law and Justice	
Superior Court of Los Angeles County	
Domestic Violence Pilot Project	\$853,485
Neighborhood Legal Services	
Superior Court of Los Angeles County	
Housing Project–Requested Increase.....	\$2,121,660

The committee is recommending deferral of these requests for funds for a variety of reasons. The San Francisco project has had a difficult time retaining staff and providing the anticipated services. The committee expects that there will be savings this year that can be carried over into the next year and looks forward to a staffing level that will allow for a successful program. The Los Angeles domestic violence project is a large, new program at a time when resources are not what we had hoped, and the Los Angeles housing project requested a large increase in funding though it did not anticipate a significant increase in clients served.

Additionally, the committee is mindful of pending legislation to modify the Shriver Act (AB 2271) which would require all Shriver grantees to provide services to undocumented persons. Agencies that receive funds from the Legal Services Corporation are prohibited from representing undocumented persons. Committee staff has sought guidance from the Legal Services Corporation and the committee voted to ask those agencies to explore the option of subcontracting with another nonprofit or group of attorneys that do not face this requirement, and to identify if additional funds would be required to meet this requirement.

The committee anticipates making additional recommendations to the Judicial Council when more information is received from the programs as well as more information regarding revenues to support the program.

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 intra-branch 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: Sargent Shriver Application Summaries
2. Attachment B: Shriver Civil Counsel Act Implementation Committee Roster
3. Attachment C: Sargent Shriver Civil Counsel Act
4. Link A: Sargent Shriver Civil Counsel Act, as amended by AB 330 (Gabriel), http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB330

**Sargent Shriver Applications
FY 2020-2023**

Legal Services Organization and Court Partner	Budget Request for 2020-21
Central California Legal Services (CCLS) Superior Court of California, County of Fresno	\$386,858
<p>This Shriver project improves court access to justice for low-income unrepresented litigants in unlawful detainer proceedings and promotes fair judicial outcomes by increasing tenant education and representation. CCLS will educate and represent tenants using limited and full scope services, including settlement negotiation and trial advocacy. While remaining impartial and neutral, the Court will work to continue to collaborate with CCLS and other local organizations to explore innovative measures to address court accessibility. These measures include Multi-Agency Access Program social services referrals, web video education, and court website intuitive redesigns.</p>	
Centro Legal de la Raza Superior Court of California, Alameda County	\$640,323
<p>Low-income residents of Alameda County face both a justice gap and an intensifying regional housing crisis. The need for legal services to address landlord-tenant issues increases every year as displacement pressures escalate, and burdens on the court are increasing as well. The Shriver Courthouse Intervention Project will create robust courthouse-based services and increase full-scope representation to form an essential “safety net” for low-income litigants and increase court efficiencies. Project services will include representation at settlement conferences and trials and improved training in housing law for volunteer mediators.</p>	
Greater Bakersfield Legal Assistance Superior Court of California, County of Kern	\$813,579
<p>Greater Bakersfield Legal Assistance requests funding to continue the “Shriver Kern Housing Pilot Project” with its partner, the Superior Court of Kern County. The purpose of the pilot project is to provide legal representation in civil matters and improve court procedures and efficiencies for low-income litigants who are at or below 200% of the federal poverty level and remain unrepresented in the area of housing.</p>	

Legal Access Alameda Superior Court of California, Alameda County	\$93,342
<p>This project proposes to offer limited scope representation (including argument at hearing) by pro bono attorneys to all Shriver-eligible litigants on particular ‘Request for Order’ calendars. An ethical wall and use of pro bono attorneys allow us to offer representation to both sides. Two different staff attorneys--with different supervision structures--will provide in-court supervision and oversight of the pro bono attorneys. We also propose to conduct a Randomized Control Trial, comparing the outcomes and perceptions when a litigant is represented by counsel at a hearing, as compared to when self-help services are provided before and after the hearing.</p>	
Legal Aid Foundation of Santa Barbara Superior Court of Santa Barbara County	\$1,072,239
<p>Legal Aid and the Court propose to continue their successful and innovative Shriver program in Housing and Probate for Northern Santa Barbara County. Project services will be provided in Santa Maria and Lompoc. The project will include three Shriver project attorneys who will be supported by intake coordinators and supervised by the Director of Litigation. The court will also continue the services of the Probate Facilitator and the Housing Settlement Master, who are supported by one Judicial Assistant. This important collaboration has been ongoing since the Shriver program inception in 2011.</p>	
Legal Aid Society of San Diego San Diego Superior Court	\$3,047,856
<p>The San Diego “Unlawful Detainer Project” (UD) is a collaborative partnership among and between the Legal Aid Society of San Diego, serving as the lead legal services nonprofit corporation and the Superior Court for San Diego County. The UD Project is one of the original recipients of the Shriver funds and has been operating this pilot project since 2011.</p>	
Legal Services of Northern California (LSNC) Superior Court of California, County of Yolo	\$423,789
<p>The partners to this proposal seek funding to continue the housing court pilot project in Yolo County first established with Shriver funds in 2011. LSNC will provide full representation, unbundled services, expanded court-based self-help assistance, and mediation for housing court litigants. Factors considered in offering full representation include client vulnerability, opposing party representation, the nature and severity of the potential consequences for the client without representation, case complexity, access issues, and the merits of the case. The project also utilizes an environmental health specialist from the County’s Environmental Health Division who inspects and reports on cases involving allegations of substandard housing.</p>	

