



Judicial Council of California

455 Golden Gate Ave.
San Francisco, CA
94102-3688

Meeting Minutes

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are available through
the hyperlinks in
this document.

Judicial Council

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Friday, September 21, 2018

8:30 AM

San Francisco

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

Chief Justice Tani G. Cantil-Sakauye, Chair of the Judicial Council, called the closed session to order at 8:00 a.m.

OPEN SESSION (RULE 10.6(A)) – MEETING AGENDA

Attendance

Council Members

- Present:** 28 - Chief Justice Tani G. Cantil-Sakauye, Justice Ming W. Chin, Administrative Presiding Justice Brad R. Hill, Justice Harry E. Hull Jr., Justice Douglas P. Miller, Presiding Judge C. Todd Bottke, Presiding Judge Gary Nadler, Judge Maria O. Anderson, Judge Paul A. Bacigalupo, Judge Stacy Boulware Eurie, Judge Kyle S. Brodie, Judge Jonathan B. Conklin, Judge Samuel K. Feng, Judge Scott M. Gordon, Judge Harold W. Hopp, Judge Dalila Corral Lyons, Judge Ann C. Moorman, Judge David M. Rubin, Judge Kenneth K. So, Commissioner Rebecca Wightman, Ms. Nancy CS Eberhardt, 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:** 3 - Justice Marsha G. Slough, Senator Hannah-Beth Jackson, and Assembly Member Richard Bloom

Media Representative

Ms. Maria Dinzeo, *Courthouse News Service*

Others Present

Ms. Samantha Anaya, Mr. Alexander Cohen, Ms. Jessica Devencenzi, Mr. Michael Elliot, Ms. Carol Herrera, Ms. Sheran Morton, Ms. Angeline O'Donnell, Mr. Jason Schwarz, and Mr. Brian Stiger

Call to Order

Chief Justice Tani G. Cantil-Sakauye, chair of the Judicial Council, called the open session to order at 9:10 a.m. in the Judicial Council Board Room.

Public Comment

Ms. Carolyn Dasher and Ms. Sandy Walden presented comments on item 18-178 Trial Court Budget; Allocation of \$7 Million in Discretionary Funds. Mr. Mitchel Smith presented comments on general judicial administration.

Approval of Minutes

[18-122](#)

Minutes of the July 20, 2018, Judicial Council meeting

A motion was made by Mr. Kelly, seconded by Presiding Judge Nadler, that the minutes be approved. The motion carried by a unanimous vote. Judge Feng abstained.

Chief Justice's Report

The Chief Justice summarized her activities on behalf of the branch since the council's last meeting in July.

She attended Governor Jerry Brown's Senate Bill 10 signing ceremony, which resulted in multiple media requests for comment from local, statewide, national, and international media, and an interview on *BBC Worldwide*. While in the capital, she spoke with the Assembly Democratic Caucus at the invitation of Assembly Member Mike Gipson (D-Carson) regarding local, state, and national issues in the caucus. She attended the annual B.E. Witkin Judicial College for 104 new judges, commissioners, and referees where she was interviewed by the dean of the college, Presiding Judge Patricia M. Lucas, along with Judge Michael S. Groch at a luncheon program. They discussed a range of topics including diversity on the bench, public access to records, civic engagement, bail reform, and implicit bias.

At the National Conference of Appellate Court Clerks, civics education was the theme of the Chief's conversation with Superior Court of San Diego County Judge Carolyn Caietti, who initiated a learning program in her courtroom called *Judges in the Classroom*. Judge Caietti has offered her support to other courts interested in pursuing a learning partnership in their jurisdictions. Also in attendance were Supreme Court Clerk/Executive Officer Jorge Navarette and Assistant Clerk Colette Bruggman of the Court of Appeal, Third Appellate District, who were facilitating the conference for 86 of their national colleagues.

The Chief Justice attended the first annual meeting of the new California Lawyers Association (CLA) in San Diego. She was pleased to see that many important recognitions of dedicated public service continue to be supported by CLA. The Ronald M. George Public Lawyer of the Year Award recognized Richmond City

Attorney Bruce Goodmiller; the Bernard E. Witkin Medal was awarded to retired Supreme Court Justice Kay Werdegar; the Jack Berman Award went to Panida Rzonka; the Pfeiffer Award went to Lilies McCoy; and the Legislator of the Year Award was presented to Senator Tony Atkins, President pro Tempore. The Chief was honored to be recognized by the Conference of California Bar Associations (also known as CCBA), and supported by the California Lawyers Association, with their second award for the John Van de Kamp Justice Through Laws Award.

Other annual engagements attended by the Chief included the California Women Lawyers Annual Dinner, the State Bar Board of Trustees Annual Meeting, and the Bench-Bar Coalition meeting. She attended a number of California Judges Association events, including administering the oaths of office for Judge Paul A. Bacigalupo and his executive leadership as part of the association's annual conference; the theme was *Judging In a Rapidly Changing World*. Judge Ann Jones and Judge Elizabeth G. Macias moderated the annual conversation with the Chief and they discussed topics of the Assigned Judges Program, the independence of the judiciary, branch funding, and the Futures Commission. Assembly Members Evan Low, Ash Kalra, and Kansen Chu of the Asian-Pacific American Leadership Institute in Cupertino invited the Chief to their 21st annual gala to receive their Civic Leadership Award. The Chief commented that the institute is wide-ranging and strives to mentor and nurture new, socially conscious civic leaders.

Administrative Director's Report

[18-124](#)

Administrative Director's Report

Administrative Director Martin Hoshino reported on updates from the executive office, advisory groups, and education and training activities since the July meeting. He started by highlighting items from the consent agenda. He explained that 18 advisory bodies convened, mostly by conference call over the last two months, to continue work represented in the 41 recommendations on the consent agenda. These recommendations are derivative of the issues, and products of the expertise, research, discussions, debates, problem-solving efforts, and innovations, of more than 400 judicial officers participating in committees. He announced that the annual nominations and appointment cycle for membership of the advisory bodies is complete. The Chief Justice made 175 appointments to 28 committees that were effective on September 15, 2018.

Mr. Hoshino mentioned consent agenda item 18-147 from the Trial Court Budget Advisory Committee, which recommends a rule amendment for presiding judges to have eligibility for reappointment to an existing presiding or past presiding judge position. He explained that if approved, it would expand the pool of candidates who are knowledgeable and experienced in budget matters and avoid the loss of expertise.

Mr. Hoshino noted that the Trial Court Budget Advisory Committee is comprised of presiding judges and CEOs, helps the council in the preparation and implementation of the budget for the trial courts, and provides input on various budget and fiscal policy matters. He noted another item for consideration on the discussion agenda was item 18-178, which allocates \$75 million in new discretionary funding for trial courts included in the 2018 state budget. He also mentioned consent agenda item 18-171 regarding the expansion of the Online Traffic Adjudication Pilot Projects. The 2018 budget appropriated \$3.4 million in new operational funding and \$1.3 million in ongoing funds to expand partnerships with several superior courts to enhance processes related to ability-to-pay determinations, traffic infractions, fines and fees, and online adjudication, which is supported by the Governor and Legislature. If successful, the pilot project will lead to a broader directive to develop a proposal that shifts minor traffic infractions to a civil forum for resolution. He noted that traffic infractions constitute about 75 percent of all criminal filings today. The new funding in the Budget Act will allow expansion and add three to four new pilots. The council is being asked to approve the selection criteria for courts interested in joining the five pilot courts: San Francisco, Santa Clara, Shasta, Tulare, and Ventura. Evaluations based on the criteria will be complete over the next couple of months, and a request for final authorization to add the new courts will come before the council at its November business meeting.

Judicial Council Committee Presentations

[18-125](#)

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 Miller remarked that September is the first month of the council's calendar year, and that new members bring fresh perspective to the council and its committees. He reminded the council that the Executive and Planning committee sets the council meeting agenda and procedures. Council meeting agenda items have been vetted by E&P after being vetted by other advisory committees, task forces, and workgroups. Committee members have full-time day jobs so the hours of volunteer service they contribute are appreciated. Justice Miller introduced returning members of the E&P Committee: Judge Marla O. Anderson, who serves as vice-chair; Judge Stacy

Boulware Eurie; Judge Samuel K. Feng; Associate Justice Harry E. Hull, Jr.; Judge Gary Nadler; Judge David M. Rubin; and Ms. Gretchen Nelson. He welcomed new members: Mr. Patrick M. Kelly, Judge Dalila C. Lyons, and Mr. Michael M. Roddy.

Policy Coordination and Liaison Committee

Judge Kenneth K. So, chair of the Policy Coordination and Liaison Committee (PCLC), reported that the committee met four times in August and once in September, which was their annual in-person meeting. There, they oriented new committee members on the operation of PCLC to review and make recommendations for council-sponsored legislation. Judge So welcomed Justice Brad R. Hill, Ms. Nancy CS Eberhardt, and Ms. Kimberly Flener to the committee.

Judge So highlighted a couple of cases of legislation. For Senate Bill 10, PCLC recommends a position of support to replace cash bail with a risk assessment and supervision structure. PCLC also reviewed a bill dealing with disposition of evidence, theft, courthouses, and court interpreters and diversion. They considered Senate Bill 1155 regarding interpreters. Initially, PCLC supported the bill but changed their position to opposed because, as amended, Senate Bill 1155 could remove the flexibility for small claims courts to appoint temporary interpreters for litigants. The bill remains on the Governor's desk, and they are unsure if it will be signed.

On Wednesday, PCLC met in person and approved for circulation and public comment one legislative proposal for small claims dealing with civil discovery tiers. The committee adopted the 2018 *Legislative Policy Summary and* will consider recommendations for sponsored legislation that come before the council at the November meeting. Three council-sponsored bills have been enacted: Assembly Bill 2532 dealing with community service for infractions, Assembly Bill 2710 related to warrants, and Assembly Bill 3246 related to traffic. The last day for the Governor to sign or veto bills is September 30. PCLC will update the council on the remaining Judicial Council-sponsored bills at its next meeting. Judge So noted that Governmental Affairs is preparing the annual *Summary of Court-Related Legislation*, published in December, which will highlight all bills of interest to the courts and the judiciary. The Legislature will reconvene on December 3.

