



# Judicial Council of California

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

## Meeting Minutes

Meeting materials  
are available through  
the hyperlinks in  
this document.

## Judicial Council

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Friday, November 30, 2018

8:30 AM

San Francisco

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### **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 8:30 a.m.

### **OPEN SESSION (RULE 10.6(A)) — MEETING AGENDA**

#### **Attendance**

##### **Council Members**

- Present:** 30 - 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, Justice Marsha G. Slough, Presiding Judge C. Todd Bottke, Presiding Judge Gary Nadler, Judge Marla 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, Senator Hannah-Beth Jackson, 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:** 1 - Assembly Member Richard Bloom

##### **Others Present**

Mr. Derek Crangle and Mr. Steven Scheer

#### **Call to Order**

Chief Justice Tani G. Cantil-Sakauye, chair of the Judicial Council, called the open session to order at 9:25 a.m. in the Judicial Council Board Room.

## Public Comment

Mr. Peter Fox and Ms. Joanne Scheer presented comments on general judicial administration.

## Approval of Minutes

[18-187](#)

### **Minutes of September 20-21, 2018, Judicial Council meeting**

**A motion was made by Justice Chin, seconded by Judge Lyons, that the minutes be approved. The motion carried by a unanimous vote.**

## Chief Justice's Report

Chief Justice Tani G. Cantil-Sakauye summarized her activities since the September council meeting. She commented on the dynamic legal talent pool in California, and the diverse personal and work experiences from which judicial officers are drawn; that they are inspired to become engaged with their communities, academia, and the law, and are committed to the importance of an independent judiciary under a constitutional democracy. She noted that last year there was one vacancy on the Supreme Court, 11 vacancies on the Court of Appeal, and 102 vacancies on the trial courts. This year, no vacancies are anticipated on the appellate courts and potentially only 37 vacancies or fewer on the trial courts.

The Chief Justice participated in a series of Commission on Judicial Appointments hearings in San Francisco. More are scheduled for the end of December with seven more appellate justice nominees, including one for the Supreme Court. She recently welcomed new trial court judges to visit her chambers as part of the New Judge Orientation. The hearings and visits also provided her the opportunity to encourage colleagues to consider new roles at the statewide level and court level that support statewide and local court administration. She continued ongoing collaboration efforts with the federal judiciary through their regular California State-Federal Judicial Council meetings.

The Chief Justice also joined the Power of Democracy Steering Committee, which launched the Civics Passport Walk that introduces civics education to students in grades K-12 as part of a Constitution Day event called "Walk the Talk" in Sacramento. High school students and teachers from throughout the state received a "passport" and stamps on their passports when they visited various entities such as the Third Appellate District of the Court of Appeal, the Robert T. Matsui Federal Courthouse, the California Museum Unity Center, the California State Railroad Museum, and the California State Capitol Museum. The Third Appellate District of the Court of Appeal also provided an educational program about *Riley v. California*, the case regarding the Fourth Amendment and requiring warrants for searches involving digital contents on cell phones, which the teenage students were very

interested in.

On Election Day, the Chief Justice participated in a discussion in a segment on *KQED Forum*, “Why Civics Education Matters.” The discussion dealt with issues surrounding why Americans struggle to understand how government works, including the judicial branch. Other participants in the forum included Yoni Appelbaum from *The Atlantic*, David Azerrad from the Heritage Foundation, and author Dave Eggers.