Los Angeles Center for Law and Justice (Custody) Los Angeles Superior Court	\$853,485
<p>This project (Project) provides legal services, such as advice and counsel, document preparation and court representation to eligible litigants involved in child custody cases. As the Project includes two law firms, it is able to offer legal services to both parties in a case. The Project serves litigants throughout Los Angeles County. Litigants will be referred to the Project from the court’s Self-Help and Resource Centers, Family Court Services, offices and court-based partners. Litigants can be referred in person to the Project’s courthouse office or referred via email. The Project will continue to develop referral mechanisms to increase access to services.</p>	
Neighborhood Legal Services of Los Angeles Los Angeles Superior Court	\$5,247,215
<p>This project was launched with a goal of providing an effective model of comprehensive high-quality representation for low-income litigants in Los Angeles County who are at imminent risk of losing their housing. Under this proposal, Shriver partners will continue to provide the same comprehensive services utilizing our centralized intake system and expand our prevention and eviction defense efforts by focusing on three core objectives:</p> <ol style="list-style-type: none"> 1. A targeted strategy to address gaps (i.e. default services, supportive services, etc.) in our current model; 2. Increase our capacity to provide robust representation for more litigants at their eviction hearings, and 3. Development of an expanded process for accurate tracking and assessment of participant outcomes in the long term. 	
San Diego Volunteer Lawyer Program (SDVLP) (Custody) San Diego Superior Court	\$409,352
<p>SDVLP will provide eligible clients with representation in their child custody disputes. For direct representation clients, Shriver counsel will draft pleadings, conduct discovery, and provide representation at child custody hearings. Shriver litigants will also receive the benefit of a scheduled settlement conference prior to any custody hearing. Shriver litigants who are eligible for self-represented litigant services will receive assistance drafting pleadings and will receive advice and counsel regarding their custody cases. This project is a continuation of the Shriver Custody project that SDVLP first implemented in, and has continued operating since, 2011.</p>	

San Diego Volunteer Lawyer Program (SDVLP) (Domestic Violence) San Diego Superior Court	\$231,135
<p>SDVLP will provide eligible clients with direct representation in their Domestic Violence Restraining Order (DVRO) cases, particularly in cases where child custody is at issue. Representation will include drafting pleadings, conducting discovery, counsel and advice regarding the DVRO process, and representation at DVRO hearings. The objective of this project is to protect low-income litigants who are victims of domestic violence and to balance the power dynamic in DVRO hearings. This project is a continuation of the Shriver domestic violence project that SDVLP first implemented during the 2014–2017 Shriver Grant Cycle, and has continued in the 2017–2020 Shriver Grant Cycle.</p>	
San Luis Obispo Legal Assistance Foundation Superior Court of California, San Luis Obispo County	\$686,399
<p>The proposed program will include a Housing Project, Elder Abuse Project and a Probate Project. The projects will (1) expand the Court’s current self-help center to include assistance with unlawful detainers, guardianships and conservatorships; (2) implement a Mandatory Settlement Conference with a Housing Settlement Master hired by the court for all unlawful detainer actions; and (3) provide free legal assistance of varying levels in housing, elder abuse, and guardianship and conservatorship cases.</p>	
Justice and Diversity Center of Bar Association of San Francisco San Francisco Superior Court	\$452,698
<p>The Sargent Shriver Custody Project, Shriver Assisted Self-Help (SASH), initially commenced operations in 2011 as one of the ten original Shriver pilot projects. SASH partners with the San Francisco Superior Court to provide free legal representation to low-income individuals who are at or below 200% of the federal poverty level and need representation in custody actions in which one of the parents is seeking sole legal or physical custody of a child, and the opposing side is represented. Additionally, the Self-Help desk provides information on options and the legal process to respondents when neither party has representation.</p>	
Los Angeles Center for Law and Justice (Domestic Violence) Los Angeles Superior Court	\$882,598
<p>This project (Project) will provide a continuum of services for litigants seeking Domestic Violence Restraining Orders (DVROs) at various levels of need and increase capacity to provide critical forms preparation assistance and other legal information in the Stanley Mosk courthouse. The Project adds staff to the various court-based self-help services as well as Master’s in Social Work interns to provide supportive services such as safety planning and connection with shelters, etc. As self-help services may be inadequate to meet all the needs of unrepresented parties in DVRO cases, the Project will provide legal representation to eligible litigants involved in DVRO cases referred by the Project partners. The Project will be able to offer legal services at all levels to both petitioners and respondents in the same case.</p>	

Shriver Civil Counsel Act Implementation Committee

As of January 2020

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THE SARGENT SHRIVER CIVIL COUNSEL ACT AS AMENDED SEPTEMBER 4, 2019

GOVERNMENT CODE CHAPTER 2.1 CIVIL LEGAL REPRESENTATION

68651.