Rules and Projects Committee

Justice Harry E. Hull, Jr., chair of the Rules and Projects Committee (RUPRO), reported that RUPRO met twice and acted by e-mail once since the last council meeting. On July 25, RUPRO acted by e-mail to approve additions and revisions to the *Civil Jury Instructions* that the council has given RUPRO final authority to approve. On August 2, RUPRO met by telephone to consider circulating for public comment the rules and forms proposal arising from Proposition 66, the Death Penalty Reform and Savings Act of 2016. RUPRO approved circulation of those proposed rules. The proposal is expected to come before council at the November 30 business

meeting. RUPRO met by telephone on August 23 to consider 36 proposals, all of which circulated for comment except for a technical amendment report for which circulation is not required. RUPRO also considered and approved a request for appointment of subcommittee members with specialized knowledge to a subcommittee of the Family and Juvenile Law Advisory Committee. RUPRO recommended approval of the following rules, forms, and proposals on the consent agenda: items 18-127, 18-131, 18-133, 18-137, 18-139-18-145, 18-147-18-149, and 18-151-18-165.

Justice Hull welcomed new members to the Rules and Projects Committee: Judge Paul A. Bacigalupo, Ms. Kimberly Flener, Ms. Audra Ibarra, and Judge Ann C. Moorman. He noted the dedicated work of RUPRO staff and mentioned that they will miss the valuable guidance of Mr. Patrick O'Donnell as he retires from the Judicial Council.

Judicial Council Technology Committee

Judge Gary Nadler, vice-chair of the Judicial Council Technology Committee (JCTC), reported on the committee's activities since the last meeting. Since the July council meeting, the Technology Committee held one open meeting by teleconference and conducted an action by e-mail. Additionally, the Information Technology Advisory Committee (ITAC) and strategic plan workstream each met once. The first update to the strategic plan for technology was distributed for branch comment the previous Friday and was distributed for public comment. Judge Nadler welcomed new JCTC members, Judge Jonathan B. Conklin and Ms. Nancy CS Eberhardt.

Judge Nadler reported that on July 25, 2018, the committee approved a proposed rule amendment that would establish procedures for handling sealed and confidential materials submitted electronically in the Court of Appeal. During the September 10 meeting, JCTC received updates on the work of ITAC and its workstreams, the strategic plan for technology, and the information security framework. ITAC met on August 27 and discussed the California Courts Protective Order Registry and the status of the innovation grants being deployed throughout the state, and strategized ways to use them branchwide. Judge Nadler mentioned that the courts are engaged in participating and developing solutions to effectively address statewide technology issues, consistent with the Chief's Access 3D Initiative. Teams charged with the Futures Commission directives related to intelligent chat and remote appearances started their important work, as did the workstream that will produce the judicial branch's third tactical plan. In addition, the data analytics workstream met for the first time and sent a request for volunteers from all courts to participate in the identity and access management strategy workstream.

Judge Nadler reported that the self-represented litigants e-services workstream is drafting an RFP to start designing and building a statewide portal to enable those

without legal representation to research, e-file, and track noncriminal cases. The strategic plan update workstream for which Justice Slough is the executive sponsor continues to develop the updated strategic plan. Team members have met with or reached out to branch stakeholders including presiding judges, executive officers, appellate clerks, and court information technology managers. Judge Nadler stated that the team met on September 11 by teleconference to review and incorporate branch comments. A few days later, on September 14, the updated plan was distributed for a one-month comment period that will close on October 15. JCTC expects to provide the document to council for review and approval at the November meeting. Judge Nadler remarked that the branch must continue to work together to improve technology to help provide efficiencies in the courts, and to help provide all Californians access to justice.

Judicial Branch Budget Committee

Judge David M. Rubin, chair of the Judicial Branch Budget Committee (JBBC), reported on the committee's activities since the July meeting. They met on September 20 to welcome new members: Judge C. Todd Bottke, Justice Brad R. Hill, Judge Harold W. Hopp, Judge Ann C. Moorman, and Ms. Andrea K. Wallin-Rohmann. They provided an overview and history of the Judicial Branch Budget Committee and its work, mainly the oversight of the branchwide budget change proposals.

Judge Rubin noted that they are already working on 2021 budget change proposals, the \$10 million state emergency reserve, and the \$25 million Court Innovations Grant Program. There are 50 projects moving forward with approved funding. He explained that the total amount of the awards was about \$22.4 million with a grant lifecycle of three years. About \$16 million has been distributed, and additional funds will be distributed at the beginning of fiscal year 2019-20.

The quarterly reporting process has demonstrated savings and returned money to the JBBC so it can be distributed to other projects with unforeseen costs or increases. Judge Rubin remarked that they continue to maintain a contingency fund, a small savings account, where they can provide for unforeseen cost overruns. JBBC monitors the fund closely and will report any changes.

Judge Rubin reported that JBBC is using data collection and measuring outcomes. The metrics will reflect the success of each project by providing key insights on how the public benefits regarding access, and by helping the public gain greater, more flexible access to courts.

Judge Rubin explained that, overall, the grant projects are progressing as indicated in their initial project implementation plans, with minor exceptions resulting from unforeseen vendor, personnel, or regulatory challenges. In Monterey County, they have developed a phone app project that currently has 76 active beta testers. The

app provides text reminders and processes traffic payments. He noted that this technology can be exported to other counties and members of state government. A veterans court project from the Superior Court of San Francisco County has accepted 63 new clients and graduated 30 of those clients since the project started. In the Riverside court, the use of a traffic avatar has been fully implemented; usage increased from 175 times in May to over 700 times in June. The avatar speaks six different languages. Judge Rubin commented that this technology can also be replicated and exported to different counties, as well as different members of state government. Finally, he highlighted a remote video conferencing technology project in Butte County whose website, www.sharpcourts.org <<http://www.sharpcourts.org>>, is being used by 13 counties to provide resources, remote workshops for self-represented litigants, through self-help centers or directly through the website. This provides an opportunity for people from remote areas to access important information using technology.

CONSENT AGENDA

Approval of the Consent Agenda

A motion was made by Justice Chin, seconded by Judge Hopp, to approve all of the following items on the Consent Agenda. The motion carried by a unanimous vote.

18-127

Appellate Procedure: Finality of Appellate Division Decisions (Action Required)

Summary: The Appellate Advisory Committee recommends amending several California Rules of Court relating to the finality of appellate division decisions. The amendments would require court clerks to send appellate division decisions to the parties on the same day they are filed and tether the date of finality of appellate division decisions to the date they are sent, rather than the date they are filed.

Recommendation: The Appellate Advisory Committee recommends that the Judicial Council, effective January 1, 2019, approve the following amendments:

- Amend California Rules of Court, rules 8.888(a)(2) and (b)(2), 8.889(b)(1), 8.935(b)(2), 8.976(b)(2), and 8.1005(b)(1) so that the date of finality for appellate division decisions is triggered by the date on which the court clerk sends the decision to the parties, as opposed to the date on which the decision is filed; and
- Amend rules 8.887(b), 8.935(a)(1), and 8.976(a)(1) to require court clerks to send appellate division decisions to the parties, electronically when permissible, on the same day they are filed.

The amendments are intended to ensure that parties have sufficient time after receiving notice of appellate division decisions to prepare and file applications for certification for transfer and petitions for rehearing before

the time the appellate division loses jurisdiction.

[18-128](#)

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

Summary: To facilitate use of the settled statement procedure in unlimited civil cases, the Appellate Advisory Committee and the Family and Juvenile Law Advisory Committee recommend adopting new forms and revising existing forms for litigants and courts to use in preparing and certifying settled statements. This proposal is based on comments received last year in response to the Appellate Advisory Committee's invitation to comment on proposed changes to the settled statement rule and forms.

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

1. Approve *Other Party and Nonparty Witness Testimony and Other Evidence Attachment (Unlimited Civil Case)* (form APP-014A) to streamline the settled statement form by moving certain testimony and evidence to an attachment;
2. Approve *Information Sheet for Proposed Settled Statement* (form APP-014-INFO) to provide instructions for completing the settled statement form and information about the settled statement process;
3. Approve *Response to Appellant's Proposed Settled Statement (Unlimited Civil Case)* (form APP-020) to assist respondents with responding to and proposing any changes to appellants' proposed settled statements;
4. Approve *Order on Appellant's Proposed Settled Statement (Unlimited Civil Case)* (form APP-022) to allow the trial court judge to order certification of the statement, the preparation of a reporter's transcript, or modifications or corrections to the appellant's proposed settled statement;
5. Approve *Appellant's Motion to Use a Settled Statement (Unlimited Civil Case)* (form APP-025) to assist appellants who wish to use a settled statement but are not automatically entitled to do so and must seek a court order;
6. Revise *Appellant's Notice Designating Record on Appeal (Unlimited Civil Case)* (form APP-003) to be more understandable and easier to complete;
7. Revise *Respondent's Notice Designating Record on Appeal (Unlimited Civil Case)* (form APP-010) to conform to content changes in form APP-003;
8. Revoke and replace *Information on Appeal Procedures for Unlimited Civil Cases* (form APP-001), relabeled as form APP-001-INFO, to update and expand the existing form; and
9. Revoke *Proposed Statement on Appeal (Unlimited Civil Case)* (form APP-014) and replace with *Appellant's Proposed Settled Statement*

(*Unlimited Civil Case*) (form APP-014) to reformat, reorganize, and simplify the form.

[18-129](#)

Appellate Procedure: Notice of Appeal and Record on Appeal in Appellate Division Cases (Action Required)

Summary: The Appellate Advisory Committee recommends revising several notice of appeal forms and record election forms used in appellate division matters. The revisions provide more complete and accurate information, make corrections, and clarify various items.