The Chief stated that she was both a participant and a student at the Appellate Justices Institute. Justice Jon B. Streeter, First Appellate District of the Court of Appeal, engaged her in a Q&A discussion on topics including the budget, judicial vacancies, changes to programs on the courts, and ongoing efforts to address sexual harassment and discrimination. As a student at the institute she attended the required appellate justice ethics update, which outlined resources available to justices and judges throughout the branch, including the Supreme Court’s Advisory Committee on the Code of Judicial Ethics and the Committee on Judicial Ethics Opinions. She commented on the robust judicial ethics trainings available in California, including what is offered to the California Judges Association. Judicial Council staff also supported the commercially sexually exploited children and human trafficking summit in San Diego led by Judge Stacy Boulware Eurie. The Chief Justice provided welcome remarks to a statewide group of judges and law enforcement officers, attorneys, probation officers, public defenders, district attorneys, first responders, service providers, and other justice system partners who attended the summit. It dealt with issues ranging from engaging with child youth victims and working with children testifying in adult courts to the effects of trauma on juveniles. The summit was facilitated by Judge Maria D. Hernandez, Judge Catherine Pratt, Judge Kimberly J. Nystrom-Geist, Judge Steven D. Bromberg, Judge Carolyn M. Caietti, and Chief Judge Richard Blake.

The Chief Justice continues ongoing advocacy and collaboration efforts involving liaison meetings as an opportunity to build relationships and exchange information on mutual issues. Most recently, she met with the California State Sheriffs’ Association and the Chief Probation Officers of California. She also participated in a Q&A session with Ms. Jinky Dolar, president of the Sacramento chapter of Asian Pacific American Advocates, as part of “Built to Lead,” a program of the College Women’s Forum of the organization. College students had an opportunity to network with women leaders in government, nonprofits, philanthropy, policy, S.T.E.M. fields, and the performing and graphic arts. In Sacramento, the Chief joined Ms. Mona Pasquil of the Governor’s Office and others at the Secretary of State’s Office for a Congressional gold medal event in recognition of Filipino veterans, including her father, for their service in World War II. In San Francisco, she was honored to receive the 2018 leadership award from the Asian Pacific Fund at their annual gala. The fund’s mission is to increase philanthropy and support organizations that serve the most vulnerable communities.

## Administrative Director's Report

[18-188](#)

### Administrative Director's Report

Administrative Director Martin Hoshino highlighted items from his full report of activities since the last council meeting. He commented on the wildfire assistance provided for the Camp Fire that consumed much of Butte County, stating that the fire was contained on November 25 after burning for more than 17 days, over an area of approximately 240 square miles. Many lives were lost and structures destroyed, including those of at least 10 employees from the Superior Court of Butte County. Another three employees were evacuated indefinitely. Mr. Hoshino remarked that Presiding Judge Tamara L. Mosbarger, Court Executive Officer Kimberly Flener, judges, and court employees were amazing, noting that one evening they were still trying to keep order by getting emergency orders and work in place and stayed until the last possible moment before they kept themselves safe. Meanwhile, the Legal Services office helped process emergency orders for the Chief Justice. Facilities Services deployed numerous respirator masks and provided indoor air quality testing to 10 courts in areas that sustained heavy smoke damage between Butte County and the Bay Area. The Judicial Council learned from this and other wildfires that have swept throughout the state recently and will perform after-action briefings to figure out how to be more responsive and helpful in understanding roles and responsibilities.

Mr. Hoshino announced the recruitment of new Chief Information Officer (CIO) Heather Pettit, who will officially take the position on December 3. Prior to joining the Judicial Council in 2000, Ms. Pettit had first served as a CIO for the Sacramento and Contra Costa superior courts. She has been a long-standing member of the Judicial Council's Information Technology Advisory Committee and an active leader in the California Court Information Technology Forum, and has even been recognized at the national level. She will be reporting to Robert Oyung, Chief Operating Officer.