(a) Legal counsel shall be appointed to represent low-income parties in civil matters involving critical issues affecting basic human needs in those specified courts selected by the Judicial Council as provided in this section.

(b) (1) Subject to funding specifically provided for this purpose pursuant to subdivision (e) of Section 70626 and donations provided pursuant to subdivision (e), the Judicial Council shall develop one or more programs in selected courts pursuant to a competitive grant process and a request for proposals. Programs authorized under this section shall provide representation of counsel for low-income persons who require legal services in civil matters involving housing-related matters, domestic violence and civil harassment restraining orders, probate conservatorships, guardianships of the person, elder abuse, or actions by a parent to obtain legal or physical custody of a child, as well as providing court procedures, personnel, training, and case management and administration methods that reflect best practices to ensure unrepresented parties in those cases have meaningful access to justice, and to gather information on the outcomes associated with providing these services, to guard against the involuntary waiver of those rights or their disposition by default. These programs should be designed to address the substantial inequities in timely and effective access to justice that often give rise to an undue risk of erroneous decision because of the nature and complexity of the law and the proceeding or disparities between the parties in education, sophistication, language proficiency, legal representation, access to self-help, and alternative dispute resolution services. In order to ensure that the scarce funds available for the programs are used to serve the most critical cases and the parties least able to access the courts without representation, eligibility for representation shall be limited to clients whose household income falls at or below 200 percent of the federal poverty level. Programs shall impose asset limitations consistent with their existing practices in order to ensure optimal use of funds.

(2) (A) In light of the significant percentage of parties who are unrepresented in family law matters, proposals to provide counsel in child custody cases should be considered among the highest priorities for funding.

(B) Up to 20 percent of available funds shall be directed to programs regarding civil matters involving actions under the Family Code, subject to the priority set forth in subparagraph (A). This subparagraph shall not apply to distributions made pursuant to paragraph (3).

(3) Amounts collected pursuant to subdivision (e) of Section 70626 in excess of the total amount transferred to the Trial Court Trust Fund in the 2011–12 fiscal year pursuant to subparagraph (E) of paragraph (1) of subdivision (c) of Section 68085.1 and subdivision (e) of Section 70626 shall be distributed by the Judicial Council without regard to subparagraph (B) of paragraph (2). Those amounts may be distributed by the Judicial Council as set forth in this subdivision. If the funds are to be distributed to new programs, the Judicial Council shall distribute those amounts pursuant to the process set forth in this subdivision.

(4) Each program shall be a partnership between the court, a qualified legal services project, as defined by subdivision (a) of Section 6213 of the Business and Professions Code, that shall serve as the lead agency for case assessment and direction, and other legal services providers in the

community who are able to provide the services for the program. The lead legal services agency shall be the central point of contact for receipt of referrals to the program and to make determinations of eligibility based on uniform criteria. The lead legal services agency shall be responsible for providing representation to the clients or referring the matter to one of the organization or individual providers with whom the lead legal services agency contracts to provide the service. Funds received by a qualified legal services project shall not qualify as expenditures for the purposes of the distribution of funds pursuant to Section 6216 of the Business and Professions Code. To the extent practical, the lead legal services agency shall identify and make use of pro bono services in order to maximize available services efficiently and economically. Recognizing that not all indigent parties can be afforded representation, even when they have meritorious cases, the court partner shall, as a corollary to the services provided by the lead legal services agency, be responsible for providing 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.

(5) The participating programs shall be selected by a committee appointed by the Judicial Council with representation from key stakeholder groups, including judicial officers, legal services providers, and others, as appropriate. The committee shall assess the applicants' capacity for success, innovation, and efficiency, including, but not limited to, the likelihood that the program would deliver quality representation in an effective manner that would meet critical needs in the community and address the needs of the court with regard to access to justice and calendar management, and the unique local unmet needs for representation in the community. Programs approved pursuant to this section shall initially be authorized for a three-year period, commencing July 1, 2011, subject to renewal for a period to be determined by the Judicial Council, in consultation with the participating program in light of the program's capacity and success. After the initial three-year period, the Judicial Council shall distribute any future funds available as the result of the termination or nonrenewal of a program pursuant to the process set forth in this subdivision. Programs shall be selected on the basis of whether, in the cases proposed for service, the persons to be assisted are likely to be opposed by a party who is represented by counsel. The Judicial Council shall also consider the following factors in selecting the programs:

(A) The likelihood that representation in the proposed case type tends to affect whether a party prevails or otherwise obtains a significantly more favorable outcome in a matter in which they would otherwise frequently have judgment entered against them or suffer the deprivation of the basic human need at issue.