Recommendation: The Appellate Advisory Committee recommends that the Judicial Council, effective January 1, 2019:

1. Revise *Notice of Appeal/Cross-Appeal (Limited Civil Case)* (form APP-102) to provide a way to indicate that there is more than one appellant and to clarify the requirements for serving and filing a notice designating the record on appeal;
2. Revise *Respondent's Notice Designating Record on Appeal (Limited Civil Case)* (form APP-110) to add references to the appellate fee waiver rules and to expand the sections regarding a reporter's transcript and a transcript from an electronic recording to better describe the respondent's options and responsibilities;
3. Revise *Notice of Appeal (Misdemeanor)* (form CR-132) to clarify the sections regarding appellant's attorney in the trial court and whether court-appointed counsel is being sought on appeal and to add an advisement of the potential penalties for not timely filing a notice regarding the record on appeal;
4. Revise *Notice Regarding Record on Appeal (Misdemeanor)* (form CR-134) to clarify the section regarding appellant's attorney, to reorganize the section regarding a reporter's transcript to better explain the appellant's options and responsibilities in designating this form of the record of the oral proceedings, and to more accurately set forth the potential penalties for failing to timely file a proposed statement on appeal; and
5. Revise *Notice of Appeal and Record on Appeal (Infraction)* (form CR-142) to clarify the section regarding appellant's attorney, to set forth the circumstances under which a proposed statement on appeal must be served on the prosecuting attorney, and to more fully describe the options for paying for a reporter's transcript or filing a certified transcript.

[18-130](#)

Rules Modernization: Electronic Sealed and Confidential Records and Lodged Records in the Court of Appeal (Action Required)

Summary: The Appellate Advisory Committee and the Information Technology Advisory Committee recommend amending the rules that establish procedures for handling

sealed and confidential materials to address records submitted electronically in the Court of Appeal. The proposed amendments encompass the court's return of lodged electronic records submitted in connection with a motion to seal that is denied. The proposal would (1) harmonize the appellate rules with parallel trial court rules governing sealed records, (2) make these appellate rules internally consistent, and (3) address the transmission and handling of records in a proceeding challenging a trial court's order denying a motion to seal.

Recommendation: The Appellate Advisory Committee and the Information Technology Advisory Committee recommend that the Judicial Council, effective January 1, 2019:

1. Amend rules 8.45 and 8.46 to add language requiring that sealed, conditionally sealed, and confidential records be transmitted to the reviewing court in a secure manner that preserves the confidentiality of the record;
2. Add new subdivision (e) to rule 8.46 to clarify procedures for transmitting, conditionally sealing, and returning or deleting a record that is the subject of a challenge to a trial court order denying a motion or application to seal;
3. Amend rule 8.46 to require that the notice sent by a court proposing to unseal a record on its own motion include the court's reason for unsealing the record;
4. Amend rules 8.46 and 8.47 to:
 - Provide that when the court denies a motion or application to seal, if the moving party does not timely direct the clerk to file the lodged record unsealed, the clerk must delete the lodged record if it is in electronic form, consistent with rule 2.551;
 - Clarify the procedure for lodging an unredacted version of a record in connection with an appellate filing by requiring that the confidential material within the record be identified as such in the filing, consistent with trial court rules; and
 - Make other minor changes in language and punctuation intended to clarify the rules.

[18-131](#)

Rules and Forms: *Confidential Information Form Under Civil Code Section 1708.85* (form MC-125) (Action Required)

Summary: The Civil and Small Claims Advisory Committee recommends revisions to the *Confidential Information Form Under Civil Code Section 1708.85* (form MC-125). This form is used by parties in cases filed under Civil Code section 1708.85, which provides a private cause of action for wrongful distribution of sexually explicit material, to file any material or information that the statute mandates be kept confidential and not included in the public files. The recommended revisions are intended to reflect amendments to Civil Code section 1708.5 that took effect January 1, 2018.

Recommendation: The Civil and Small Claims Advisory Committee recommends that the Judicial Council, effective January 1, 2019, revise form MC-125 to:

1. Expand the list of document types with which the form is being filed, by adding “other pleading” and “discovery document” to the checklist in Instructions item 2.
2. Make more explicit that the form may be used by any party when necessary, by adding a sentence to this effect in Instructions item 2.
3. Reflect the mandatory nature of filing the form, by highlighting the word “must” where it currently appears in Instructions items 1, 3, and 4, and replacing the phrase “may be” with “plaintiff may, and all other parties **must**” in Instructions item 4.
4. Include the full amended definition of the term “identifying characteristics,” along with a reference to the new definition of “online identifiers,” in Instructions item 4.
5. Modify the form heading to require additional identifying information about the party filing the form.

[18-133](#)**Criminal Procedure: Determination of Probable Cause Under Penal Code Section 1368.1(a)(2) (Action Required)**

Summary: The Criminal Law Advisory Committee recommends that the Judicial Council adopt rule 4.131 of the California Rules of Court to implement recent legislation which allows a prosecuting attorney to request a probable cause determination for a defendant who is incompetent to stand trial in order to meet criteria needed to establish a conservatorship over a defendant. The new rule would establish procedures for these determinations of probable cause.

Recommendation: The Criminal Law Advisory Committee recommends that the Judicial Council adopt California Rules of Court, rule 4.131, effective January 1, 2019, to establish procedures for determinations of probable cause under Penal Code section 1368.1(a)(2).

[18-134](#)**Criminal Justice Realignment: Petition and Order for Dismissal (Action Required)**

Summary: The Criminal Law Advisory Committee recommends revisions to two Judicial Council forms in response to recent legislation that authorizes dismissal relief for defendants sentenced to state prison for a felony that, if committed after the 2011 Realignment Legislation, would have been eligible for sentencing to a county jail under Penal Code section 1170(h)(5). The proposed revisions would incorporate the new statutory basis for relief on both forms.

Recommendation: The Criminal Law Advisory committee recommends that the Judicial Council, effective January 1, 2019, revise the *Petition for Dismissal* (form CR-180) and *Order for Dismissal* (form CR-181) to incorporate the new statutory basis for relief under Penal Code section 1203.42, as follows:

1. Add a reference to section 1203.42 to the caption of both forms;

2. Add new item 6 to form CR-180 for petitioners to indicate the new option for requesting relief under section 1203.42;
3. Include in the instructions for new item 6 of form CR-180 that the petitioner may provide an explanation in the space below or complete and attach an *Attached Declaration* (form MC-031) or submit other relevant documents, and revise the instructions in items 3, 4 and 5 to indicate the same, for relief under sections 1203.4a, 1203.49 and 1203.41, respectively;
4. Remove the check boxes on renumbered item 9 on form CR-180, and reference the forms of relief that the petitioner has indicated “under the Penal Code section(s) noted above”;
5. Add five references to section 1203.42 to the body of form CR-181 to incorporate the new basis for relief: a check box with a citation to section 1203.42 to items 3 and 4, and a citation to section 1203.42 to current items 6, 8, and 9; and
6. Add space for notations following items 1-5 on form CR-181, and reverse the order of items 6 and 7.

[18-135](#)**Criminal Procedure: Dismissal of Penal Code Section 647f Convictions (Action Required)**

Summary: The Criminal Law Advisory Committee recommends approving two new optional forms in response to recent legislation that invalidates convictions for violations of Penal Code section 647f (felony prostitution) and outlines a petition and application process for the dismissal of section 647f convictions. The proposed forms incorporate the new statutory basis for resentencing and dismissal relief.

Recommendation: The Criminal Law Advisory committee recommends that the council, effective January 1, 2019, approve the following optional forms:

1. *Petition/Application for Resentencing and Dismissal* (Pen. Code, § 1170.22) (form CR-404), which may be used by persons currently serving or having completed eligible sentences, incorporates the new statutory basis for relief under section 1170.22 and allows the petitioner/applicant to:
 - Identify an eligible conviction for a violation of Penal Code section 647f;
 - Request the desired relief;
 - Waive the statutory requirement under section 1170.22(a) that the matter be heard by the trial court that entered the judgment of conviction in the case; and
 - Waive his or her appearance; and
2. *Order After Petition/Application for Resentencing and Dismissal* (Pen. Code, § 1170.22) (form CR-405), which provides the court with the ability to:
 - Grant the requested relief; or
 - When applicable, resentence the petitioner/applicant.

[18-136](#) **Criminal Procedure: Petition to Seal Arrest and Related Records (Action Required)**

Summary: The Criminal Law Advisory Committee recommends the Judicial Council approve three new optional forms, including an information sheet, in response to recent legislation that added section 851.91 to the Penal Code. (Sen. Bill 239; Stats. 2017, ch. 537). Section 851.91 outlines the procedure for an individual who suffered an arrest that did not lead to a conviction to file a petition to have the arrest and related records sealed. Penal Code section 851.91(b)(3) directs the Judicial Council to develop forms to incorporate the new statutory basis for resentencing and dismissal relief. Since a significant number of petitioners are likely to be self-represented, the forms strive to use plain language (also known as “plain English”) so that users can readily understand the forms on their first reading.

Recommendation: The Criminal Law Advisory committee recommends that the Judicial Council, effective January 1, 2019, approve:

1. Petition to Seal Arrest and Related Records (Pen. Code, § 851.91) (form CR-409);
2. Order to Seal Arrest and Related Records (Pen. Code, §§ 851.91, 851.92) (form CR-410); and
3. Information on How to File a Petition to Seal Arrest and Related Records Under Penal Code Section 851.91 (form CR-409-INFO).

[18-137](#) **Criminal Procedure: Petition for Writ of Habeas Corpus (Action Required)**

Summary: The Criminal Law Advisory Committee recommends revising the Judicial Council form used by noncapital petitioners to petition for a writ of habeas corpus to update the form’s instructions on filing in the Supreme Court and Court of Appeal to reflect amendments to the appellate rules; replace or add authority that is more recent or more on point for the propositions they support; add language relevant to successive petitions and repetitive claims to include the court in which the petition is filed; and add citations as authority for the procedural bars of successiveness and repetitiveness.

Recommendation: The Criminal Law Advisory committee recommends that the council, effective January 1, 2019, revise form HC-001 to:

1. Update the instructions regarding filing in the Supreme Court and Court of Appeal to reflect amendments to the appellate rules;
2. Move the request in item 6(a) that the petitioner attach available documents supporting the claim to a new, standalone item 6(b) and reletter the current item 6(b) as item 6(c);

3. Add a request as item 7(b) that the petitioner attach available documents supporting the claim, and reletter the current item 7(b) as item 7(c);
4. Replace or add citations to authorities on the form with citations to authorities that are more recent or more on point for the propositions they support; and
5. Clarify that the procedural bars against successive and repetitive petitions include petitions that are filed in the same court.