Mr. Hoshino reported that there are 20 items on the consent agenda. They address various aspects of judicial administration including technology, data collection, the information security framework, rules of court, electronic filing, and Judicial Council forms related to legislation on name and gender change proceedings and gun violence restraining orders. There are numerous mandated reports to the Legislature, and an annual report to the Legislature on the implementation of the California Community Corrections Performance Incentives Act. He highlighted that a traffic-related item on the consent agenda is a follow-up report to an action that the Judicial Council took in September, which approved the expansion of the selection criteria for the Online Traffic Adjudication Pilot Project. The project will also facilitate further testing and development of ability-to-pay determinations for traffic infractions, fines, and fees. He reported that the Budget Act that appropriated \$3.4 million in new funding and \$1.3 million in ongoing funding to continue expansion has been approved. Five superior

courts currently partnering with the Judicial Council will be expanded to include the Fresno, El Dorado, and Monterey superior courts. The diversity in terms of size, demographics, and geography will help inform future policy discussions with respect to ability-to-pay determinations, he noted, which will ultimately lead to scaling the initiative statewide and would be available for all courts and users to process and adjudicate appropriate cases.

Mr. Hoshino reported on an educational series that will recognize Native American Heritage Month, which explores issues of access and fairness related to the Indian Civil Rights Act that passed 50 years ago. The council's Tribal Court-State Court Forum and Center for Judicial Education and Research produced a new video that focuses on the history of the Indian Civil Rights Act of 1968 and explains how tribes and tribal courts are affected by the act 50 years later. He noted that California is home to more people of Native American or Alaska Native heritage than any other state in the United States; and home to 110 federally recognized tribes and 22 tribal courts serving approximately 40 tribes. The Tribal Court-State Court Forum was established in 2010 and became a formal advisory committee to the council in 2013. Mr. Hoshino mentioned that the video is posted on the Judicial Resources Network and includes an excellent panel discussion moderated by Judge Christine Williams of the Shingle Springs Band of Miwok Indians. In addition to looking at the effects of the Indian Civil Rights Act, it explores the California tribal court issues related to and intertwined with the state's judicial branch.

## Judicial Council Committee Presentations

[18-189](#)

### Judicial Council Committee Reports

**Summary:** Executive and Planning Committee  
Hon. Marla O. Anderson, Vice-chair  
Policy Coordination and Liaison Committee  
Hon. Kenneth K. So, Chair  
Rules and Projects Committee  
Hon. Harry E. Hull, Chair  
Judicial Council Technology Committee  
Hon. Marsha G. Slough, Chair  
Judicial Branch Budget Committee  
Hon. Kyle S. Brodie, Vice-chair

#### Executive and Planning Committee

Judge Marla O. Anderson, vice-chair of the Executive and Planning Committee (E&P), provided a summary of the activities of E&P since the September council meeting. The committee met by conference call on September 11 in a joint meeting with the Rules and Projects Committee. The committee also met in closed session on October 3, and open session on October 25. One action by e-mail was conducted on November 8. At the closed session on October 3 the committee reviewed

out-of-cycle nominations and developed recommendations to be sent to the Chief Justice regarding the following advisory bodies: Civil and Small Claims Advisory Committee, Collaborative Justice Courts Advisory Committee, Court Interpreters Advisory Panel, Family and Juvenile Law Advisory Committee, Probate and Mental Health Advisory Committee, and Trial Court Facility Modification Advisory Committee. On October 25, E&P reviewed and approved the request from the Superior Court of Los Angeles County with respect to the conversion of five vacant subordinate judicial officer positions to judgeships, and set the agenda for the Judicial Council business meeting on November 29 and 30.

#### **Policy Coordination and Liaison Committee**

Judge Kenneth K. So, chair of the Policy Coordination and Liaison Committee (PCLC), reported that PCLC met once on October 11 to approve the council's 2019 legislative priorities. The 2018 legislative policy summary was approved at a prior PCLC meeting and appears on the consent agenda. The Governor signed three council-sponsored bills since the last meeting for a total of six measures signed into law for 2018. Other council-sponsored bills to fund judgeships were incorporated into the State Budget. 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 by telephone three times and acted by e-mail three times since the meeting on September 21. RUPRO acted by e-mail on September 26 to approve a rule proposal to circulate on a special cycle. On October 12, RUPRO met by telephone to consider a request by an advisory committee concerning a special subcommittee that approved two rules and forms proposals--one to circulate for comment on a special cycle and one that had already circulated for comment. After further review by the proponent, the item is expected to come before the council at the March 2019 business meeting. RUPRO recommends approval of the other proposal, which is item 18-200 on the consent agenda.