(B) The likelihood of reducing the risk of erroneous decision.

(C) The nature and severity of potential consequences for the unrepresented party regarding the basic human need at stake if representation is not provided.

(D) Whether the provision of legal services may eliminate or reduce the potential need for, and cost of, public social services regarding the basic human need at stake for the client and others in the client's household.

(E) The unmet need for legal services in the geographic area to be served.

(F) The availability and effectiveness of other types of court services, such as self-help.

(6) Each applicant shall do all of the following:

(A) Identify the nature of the partnership between the court, the lead legal services agency, and the other agencies or other providers that would work within the program.

(B) Describe the referral protocols to be used, the criteria that would be employed in case assessment, why those cases were selected, the manner to address conflicts without violating attorney-client privilege when adverse parties are seeking representation through the program, and the means for serving potential clients who need assistance with English.

(C) Describe how the program would be administered, including how the data collection requirements would be met without causing an undue burden on the courts, clients, or the providers, the particular objectives of the project, strategies to evaluate their success in meeting those objectives, and the means by which the program would serve the particular needs of the community, such as by providing representation to limited-English-speaking clients.

(7) To ensure the most effective use of the funding available, the lead legal services agency shall serve as a hub for all referrals, and the point at which decisions are made about which referrals will be served and by whom. Referrals shall emanate from the court, as well as from the other agencies providing services through the program, and shall be directed to the lead legal services agency for review. That agency, or another agency or attorney in the event of conflict, shall collect the information necessary to assess whether the case should be served. In performing that case assessment, the agency shall determine the relative need for representation of the litigant, including all of the following:

(A) Case complexity.

(B) Whether the other party is represented.

(C) The adversarial nature of the proceeding.

(D) The availability and effectiveness of other types of services, such as self-help, in light of the potential client and the nature of the case.

(E) Language issues.

(F) Disability access issues.

(G) Literacy issues.

(H) The merits of the case.

(I) The nature and severity of potential consequences for the potential client if representation is not provided.

(J) Whether the provision of legal services may eliminate or reduce the need for, and cost of, public social services for the potential client and others in the potential client's household.

(8) If both parties to a dispute are financially eligible for representation, each proposal shall ensure that representation for both sides is evaluated. In these and other cases in which conflict issues arise, the lead legal services agency shall have referral protocols with other agencies and providers, such as a private attorney panel, to address those conflicts.

(9) Each program shall be responsible for keeping records on the referrals accepted and those not accepted for representation, and the reasons for each, in a manner that does not violate privileged communications between the agency and the prospective client. Each program shall be provided with standardized data collection tools and shall be required to track case information for each referral to allow the evaluation to measure the number of cases served, the level of service required, and the outcomes for the clients in each case. In addition to this information on the effect of the representation on the clients, data shall be collected regarding the outcomes for the trial courts.

(10) A local advisory committee shall be formed for each program, to include representatives of the bench and court administration, the lead legal services agency, and the other agencies or providers that are part of the local program team. The role of the advisory committee is to facilitate the administration of the local program and to ensure that the program is fulfilling its objectives. In addition, the committee shall resolve any issues that arise during the course of the program,

including issues concerning case eligibility, and recommend changes in program administration in response to implementation challenges. The committee shall meet at least monthly for the first six months of the program, and no less than quarterly for the duration of the funding period. Each authorized program shall catalog changes to the program made during the three-year period based on its experiences with best practices in serving the eligible population.

(c) The Judicial Council shall conduct a study to demonstrate the effectiveness and continued need for the programs established pursuant to this section and shall report its findings and recommendations to the Governor and the Legislature every five years, commencing June 1, 2020. The study shall report on the percentage of funding by case type and shall include data on the impact of counsel on equal access to justice and the effect on court administration and efficiency, and enhanced coordination between courts and other government service providers and community resources. This report shall describe the benefits of providing representation to those who were previously not represented, both for the clients and the courts, as well as strategies and recommendations for maximizing the benefit of that representation in the future. The report shall describe and include data, if available, on the impact of the programs on families and children. The report also shall include an assessment of the continuing unmet needs and, if available, data regarding those unmet needs.

(d) This section does not negate, alter, or limit any right to counsel in a criminal or civil action or proceeding otherwise provided by state or federal law.

(e) The Judicial Council may accept donations from public or private entities for the purpose of providing grants pursuant to this section.