[18-139](#)**Rules and Forms: Civil Form for Gender Discrimination Notice (Action Required)**

Summary: The Civil and Small Claims Advisory Committee proposes adopting a new form to comply with legislation requiring the Judicial Council to adopt, no later than January 1, 2019, a written advisory notice to be used by a plaintiff's attorney with each demand letter or complaint alleging gender discrimination in pricing. Assembly Bill 1615 (Stats. 2017, ch. 156) added the Small Business Gender Discrimination in Services Compliance Act to division 1 of the Civil Code. It defines a "gender discrimination in pricing services claim" as a civil claim based on an alleged price difference in similar services charged to a person because of the person's gender. Among its provisions is Civil Code section 55.62, which requires the Judicial Council to adopt a written advisory notice to be used by a plaintiff's attorney to comply with that statute's provisions, including the requirement that a notice accompany each demand letter or complaint. The text of the notice is set out in Civil Code section 55.62(c).

Recommendation: The Civil and Small Claims Advisory Committee recommends that the Judicial Council, effective January 1, 2019, adopt *Advisory Notice to Defendant* (form GDC-001), which, under statute, is a written advisory notice to be used by a plaintiff's attorney when making a claim for gender discrimination in pricing.

[18-140](#)**Civil Practice and Procedure: Review of Denial of Request to Remove Name From Shared Gang Database (Action Required)**

Summary: Recent legislation amended statutes relating to criminal gang databases and the process that authorizes challenges to a law enforcement agency's inclusion of a person in a shared gang database. The Civil and Small Claims Advisory Committee proposes amending the rule of court and revising the Judicial Council form that address a petition for a superior court to review a law enforcement agency's denial of a request for removal from a shared gang database to reflect this legislation.

Recommendation: The Civil and Small Claims Advisory Committee recommends that the Judicial Council, effective January 1, 2019:

1. Amend rule 3.2300 of the California Rules of Court to conform to changes made by legislation and further clarify the petition process; and

2. Revise form MC-1000 to change the form name, add instructions, and make changes to conform to legislation.

[18-141](#)**Rules and Forms: Electronic Filing and Service (Action Required)**

Summary: The Information Technology Advisory Committee recommends amending several rules related to electronic service and electronic filing. The purpose of the proposal is to conform the California Rules of Court to the Code of Civil Procedure, clarify and remove redundancies in rule definitions, and ensure indigent filers are not required to have a payment mechanism to create an account with electronic filing service providers.

Recommendation: The Information Technology Advisory Committee recommends, effective January 1, 2019, the Judicial Council:

1. Amend rule 2.250 of the California Rules of Court to:
 - Clarify the definition of “document.”
 - Revise the definitions of “electronic service,” “electronic transmission,” and “electronic notification” in rule 2.250(b) to refer to the definitions in Code of Civil Procedure section 1010.6 rather than duplicate them.
 - Add a definition of “electronic filing manager” because it is a new term used in the rules.
 - Add a definition of “self-represented,” which excludes attorneys’ rules applicable to self-represented persons that were intended to add protections for persons untrained in the law, not attorneys.
2. Amend rule 2.251 to require express consent for permissive electronic service consistent with the requirements of Code of Civil Procedure section 1010.6.
3. Amend rule 2.255 to:
 - Add electronic filing managers within the scope of the rule to ensure contracts with electronic filing managers will comply with Code of Civil Procedure section 1010.6.
 - Add a requirement that electronic filing service providers allow filers to create an account without having to provide payment information.
4. Amend rule 2.257 to create a procedure for electronically filed documents signed under penalty of perjury as required by Code of Civil Procedure section 1010.6.

[18-142](#)**Rules and Forms: Form for Withdrawal of Consent to Electronic Service (Action Required)**

Summary: The Information Technology Advisory Committee and Civil and Small Claims Advisory Committee recommend adopting a new form for withdrawal of consent to electronic service. The purpose of the proposal is to comply with Code of Civil Procedure section 1010.6(a)(6), which requires the Judicial Council to create such a form by January 1, 2019.

Recommendation: The Information Technology and the Civil and Small Claims Advisory Committees recommend that the Judicial Council adopt form EFS-006, Withdrawal of Consent to Electronic Service, effective January 1, 2019.

[18-143](#)

**Juvenile Law: Decriminalization of Penal Code section 647f
(Action Required)**

Summary: The Family and Juvenile Law Advisory Committee proposes approving two new forms to comply with Senate Bill 239, which requires the Judicial Council to promulgate forms to implement the legislation that repeals Penal Code section 647f and vacates convictions that were based on that code section. The proposed forms would allow those who are eligible for relief to request that their Penal Code 647f convictions be vacated and dismissed and that they be resentenced, if appropriate.

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

1. Form JV-742, *Request to Vacate Disposition and Dismiss Penal Code Section 647f Adjudication*, which is a request for relief and includes sections:
 - To request resentencing and dismissal for young people who may be on probation for multiple offenses, only one of which is a section 647f violation;
 - To request dismissal for young people who are no longer on probation for the section 647f violation;
 - Where the applicant can waive his or her appearance;
 - Where the applicant can ask for an interpreter; and
 - Where the applicant can waive the right to the original sentencing judge; and
2. Form JV-743, *Order After Request to Vacate Disposition and Dismiss Penal Code Section 647f Adjudication*, which allows the court to either terminate delinquency jurisdiction or state which terms of probation will be vacated.

[18-144](#)

**Trial Court Budget: Self-Help Funding, Allocation Methodology
for 2019-20 and Ongoing (Action Required)**

Summary: The Trial Court Budget Advisory recommends that the Judicial Council adopt new policy recommendations for self-help funding allocated to trial courts effective for fiscal year 2019-20 allocations and ongoing: (1) adopt a three-year population update schedule using rolling three-year average census data; (2) provide annual population updates to trial courts using rolling three-year average data for informational purposes only; and (3) maintain the current self-help allocation baseline of \$34,000 per court and revisit in 2021 after the November 30, 2020 report to the Legislature. These recommendations will ensure that

resources are allocated effectively and will provide adequate notice to courts so they can plan for funding changes.

Recommendation: The Trial Court Budget Advisory Committee (TCBAC) recommends that the Judicial Council take the following actions related to self-help funding to trial courts for 2019-20 allocations and ongoing: (1) adopt a three-year population update schedule using rolling three-year average census data; (2) provide annual population updates to trial courts using rolling three-year average data for informational purposes only; and (3) maintain the current self-help allocation baseline of \$34,000 per court and revisit in 2021 after the November 30, 2020 report to the Legislature.

These recommendations would take effect immediately and the first allocation changes to self-help funding based on this methodology would be made in 2021-22.

[18-145](#) **Rules and Forms: Declarations of Demurring or Moving Party Regarding Meet and Confer (Action Required)**

Summary: Recent legislation added to and amended the Code of Civil Procedure to require a meet-and-confer session before a party can file a motion to strike a pleading or a motion for judgment on the pleadings, and to provide for an extension of time if the parties are unable to meet and confer within the time allowed. The Civil and Small Claims Advisory Committee recommends revising two optional forms, one to implement the meet-and-confer requirements and the other to obtain a 30-day extension of time to file a motion to strike a pleading or a motion for judgment on the pleadings if the parties are unable to meet before the due date of the motion.

Recommendation: The Civil and Small Claims Advisory Committee recommends that the Judicial Council, effective January 1, 2019, revise *Declaration of Demurring or Moving Party Regarding Meet and Confer* (form CIV-140) and *Declaration of Demurring or Moving Party in Support of Automatic Extension* (form CIV-141) to add a motion to strike a pleading and a motion for judgment on the pleadings to the items that require a meet-and-confer session before filing in a trial court.

[18-147](#) **Judicial Council: Advisory Committee Membership Requirements (Action Required)**

Summary: The Trial Court Budget Advisory Committee recommends amending the rule that governs the committee to broaden its membership definition of “presiding judge” and to extend eligibility for reappointment to an existing presiding or past presiding judge member. In response to low numbers of nomination submissions from presiding judges, these changes would expand the pool of candidates who are knowledgeable and experienced in budget matters and avoid the loss of expertise. Finally, the committee recommends amending the rule to limit the Judicial

Council's nonvoting members to those members who have direct oversight over Budget Services-the chief administrative officer and the director of Budget Services.

Recommendation: The Trial Court Budget Advisory Committee (TCBAC) recommends that the Judicial Council, effective January 1, 2019, amend rule 10.64 to:

1. Redefine "presiding judge" to mean a current presiding judge or one who has served within six years of the year of the appointment as a committee member;
2. Extend eligibility for reappointment to an existing presiding or past presiding judge member; and
3. Limit the Judicial Council's nonvoting members to the chief administrative officer and the director of Budget Services, thus removing the chief of staff and chief operating officer.

18-148

Probate Conservatorship and Guardianship: Major Neurocognitive Disorders (Action Required)

Summary: The Probate and Mental Health Advisory Committee recommends revising eight Judicial Council forms to implement recent legislation that replaced the term "dementia" with "major neurocognitive disorder" to conform to usage in the fifth and current edition of the *Diagnostic and Statistical Manual of Mental Disorders*. The committee also recommends stylistic and technical changes to several of the forms to bring them up to date.

Recommendation: The Probate and Mental Health Advisory Committee recommends revising Judicial Council forms GC-310, GC-313, GC-333, GC-334, GC-335, GC-335A, GC-380, and GC-385, effective January 1, 2019, to add references to "major neurocognitive disorder" to all existing references to "dementia" and as follows:

1. Revise form GC-310, Petition for Appointment of Probate Conservator, to refer in item 5f more precisely to the language of Probate Code section 1420.
2. Revise form GC-313, Attachment Requesting Special Orders Regarding Dementia, to delete "Dementia" from the heading of item 5 so that it reads simply "Medications" and to make technical changes to clarify the context of the form's use.
3. Revise form GC-333, Ex Parte Application for Order Authorizing Completion of Capacity Declaration-HIPAA, to simplify the caption.
4. Revise form GC-334, Ex Parte Order Re Completion of Capacity Declaration-HIPAA, to simplify and clarify the caption, item 2, item 9, and the clerk's certification.
5. Revise form GC-335, Capacity Declaration-Conservatorship, to clarify the instructions and make technical changes.
6. Revise form GC-335A, Dementia Attachment to Capacity

Declaration-Conservatorship, to replace “dementia” with “major neurocognitive disorder” in the caption, delete “dementia” from the heading of item 9b so that it reads “Administration of medications” and delete “psychotropic” from the phrase “psychotropic medications” throughout item 9b to conform to the language in Probate Code section 2356.5(c), simplify the description of the standard for lack of capacity to give informed consent in items 9a(4) and 9b(4), and make technical changes.