Justice Hull reported that RUPRO met by telephone on October 19 to consider revisions to civil jury instructions, various rules and forms proposals, and the annual agendas of the eight advisory committees that RUPRO oversees. All items were approved. RUPRO approved minor revisions to civil jury instructions--a proposal for which the council has delegated authority to RUPRO to approve. RUPRO also approved for circulation for public comment two proposals arising from Proposition 66, the death penalty initiative. Following circulation and further review by the Proposition 66 Rules Working Group and RUPRO, the proposals are expected to come before the council at the March 2019 business meeting. The law requires that the rules be in place by the end of April 2019. RUPRO recommends approval of the

following items on the consent agenda: 18-199, 18-202, 18-203, 18-209, 18-210, and 18-223.

On October 23, RUPRO considered two rule proposals that circulated for comment and recommended approval of the proposals, which are items 18-191 and 18-225. On November 6, RUPRO met by telephone to circulate for comment on a special cycle a proposal that makes technical changes. Following circulation and further review by the advisory committee, the proposal is expected to come before the council at the March 2019 business meeting. RUPRO recommends approval of the technical change proposal, which is item 18-230 on the consent agenda. RUPRO also acted by e-mail on November 9 to recommend approval of the Uniform Bail and Penalty Schedules 2019, which is item is 18-206 on the consent agenda.

#### **Judicial Council Technology Committee**

Justice Marsha G. Slough, chair of the Judicial Council Technology Committee (JCTC), reported that the committee held one open meeting by teleconference and conducted an action by e-mail. The committee also held a new member orientation and an educational session. In addition, the Information Technology Advisory Committee (ITAC) and the Strategic Plan Update Workstream also held a meeting. During the October 15 JCTC meeting, they received a report on the ongoing activities and reviewed the proposed updates to the judicial branch information security framework and took action to recommend that the council adopt the proposed updates that appear on the consent agenda. The Strategic Plan Update Workstream met to review and determine how best to respond to the 30-day public comment period. The workstream received responses and discussed how to incorporate those into the strategic plan. The committee unanimously approved how to approach and respond to those.

Justice Slough reported that ITAC met on October 26 and received an update on the IT development workstream and tactical plan workstream. In addition, they discussed their 2019 annual agenda, which will continue to be developed throughout December. The team charged with developing the 2019-2020 tactical plan for technology finished reviewing all their initiatives and will circulate the proposal for branchwide comment first, and then for public comment. The proposal will come before JCTC and the Judicial Council for consideration. Justice Slough noted that the Futures Commission directive to investigate voice-to-text language interpretation outside of the courtroom is also underway. ITAC is looking into efforts to use existing technologies already available to deploy them in self-help centers, at service counters, and other service areas. In early November, Justice Slough attended a branchwide IT symposium along with fellow JCTC members Judge Kyle S. Brodie and Ms. Andrea Wallin-Rohmann. They were joined by over 100 attendees from 27 superior courts and 4 appellate districts to learn about technology topics such as cloud disaster recovery, next-generation hosting, identity management, and business intelligence. Ms. Amy

Tong, the state's chief information officer and director of the California Department of Technology, provided a very informative and moving personal keynote speech. Justice Slough thanked the branchwide IT community for their collective good work in providing continuous and consistent commitment to supporting technology initiatives that better serve the people of California.