7. Revise form GC-380, Petition for Exclusive Authority to Give Consent for Medical Treatment, to clarify that the form is mandatory and make technical changes.
8. Revise form GC-385, Order Authorizing Conservator to Give Consent for Medical Treatment, to clarify the instructions, clarify that the form is mandatory, and make technical changes.

[18-149](#)

Juvenile Law: School Notification of Delinquency Court Adjudication (Action Required)

Summary: The Family and Juvenile Law Advisory Committee recommends revising Judicial Council form JV-690 to correct inaccuracies in the listed offenses and to conform the form to Welfare and Institutions Code section 827(b)(1). The proposed changes reflect closely the language of Welfare and Institutions Code section 827(b) and give the court the option to indicate the specific code section of the offense that was adjudicated. The form would also be revised to include notice under Education Code section 48267.

Recommendation: The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective January 1, 2019, revise School Notification of Court Adjudication (form JV-690) to:

1. Provide clarity and conformity with the Welfare and Institutions Code on what information is disseminated to a school when a child has committed certain criminal offenses;
2. Include more specific information for the school on how the form may be disseminated, to enhance confidentiality and help avoid situations in which the form is disseminated incorrectly;
3. Remove offenses from the form that are no longer eligible as felonies or misdemeanors; and
4. Provide for notice under Education Code section 48267.

[18-151](#)

Family Law: Income and Expense Declaration (Action Required)

Summary: The Family and Juvenile Law Advisory Committee recommends making time-sensitive revisions to *Income and Expense Declaration* (form FL-150) to implement recent changes to the tax treatment of alimony (spousal support) under the Internal Revenue Code (IRC) of 1986. In addition, the committee

recommends updating the reference to a military housing allowance acronym in the form to clarify the meaning of the term.

Recommendation: The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective January 1, 2019, revise form FL-150 to reflect:

1. Amendments made by the Internal Revenue Code of 1986, effective December 31, 2018, that relate to spousal support judgments; and
2. Changes to the terms used to denote military allowances that are attributable as income to a party in a family law proceeding.

[18-152](#)

Juvenile Law: Dependency Hearings-Continued Condensing of the Rules of Court (Action Required)

Summary: The Family and Juvenile Law Advisory committee recommends amending five rules to delete some sections that unnecessarily repeat statutory language or replace them with references to the relevant code sections to enhance the brevity and accuracy of the rules.

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

1. Amend rule 5.526 of the California Rules of Court to delete language that restates the text in Welfare and Institutions Code sections 338-341 and 661-664 and replace it with references to those sections;
2. Amend rule 5.678 of the California Rules of Court to delete language that restates text in section 319 and replace it with references to section 319;
3. Amend Rule 5.690 of the California Rules of Court to clarify that it is governed by section 16501.1 in its entirety;
4. Amend rule 5.695 of the California Rules of Court to add a reference to the newly enacted section 361(d); and
5. Amend rule 5.708 to clarify that it is governed by section 16501.1 in its entirety, and to improve grammar and clarity.

[18-153](#)

Juvenile Law: Intercounty Placements (Action Required)

Summary: The Family and Juvenile Law Advisory Committee recommends amending one rule of the California Rules of Court, repealing and adopting one rule, and approving two Judicial Council forms to conform to recent statutory changes regarding who a child welfare agency must notice when moving a foster child to a different county.

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

1. Amend rule 5.610(c) of the California Rules of Court to delete the specific findings drawn from sections 375 and 750 and replace them with cross-references to those code sections;

2. Repeal rule 5.614 of the California Rules of Court because it simply restates the text in sections 380 and 755;
3. Adopt rule 5.614 of the California Rules of Court governing intercounty placements;
4. Approve Notice of Intent to Place Child Out of County (form JV-555) for optional use; and
5. Approve Objection to Out-of-County Placement and Notice of Hearing (form JV-556) for optional use.

[18-154](#)**Juvenile Law: Vacatur of Convictions Related to Human Trafficking and Preservation of Extended Foster Care Eligibility (Action Required)**

Summary: The Family and Juvenile Law Advisory Committee recommends that the Judicial Council amend three rules and adopt one rule of the California Rules of Court, revise 10 Judicial Council forms, and approve two Judicial Council forms to implement Assembly Bill 604 (Gipson; Stats. 2017, ch. 707), which clarified that extended foster care benefits are available to young people who have suffered adjudications related to human trafficking that are eligible for vacatur under Penal Code section 236.14. The committee further recommends revising form JV-462 to include certain changes necessitated by recent legislation, making a technical change to form JV-462, and revising form JV-367 to reflect how the form is typically used. Finally, the committee recommends amending rules 5.903 and 5.906 to clarify who may attend status review hearings for former wards who have become nonminor dependents.

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

1. Amend rule 5.906, *Request by nonminor for the juvenile court to resume jurisdiction*, to clarify that a young person whose underlying conviction was vacated pursuant to Penal Code section 236.14 is eligible for extended foster care;
2. Revise form JV-464-INFO, *How to Ask to Return to Juvenile Court Jurisdiction and Foster Care*, to state that extended foster care is available to a young person who was in foster care on his or her 18th birthday and whose underlying petition is subject to vacatur;
3. Revise form JV-466, *Request to Return to Juvenile Court Jurisdiction and Foster Care*, to include sections that seek information relevant to an applicant who has obtained relief under Penal Code section 236.14;
4. Revise form JV-470, *Findings and Orders Regarding Prima Facie Showing on Nonminor's Request to Reenter Foster Care*, to include orders applicable to a young person whose conviction was vacated under Penal Code section 236.14;
5. Revise form JV-472, *Findings and Orders After Hearing to Consider*

Nonminor's Request to Reenter Foster Care, to include orders applicable to a young person whose conviction was vacated under Penal Code section 236.14;

6. Adopt rule 5.811, *Modification to transition jurisdiction for a ward older than 17 years and 5 months with a petition subject to vacatur*, to establish the procedure that must be followed when a young person aged 17 years and 5 months or older is eligible for vacatur.
7. Amend rule 5.812, Additional requirements for any hearing to terminate jurisdiction over child in foster care and for status review or dispositional hearing for child approaching majority, to clarify that the court need not find that a young person whose petition is subject to vacatur has completed his or her rehabilitative goals because the young person is no longer subject to a delinquency adjudication and to specify that the court's order modifying jurisdiction to transition jurisdiction must be made before the underlying petition is vacated and must contain reference to certain findings required by title IV-E, as well as information about sealing and destruction of records related to the arrest and/or conviction.
8. Revise form JV-680, *Findings and Orders for Child Approaching Majority-Delinquency*, to include language that states the form also applies to children whose underlying petition is subject to vacatur pursuant to Penal Code section 236.14.
9. Revise form JV-682, *Findings and Orders After Hearing to Modify Delinquency Jurisdiction to Transition Jurisdiction for Child Younger Than 18 Years of Age*, to include the findings and orders that will transition the young person to the transition jurisdiction of the juvenile court.
10. Revise form JV-683, *Findings and Orders After Hearing to Modify Delinquency Jurisdiction to Transition Jurisdiction for Ward Older Than 18 Years of Age*, to include the findings and orders that will transition the young person to the transition jurisdiction of the juvenile court.
11. Approve form JV-748 *Request to Expunge Arrest or Vacate Adjudication (Human Trafficking Victim)*, which allows applicants to request that arrests and adjudications from various jurisdictions be expunged.
12. Approve form JV-749 *Order After Request to Expunge Arrest or Vacate Adjudication (Human Trafficking Victim)*.
13. Revise form JV-462 *Findings and Orders After Nonminor Dependent Status Review Hearing*, so that it comports with the findings and orders required by continuum of care reform.
14. Revise form JV-367 *Findings and Orders After Hearing to Consider Termination of Juvenile Court Jurisdiction Over a Nonminor*, to ensure that the title IV-E findings are made at hearings where termination of nonminor dependent status is considered but not ordered.
15. Revise form JV-320 *Orders under Welfare and Institutions Code Sections 366.24, 366.26, 727.3, 727.31*, to make a technical change.

16. Amend rule 5.903 *Nonminor Dependent Status Review Hearing*, to clarify who is entitled to attend nonminor dependent review hearings.
17. Amend rule 5.906 *Request by Nonminor for the Juvenile Court to Resume Jurisdiction*, to clarify who is entitled to attend nonminor dependent review hearings.

[18-155](#)**Judicial Council Budget: Allocation of Augmented Funding for Court Appointed Special Advocate Grant Program (Action Required)**

Summary: The Family and Juvenile Law Advisory Committee recommends approving a two-year plan for allocation of \$500,000 in additional Court Appointed Special Advocate (CASA) grant funding, included in the Budget Act of 2018. The augmentation provides funding to support efforts to increase by 20 percent the number of foster youth served (approximately 2,200 additional foster youth) and reduce backlogs of youth in the court system awaiting a volunteer assignment.

Recommendation: The Family Law and Juvenile Law Advisory Committee recommends that the Judicial Council, effective September 21, 2018, approve the allocation of \$500,000 to CASA programs as additional base funding for fiscal years (FY) 2018-19 and 2019-20, using the four-tiered base funding methodology adopted by the council in 2013 and reaffirmed at the July 20, 2018, Judicial Council meeting. The proposed distribution amounts are listed in Attachment A, at page 5.

[18-156](#)**Family Law: Transfer of Jurisdiction (Action Required)**

Summary: The Family and Juvenile Law Advisory Committee recommends the adoption of a new rule of court to implement family law-specific transfer of jurisdiction procedures to comply with the requirements of Assembly Bill 712 (Bloom; Stats. 2017, ch. 316). The legislation requires the council to adopt a rule of court to establish time frames for the transfer and receipt of jurisdiction over family law actions.

Recommendation: The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective January 1, 2019, adopt California Rules of Court, rule 5.97, to establish procedures to implement the family law-specific provisions of Code of Civil Procedure section 399 as required by recently enacted legislation.

[18-157](#)**Probate Conservatorship and Guardianship: Interstate Transfer (Action Required)**

Summary: The Probate and Mental Health Advisory Committee recommends approving six Judicial Council forms for optional use in proceedings to transfer conservatorships into and out of California under the California Conservatorship Jurisdiction Act (CCJA). The CCJA, enacted in 2014, provides the exclusive basis for determining whether a California court, rather than a court of another state, has jurisdiction to appoint a probate conservator. It also establishes a complex, multistep process for transferring a conservatorship proceeding from one state to another. These forms are intended to

help attorneys, self-represented litigants, and courts protect the interests of conservatees while navigating the transfer process as efficiently and effectively as possible.

Recommendation: The Probate and Mental Health Advisory Committee recommends that the Judicial Council, effective January 1, 2019, approve the following six forms for optional use in proceedings to transfer probate conservatorships between states, as defined, in accordance with the requirements of the California Conservatorship Jurisdiction Act (CCJA) (SB 940; Stats. 2014, ch. 553):

1. *Petition for Transfer Orders* (form GC-363);
2. *Provisional Order for Transfer* (form GC-364);
3. *Final Order Confirming Transfer* (form GC-365);
4. *Petition for Orders Accepting Transfer* (form GC-366);
5. *Provisional Order Accepting Transfer* (form GC-367); and
6. *Final Order Accepting Transfer* (form GC-368).

The CCJA applies only to general probate conservatorships. It does not apply to proceedings for the care or protection of a minor child, a person with a developmental disability, or a person subject to involuntary mental health care or treatment. (Prob. Code, § 1981.)

18-158

Juvenile Law: Information for Parents (Action Required)

Summary: The Family and Juvenile Law Advisory Committee recommends revising and renumbering one Judicial Council information form to provide accurate, up-to-date information to parents whose children are the subject of juvenile court wardship proceedings. The recommendation includes information about recent changes to the law that address consultation with counsel before custodial interrogation, parental responsibility for costs of services and support provided to the child, and sealing of juvenile justice court records.

Recommendation: The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective January 1, 2019, revise Juvenile Court-Information for Parents (form JV-060) to:

1. Change the title of the form to Juvenile Justice Court: Information for Parents;
2. Renumber the form as JV-060-INFO and format it as a plain-language information form;
3. Provide information about the limits established by Senate Bill 190 (Mitchell; Stats. 2017, ch. 678) to parental liability for fees and costs of services provided to their children;
4. Provide information about the attorney consultation requirement for children 15 years of age and younger established by Senate Bill 395 (Lara; Stats. 2017, ch. 681);
5. Provide current information about the law governing sealing of juvenile court

- records as amended by Assembly Bill 529 (Stone; Stats. 2017, ch. 685) and Senate Bill 312 (Skinner; Stats. 2017, ch. 679); and
6. Make clarifying and technical changes.

[18-159](#)**Protective Orders: Entry of Interstate and Tribal Protective Orders, Canadian Protective Orders, and Gun Violence Restraining Orders into CLETS (Action Required)**

Summary: The Family and Juvenile Law Advisory Committee and the Civil and Small Claims Advisory Committee recommend amending two rules of the California Rules of Court relating to protective orders to (1) include the registration of interstate and tribal court protective orders, Canadian protective orders, and gun violence restraining orders as protective orders that must be submitted to the court with a completed California Law Enforcement and Telecommunications System (CLETS) confidential information form; and (2) add records in gun violence prevention proceedings to the list of electronic court records that are accessible only at the courthouse and not remotely. These changes implement new statutory requirements. The Family and Juvenile Law Advisory committee also recommends the adoption of a new mandatory form to implement the requirements of Senate Bill 204 (Stats. 2017, ch. 98), which allows domestic violence protection orders issued in a Canadian civil court to be registered and enforced in California.

Recommendation: The Family and Juvenile Law Advisory Committee and the Civil and Small Claims Advisory Committee recommend that the Judicial Council, effective January 1, 2019:

1. Amend rule 1.51 to include interstate and tribal court protective orders, Canadian protective orders, and gun violence restraining orders as requiring submission to the court of a completed Confidential CLETS Information form;
2. Amend rule 2.503 to include gun violence prevention proceedings to the list of records that may not be accessed remotely; and
3. Adopt a new mandatory form, Order to Register Canadian Domestic Violence Protective/Restraining Order (form DV-630), to implement the requirements of Senate Bill 204.

[18-160](#)**Jury Service: Permanent Medical Excuse (Action Required)**

Summary: The Advisory Committee on Providing Access and Fairness recommends adoption of rule 2.1009 of the California Rules of Court to establish a process for a person with a disability to request a permanent medical excuse from jury service in cases where the individual, with or without accommodations, including the provision of auxiliary aids or services, is incapable of performing jury service.

Recommendation: The Advisory Committee on Providing Access and Fairness recommends that the Judicial Council, effective January 1, 2019, adopt rule 2.1009 of the California Rules of Court: Permanent medical excuse from jury service.

[18-161](#)**Probate Conservatorship and Guardianship: Appointment of Counsel (Action Required)**

Summary: The Probate and Mental Health Advisory Committee recommends approving two Judicial Council forms for optional use for applying for and ordering appointment of counsel for a ward or a proposed ward; a conservatee or a proposed conservatee, including a limited conservatee; or a person alleged to lack legal capacity in a proceeding under division 4 (beginning with section 1400) of the Probate Code, which includes the Guardianship-Conservatorship Law. The forms are needed to facilitate appointment of counsel for the specified persons as early in the proceedings as possible.

Recommendation: The Probate and Mental Health Advisory Committee recommends that the Judicial Council, effective January 1, 2019, approve:

1. Form GC-005, *Application for Appointment of Counsel*, to offer parties and interested persons an opportunity to request appointment of counsel under section 1470 or 1471 of the Probate Code; and
2. Form GC-006, *Order Appointing Legal Counsel*, to offer the courts an efficient method for appointing counsel under section 1470 or 1471 and to include an advisement about the responsibility to pay for the costs of appointed counsel.

[18-162](#)**Protective Orders: Protecting Information of People Under 18 Years Old (Action Required)**

Summary: The Family and Juvenile Law Advisory Committee and Civil and Small Claims Advisory Committee jointly recommend adopting rules of court, adopting eight forms (a set of four in the Domestic Violence Prevention series and a set of four in the Civil Harassment Prevention series), and revising two forms, in order to implement the provisions in Assembly Bill 953 (Stats. 2017, ch. 384) that seek to protect information relating to minors in domestic violence and civil harassment restraining orders.

Recommendation: To implement AB 953, the Family and Juvenile Law Advisory Committee and the Civil and Small Claims Advisory Committee recommend that the Judicial Council adopt eight new forms (four forms in the Domestic Violence Prevention series and a parallel set of four forms in the Civil Harassment Prevention series), revise two existing forms, adopt two California Rules of Court, and renumber one rule. The forms will eliminate the need for parties and the court to create specialized pleadings and orders, and the recommended rules will provide consistency in how these requests are processed within the judicial branch. Therefore, the committees recommend that the council take the following actions, effective January 1, 2019:

1. Adopt California Rules of Court, rules 3.1161 and 5.382;

2. Renumber rule 3.1152 to rule 3.1160;
3. Adopt Request to *Keep Minor's Information Confidential* (forms CH-160 and DV-160);
4. Adopt *Order on Request to Keep Minor's Information Confidential* (forms CH-165 and DV-165);
5. Adopt *Notice of Order Protecting Information of Minor* (forms CH-170 and DV-170);
6. Adopt *Cover Sheet for Confidential Information* (forms CH-175 and DV-175); and
7. Revise *Notice of Court Hearing* (forms CH-109 and DV-109).

[18-163](#)

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 and Judicial Council forms 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 Judicial Council, effective September 24, 2018, amend:

1. Rule 5.552 of the California Rules of Court to correct a typographical error in rule 5.552(b) that erroneously refers to the *Request for Disclosure of Juvenile Case File* as form “7-570” instead of “JV-570”; and
2. The heading of article 2 of chapter 13 of division 3 of title 5 from “Fitness Hearings” to “Hearing on Transfer of Jurisdiction to Criminal Court” to make it consistent with the language in Welfare and Institutions Code section 707 and the amended rules of court.

[18-164](#)

Criminal and Appellate Procedure: Record Preparation in Death Penalty Cases (Action Required)

Summary: To make the record preparation process in death penalty cases more efficient, the Proposition 66 Rules Working Group recommends adopting several new rules and amending several existing rules relating to the content and preparation of the record on appeal in these cases. The working group also recommends adopting six new mandatory forms designed to assist in the record preparation process. These recommended rules and forms are intended to partially fulfill the Judicial Council’s rule-making obligations under Proposition 66.

Recommendation: The Proposition 66 Rules Working Group recommends that the Judicial Council, effective April 25, 2019:

1. Adopt Cal. Rules of Court, rules 4.119 and 4.230, to address the responsibilities of counsel in pretrial and trial proceedings, respectively, in cases in which the death penalty may be imposed to facilitate preparation of a complete and accurate record during these proceedings by:
 - Reviewing, signing, and submitting a checklist outlining their record preparation responsibilities;
 - Preparing and submitting lists of appearances and motions made and exhibits and, in trial proceedings, jury instructions offered on behalf of the party they represent; and
 - Complying with the requirements of rule 2.1040 relating to electronic recordings presented or offered into evidence; and
 - In trial proceedings:
 - o Reviewing daily reporter's transcripts of the trial proceedings and bringing errors to the attention of the court, other than immaterial typographical errors that cannot conceivably cause confusion; and
 - o Submitting copies to the court of any audio or visual aids used in jury selection or presentations to the jury;
2. Amend rule 8.600, to delete the provisions addressing topics relating to the record on appeal in capital cases;
3. Adopt rule 8.608, to contain the record-related provisions deleted from rule 8.600;
4. Amend rule 8.610, to:
 - Clarify some items currently on the list of items that must be included in the clerk's transcript in capital cases;
 - Add to this list the following items that are regularly needed, but sometimes left out of, the clerk's transcript: any court-ordered diagnostic or psychological report required under Penal Code section 1369, visual aids submitted to the court under proposed rule 4.230, the table correlating the jurors' names with their identifying numbers, and documents filed under Penal Code section 987.2 or 987.9; and
 - Make other minor clarifying and conforming changes;
5. Adopt rule 8.611, to address the handling of juror-identifying information in the record of capital cases;
6. Amend rule 8.613, relating to preparing and certifying the record of preliminary proceedings in capital cases and rule 8.616, relating to preparing the record of trial proceedings in capital cases, to:
 - Require the trial court clerk to notify counsel when counsel must submit the lists of appearances, motions, exhibits, and jury instructions required under new rules 4.119 and 4.230 and to send copies of these lists to counsel with the reporter's transcript and, under rule 8.616, the clerk's transcript; and
 - Encourage the clerk to deliver the clerk's transcript in electronic form if the court is able to do so;

7. Further amend rule 8.613 and amend rule 8.619 relating to review and certification of the record of trial proceedings for completeness to:
 - Require counsel to review the lists of appearances, exhibits, motions, and jury instructions required under new rules 4.119 and 4.230 as part of their review of the record of the proceedings;
 - Require that, within 21 days after the clerk delivers the transcripts and lists to counsel, trial counsel confer with each other regarding any errors or omissions they have identified in their review;
 - Clarify that counsel may file a joint request for corrections or statement that no corrections are needed; and
 - Make other minor clarifying and conforming changes;
8. Further amend rules 8.613 and 8.619 and amend rule 8.622 relating to review and certification of the record of trial proceedings for accuracy, to clarify that immaterial typographical errors that cannot conceivably cause confusion are not required to be brought to the court's attention;
9. Further amend rules 8.619 and 8.622 to:
 - Extend the deadlines for counsel to review the record and request corrections if the clerk's and reporter's transcripts combined exceed 10,000 pages; and
 - Provide that the time for the trial court to certify the record begins when the last request to include additional materials or make corrections is filed or, under rule 8.619, the last statement that counsel does not request any additions or corrections is filed;
10. Further amend rule 8.622, to:
 - Provide that a party may request that a copy of any documentary exhibit be included in the clerk's transcript and must state the reason that the exhibit needs to be included in the clerk's transcript;
 - Require appellate counsel, as part of their review of the record, to review all sealed records that they are entitled to access under rule 8.45 and file an application to unseal any sealed records that counsel determines no longer meet the criteria for sealing;
 - Unless otherwise ordered by the court, require defendant's appellate counsel and the trial counsel from the prosecutor's office to confer regarding any request for corrections to the record and any application to unseal records served on the prosecutor's office; and
 - Make other minor clarifying and conforming changes;
11. Repeal rule 8.625, which is obsolete;
12. Adopt new *Capital Case Attorney Pretrial Checklist* (form CR-600), *Capital Case Attorney List of Appearances* (form CR-601), *Capital Case Attorney List of Exhibits* (form CR-602), *Capital Case Attorney List of Motions* (form CR-603), *Capital Case Attorney List of Jury Instructions* (form CR-604), and *Capital Case Attorney Trial Checklist* (form CR-605) for mandatory use by attorneys in complying with the requirements of new

rules 4.119 and 4.230; and

13. Refer to the appropriate Judicial Council advisory body or bodies, for their consideration, commentators' suggestions for additional substantive changes to the rules relating to the record on appeal that the working group was not able to consider at this time.

[18-165](#)

Jury Instructions: Additions, Deletions, 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 21, 2018, 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.

[18-166](#)

Collaborative Justice: Recommended Allocations of Fiscal Year 2018-19 Substance Abuse Focus Grants (Action Required)

Summary: The Collaborative Justice Courts Advisory Committee recommends that the Judicial Council fund 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 2018 (item 0250-101-0001), and the Dependency Drug Court Augmentation to the grant program through the federal Court Improvement Program funds for fiscal year (FY) 2018-19 (item 0250-101-0890). The committee recommends funding programs in 49 courts for FY 2018-19 with these annual grants 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 21, 2018, approve the distribution of grants from the Collaborative Justice Courts Substance Abuse Focus Grant Program and the Dependency Drug Court Augmentation for FY 2018-19.

The proposed distribution is listed in the last column of Attachment A, Allocation Summary:

Fiscal Years (FY) 2017-18 and 2018-19.

[18-167](#)

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

Summary: The Budget Act of 2018 includes over \$25 million in the Equal Access Fund for distribution to legal services providers and support centers. These monies are distributed primarily in two parts: IOLTA (Interest on Lawyers' Trust Accounts)

-formula grants and partnership grants (with a small amount also distributed for administration). The Legal Services Trust Fund Commission of the State Bar recommends approving distribution of \$23,039,970 in IOLTA-formula grants for fiscal year (FY) 2018-19, according to the statutory formula in the state Budget Act, and \$2,575,000 in partnership grants for 2019. 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 \$23,039,970 in IOLTA-formula grants for FY 2018-19 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 \$2,575,000 in Equal Access Fund partnership grants to the following legal services agencies for programs conducted jointly with courts to provide legal assistance to self-represented litigants:

1. Alameda County Bar Association Volunteer Legal Services
 - Family Law Day of Court Project ... \$30,000
 - Family Law Status Conference ... \$65,000
2. Bay Area Legal Aid
 - San Mateo County Consumer Debt Clinic...\$30,000
3. Bet Tzedek Legal Services
 - Self-Help Elder and Dependent Adult Restraining Order Clinic (Los Angeles County) ... \$80,000
4. California Rural Legal Assistance, Inc.
 - San Luis Obispo County Rental Clinic for Self-Represented Litigants ...\$45,000
5. Central California Legal Services, Inc.
 - Guardianship Project ... \$70,000
 - Tenant/Landlord Housing Law Project (Fresno) ... \$70,000
6. East Bay Community Law Center
 - Traffic Flash Clinic (Alameda) ... \$60,000
7. Elder Law and Advocacy
 - Imperial County Unlawful Detainer/Elder Abuse Restraining Order Clinic ...\$68,000
8. Family Violence Law Center
 - Domestic Violence Pro Per Project (Alameda) ... \$23,000
9. Greater Bakersfield Legal Services
 - Partnership Shriver Grant (Kern) ... \$103,000
10. Justice and Diversity Center
 - Family Law Assisted Self-Help/Case Resolution (FLASH/CARE) Project

- (San Francisco) ... \$50,000
- Shriver-SASH Self-Help Custody (San Francisco) ... \$80,000
- 11. LACBA Counsel for Justice
 - Domestic Violence Legal Services Project (Los Angeles) ...\$90,000
- 12. Legal Aid Foundation of Los Angeles
 - Long Beach Self-Help Center ... \$60,000
- 3
- 13. Legal Aid Foundation of Santa Barbara
 - Shriver-Guardianship Project (Northern Santa Barbara County) ... \$103,000
- 14. Legal Aid of Marin
 - Community Court Expansion ... \$80,000
- 15. Legal Aid Society of Orange County
 - Consumer Debt Workshop at Central Justice Center (Orange) ...\$47,000
 - Consumer Debt Workshop at Norwalk Courthouse (Los Angeles) ...\$35,000
 - Unlawful Detainer Workshop a at Central Justice Center (Orange) ...\$66,000
 - Unlawful Detainer Workshop at Norwalk Courthouse (Los Angeles) ...\$60,000
- 16. Legal Aid Society of San Bernardino
 - Caregivers Accessing Justice Guardianship Program ...\$85,000
- 17. Legal Aid Society of San Diego, Inc.
 - Name/Gender Change Clinic ...\$85,000
 - Unlawful Detainer Clinic Expansion Project ... \$100,000
- 18. Legal Assistance for Seniors
 - Partnership to Assist Guardianship Litigants ...\$58,000
- 19. Legal Services of Northern California
 - Mother Lode Pro Per Project (Amador, Calaveras, El Dorado, Placer) ... \$85,000
 - Small Claims, Guardianship & Shriver Housing Self-Help Project (Yolo) ... \$82,000
- 20. Los Angeles Center for Law and Justice
 - Family Law Information for Parents ... \$90,000
- 21. Neighborhood Legal Services of Los Angeles County
 - Chatsworth Self-Help Legal Access Center Project ...\$100,000
 - Pasadena Unlawful Detainer Assistance Project ...\$80,000
 - Shriver LA Self-Help Unlawful Detainer Clinic ... \$140,000
- 22. Public Counsel
 - Guardianship Clinic (Los Angeles) ... \$45,000
- 23. Public Law Center
 - Orange County Courthouse Guardianship Clinic ... \$60,000
- 24. Riverside Legal Aid
 - Small Estates Assistance Program ... \$90,000
- 25. San Diego Volunteer Lawyer Program

Central Division Restraining Order Clinic ... \$100,000

26. Santa Clara University Alexander Law Center

Consumer Debt Clinic... \$60,000

Total ... \$2,575,000

See Attachment A, Equal Access Fund: Distribution of Funding for IOLTA-Formula Grants and Partnership Grants under the Budget Act of 2018, for the text of the commission's report and the report's attachments.

[18-168](#)

Judicial Council Report to the Legislature: Revenue Collected for Fiscal Year 2017-18 (Action Required)

Summary: The Judicial Council's Funds and Revenues Unit of Budget Services recommends approval of the *Report of Revenue Collected for Fiscal Year 2017-18*. This is the first report required under Government Code section 68514, which became effective June 27, 2017, and requires the Judicial Council to annually report on revenue collections from criminal fines and fees related to infractions and misdemeanors for each court and county.

Recommendation: The Judicial Council's Funds and Revenue Unit of Budget Services recommends that the Judicial Council, effective September 21, 2018:

1. Approve the Report of Revenue Collected for Fiscal Year 2017-18; and
2. Direct Judicial Council staff to submit the report to the Legislature by October 1, 2018.

[18-169](#)

Trial Court Budget: 2017-18 Preliminary One-Time Reduction for Fund Balances Above the 1 Percent Cap (Action Required)

Summary: The Trial Court Budget Advisory Committee recommends that the Judicial Council approve a preliminary one-time allocation reduction of \$658,398 to eight courts that are projecting the portion of their ending fund balance that is subject to the 1 percent balance cap to exceed the cap by \$658,398, as required by Government Code section 77203.

Recommendation: The Trial Court Budget Advisory Committee (TCBAC) recommends that the Judicial Council, effective September 21, 2018, approve a preliminary one-time allocation reduction of \$658,398 to eight courts that are projecting the portion of their ending fund balance that is subject to the 1 percent balance cap to exceed the cap by \$658,398, as required by Government Code section 77203.

[18-170](#)

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

Summary: The Trial Court Budget Advisory Committee's Fiscal Planning Subcommittee recommends that the Judicial Council approve three new requests and eight

amended requests from nine trial courts for Trial Court Trust Fund funds to be held on behalf of the trial courts. Under the Judicial Council-adopted process, courts may request that funding reduced as a result of a court's exceeding the 1 percent fund balance cap be retained in the Trial Court Trust Fund for the benefit of that court.

Recommendation: The Fiscal Planning Subcommittee of the Trial Court Budget Advisory Committee recommends that the Judicial Council, effective September 21, 2018:

Approve the following new requests totaling \$273,965 (Attachment A):

1. \$40,000 request of the Superior Court of Mono County (Attachment C);
 2. \$50,000 request of the Superior Court of Mono County (Attachment D);
- and
3. \$183,965 request of the Superior Court of Solano County (Attachment E).

Approve the following amended requests totaling \$3,234,385 (Attachment B):

4. \$1,258,488 request of the Superior Court of Sacramento County, which reduces its original request of \$1,858,731 by \$600,243 (Attachment F).
5. \$381,483 request of the Superior Court of Sacramento County, which increases its original request of \$161,169 by \$220,314 (Attachment G).
6. Request of the Superior Court of Napa County to amend the fiscal year to expend \$21,504 from 2017-18 to 2018-19 (Attachment H).
7. Request of the Superior Court of Lassen County to amend the fiscal year to expend \$75,925 from 2015-16 to 2018-19 (Attachment I).
8. \$568,183 request of the Superior Court of Alameda County, which reduces its original request of \$713,693 by \$145,510 (Attachment J).
9. \$465,234 request of the Superior Court of Orange County, which reduces its original request of \$642,384 by \$177,150 (Attachment K).
10. \$43,568 request of the Superior Court of Monterey County, which reduces its original request of \$51,914 by \$8,346 (Attachment L).
11. Request of the Superior Court of Colusa County to amend the fiscal year to expend \$420,000 from 2016-17 to 2020-21 (Attachment M).

[18-171](#)

Traffic: Expansion of Online Traffic Adjudication Pilot Project (Action Required)

Summary: The Budget Act of 2018 appropriated \$3.4 million in new operational funding and \$1.3 million in ongoing funds to support and expand on the Judicial Council's partnership with five superior courts initially funded by a U.S. Department of Justice grant to enhance processes for ability-to-pay determinations for traffic infraction fines and fees and adjudicating cases online. The act authorizes the Judicial Council to select at least eight courts to expand the Online Traffic Adjudication Pilot Project and further test and develop ability-to-pay and other online adjudication functions. Judicial Council staff request the council's approval

of the proposed court selection timeline and selection criteria for adding three to four additional courts to join the five already involved in the pilot.

Recommendation: Judicial Council staff recommend that the council, effective September 21, 2018:

1. Approve the proposed pilot court selection timeline; and
2. Approve the recommendation establishing a process to select three to four courts to add to the existing five currently partnering with the Judicial Council.

The expanded pilot spans July 1, 2018, through June 30, 2022.

DISCUSSION AGENDA

[18-179](#)

Senate Bill 10 (No Action Required. There are no materials for this item.)

Summary: Senate Bill 10 (Hertzberg, Stats. 2018, ch. 244) authorizes a change to California's prearrest release system from a money-based system to a risk-based release and detention system. SB 10 assumes that a person will be released on his or her own recognizance or supervised own recognizance with the least restrictive nonmonetary condition or combination of conditions that will reasonably assure public safety and the defendant's return to court. During this session, Judicial Council members will review the details of SB 10, focusing on the requirements placed on the trial courts and their justice partners, and the responsibilities of the Judicial Council. With an implementation date of October 1, 2019, JCC staff will provide an overview of the implementation plan.

[18-177](#)

Trial Court Budget: FY 2018-19 Allocation from Trial Court Trust Fund to Court Interpreter Program (Action Required)

Summary: The Trial Court Budget Advisory Committee recommends approving a one-time allocation of fund balance from the Trial Court Trust Fund to address an anticipated shortfall in the Court Interpreter Program for fiscal year (FY) 2018-19, not to exceed the current \$3.4 million estimated amount required to cover cost increases and maintain service levels.

Recommendation: The Trial Court Budget Advisory Committee (TCBAC) recommends that the Judicial Council, effective September 21, 2018:

1. Approve an allocation of fund balance from the Trial Court Trust Fund (TCTF) on a onetime basis to address an anticipated shortfall in the Court Interpreter Program (CIP) for FY 2018-19, not to exceed the current \$3.4 million estimated amount required to cover cost increases and maintain service levels; and
2. Direct Judicial Council staff to continue to monitor the CIP fund and will provide regular updates to TCBAC to report any changes and to incorporate any additional funding after the Governor's proposed budget is released in January 2019.

A motion was made by Mr. Kelly, seconded by Judge Boulware Eurie, that this

proposal be approved. The motion carried by a unanimous vote.

[18-178](#)

Trial Court Budget: Allocation of \$75 Million in Discretionary Funds (Action Required)

Summary: The Trial Court Budget Advisory Committee recommends that the Judicial Council approve allocation of \$75.0 million in discretionary funding provided in the Budget Act of 2018. The recommendation is to allocate \$3.6 million to bring cluster 1 courts to 100 percent of their funding need, \$0.8 million for court-provided non-sheriff security, and \$70.6 million in discretionary funds to all courts, save for the cluster 1 courts, proportionally based on their fiscal year (FY) 2018-19 base allocation following the council actions taken on July 20, 2018. The committee also wants to indicate that the trial courts recognize and intend to comply with the legislative intent that \$10.0 million of the \$75.0 million be utilized to increase the level of court reporters in family law cases.

Recommendation: The Trial Court Budget Advisory Committee (TCBAC) recommends that the Judicial Council, effective September 21, 2018, allocate the \$75.0 million in discretionary funds in the Budget Act of 2018 as follows:

1. Allocate \$3.6 million to bring all cluster 1 courts up to 100 percent of funding need.
2. Allocate \$0.8 million, representing a 1.96 percent increase, for court-provided non-sheriff security.
3. Allocate the remainder of the \$75.0 million, totaling \$70.6 million in discretionary funds, to all courts, save for the cluster 1 courts, proportionally based on their FY 2018-19 base allocation following the council actions taken on July 20, 2018. Included with this allocation is the Legislature's appropriation intent language that \$10.0 million be utilized to increase the level of court reporters in family law cases and that the \$10.0 million not supplant existing trial court expenditures on court reporters in family law cases.

This item was approved as amended by the Judicial Council. The council approved the minutes for this item via circulating order CO-18-01, which will appear on the council's November 2018 meeting agenda as item 18-228.

INFORMATION ONLY ITEMS (NO ACTION REQUIRED)

[18-119](#)

Report to the Legislature: State Trial Court Electronic Filing and Document Service Accessibility Compliance

Summary: Assembly Bill 103 (Stats. 2017, ch. 17), the public safety bill approved by the Governor on June 27, 2017, amended Code of Civil Procedure section 1010.6(g), which requires that any system for the electronic filing and service of documents used by a California trial court must be accessible to individuals with disabilities as provided in the statute. The amendment also requires the council to submit four reports between June 2018 and December 2023 to the appropriate committees of the Legislature relating to the trial courts that have implemented a system of electronic filing and

service of documents. This June 2018 report is the first of the four submissions.

[18-180](#)**Trial Courts: Annual Investment Report for Fiscal Year 2017-18**

Summary: This *Trial Courts: Annual Investment Report for Fiscal Year 2017-18* covers the period of July 1, 2017, through June 30, 2018, 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.

[18-181](#)**Judicial Council Report to the Legislature: Cash Flow Loans Made to Courts in 2017-18**

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, 2018, Judicial Council staff submitted to the Legislature the report entitled Cash Flow Loans Made to Courts Pursuant to Government Code Section 68502.6 in 2017-18. The report was not circulated for comment.

[18-182](#)**Judicial Branch Budget: Quarterly Report on the Judicial Council's Court Innovations Grant Program, Fiscal Year 2017-18, Quarter 4**

Summary: This report summarizes Judicial Council Court Innovations Grant Program activity for the fourth quarter of fiscal year 2017-18.

[18-183](#)**Government Code Section 68106: Public Notice by Courts of Closures or Reduced Clerks' Office Hours (Gov. Code, § 68106-Rep. No. 46)**

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 relay them to the Legislature. This is the 46th report to date listing the latest court notices received by the council under this statutory requirement. Since the previous report, one superior court-the Superior Court of Fresno County-has issued a new notice.

[18-184](#)**Report to the Legislature: Semiannual Report on Contracts for the Judicial Branch for the Reporting Period of January 1 through June 30, 2018**

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 14th semiannual report on August 1, 2018, which listed all judicial branch entity contracts that were amended during the reporting period covering January 1 through June 30, 2018.

[18-186](#)

Court Facilities: Trial Court Facility Modifications Report for Quarter 4 of Fiscal Year 2017-18

Summary: This informational report to the Judicial Council outlines the allocations of facility modification funding made to improve trial court facilities in the fourth quarter (April through June) of fiscal year 2017-18. To determine allocations, the Trial Court Facility Modification Advisory Committee reviews and approves facility modification requests from across the state in accordance with the council's *Trial Court Facility Modifications Policy*.

There have been no Circulating Orders since the last business meeting.

Appointment Orders

[18-185](#)

Appointment Orders since the last business meeting.

Adjournment

With the meeting's business completed, the Chief Justice adjourned the meeting at approximately 1:00 p.m.

In Memoriam

The Chief Justice 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. Samuel Conte (Ret.), Superior Court of Contra Costa County
- Hon. John C. Gunn (Ret.), Superior Court of Los Angeles County
- Hon. John L. Nichols (Ret.), Superior Court of Los Angeles County
- Hon. Donald B. Squires (Ret.), Superior Court of Alameda County
- Hon. Jacquelyn D. Thomason (Ret.), Superior Court of Orange County
- Hon. Carlos E. Velarde (Ret.), Superior Court of Los Angeles County
- Hon. Diane E. Wick (Ret.), Superior Court of San Francisco County
- Hon. John G. Whiteside (Ret.), Superior Court of Stanislaus County
- Hon. Miriam E. Wolff (Ret.), Superior Court of Santa Clara County
- Hon. Sandra A. Thompson (Ret.), Superior Court of Los Angeles County

Respectfully submitted by Administrative Director Martin Hoshino, Secretary to the Judicial Council, on November 29, 2018.