### **Judicial Branch Budget Committee**

Judge Kyle S. Brodie, vice-chair of the Judicial Branch Budget Committee (JBBC), reported that the committee met three times, twice by telephone and once in person. The budget committee's charge is to administer a \$10 million branch emergency fund, coordinate budget change proposal requests that the branch submits to the Department of Finance, administer the \$25 million innovation grant program, as well as any other budget tasks as assigned. In the three meetings, two by telephone and one in person, JBBC addressed requests for adjustments and modifications to various innovation grants that have been awarded. He explained that the committee reviewed documentation that had been offered by the courts supporting those requests. During the in-person meeting, Budget Services Director Zlatko Theodorovic and Judge David M. Rubin gave a presentation on the state budgeting process, during which they reviewed how money flows into and out of state accounts, the interactions between the three branches of government, and how internal budget processes relate to those interactions. As part of its oversight of the innovation grant program, the grantee courts provide quarterly and annual progress reports on their projects. In turn, the budget committee provides reports on the overall program details. The second annual report was recently submitted to the Legislature. Judge Brodie reported that 50 projects are moving forward and have been awarded a total of \$22.3 million, noting that there is a contingency fund in place for the adjustments that have been requested. Courts have been collaborating on many initiatives leveraging the information that they have learned, particularly on projects related to self-help customer portals and remote video technologies. JBBC acknowledged the hard work of the grant recipients for documenting their progress in ways that provide information that other courts can use, to scale up or down for implementation. Judge Brodie acknowledged and thanked the staff who supported the committee's efforts.

## **CONSENT AGENDA**

### **Approval of the Consent Agenda**

**A motion was made by Mr. Kelly, seconded by Judge Hopp, to approve all of the following items on the Consent Agenda. The motion carried by a unanimous vote. Senator Jackson abstained from voting on items 18-192 and 18-213.**

[18-207](#)

**Judicial Branch Technology: Judicial Branch Statistical Information System (JBSIS) Dispute Resolution Process (Action Required)**



**Summary:** The Court Executives Advisory Committee (CEAC) recommends that the Judicial Council adopt the Judicial Branch Statistical Information System (JBSIS) Dispute Resolution Process. As lead staff to the JBSIS Subcommittee of CEAC, the Judicial Council's Office of Court Research is delegated the authority to make determinations on how courts should report data in JBSIS. Recognizing that there might be situations when courts do not agree with the determination made by council staff, the proposed *JBSIS Dispute Resolution Process* has been developed by CEAC to provide guidance and a consistent framework to resolve disagreements on reporting statistical data in JBSIS.

**Recommendation:** CEAC recommends that the Judicial Council adopt the proposed *JBSIS Dispute Resolution Process* (see Attachment A). This process provides a framework for the courts and Judicial Council to resolve disagreements concerning reporting of statistical data in JBSIS. The policy would become effective the date of the council meeting: November 30, 2018.

### [18-192](#)

#### **Judicial Council: 2018 Summary of Legislative Policy (Action Required)**

**Summary:** The Policy Coordination and Liaison Committee (PCLC) recommends adopting the updated *Legislative Policy Summary* reflecting actions through the 2018 legislative year. Adoption of this updated summary of positions taken on court-related legislation will assist the council in making decisions about future legislation, consistent with the judicial branch's strategic plan goals.

**Recommendation:** The Policy Coordination and Liaison Committee recommends that the Judicial Council adopt the *2018 Legislative Policy Summary*, which has been updated to reflect actions through the 2018 legislative year.

### [18-223](#)

#### **Judicial Council: Judicial Branch Budget Committee (Action Required)**

**Summary:** The Judicial Council's Executive and Planning Committee and Rules and Projects Committee propose the adoption of rule 10.15 of the California Rules of Court on the Judicial Branch Budget Committee, an internal committee of the council. The committees also propose amending four other rules of court relating to the internal committees of the Judicial Council to make them consistent with the new rule and to eliminate duplication in the rules.

**Recommendation:** The Executive and Planning Committee and the Rules and Projects Committee recommend that the Judicial Council, effective January 1, 2019:

1. Adopt rule 10.15 to specify the purpose and budget responsibilities of the Judicial Branch Budget Committee; and
2. Amend rules 10.10, 10.11, 10.13, and 10.16 to make them consistent with the rule 10.15 and eliminate duplication in the rules.

[18-225](#)**Judicial Council: Name Change of Governing Committee of the Center for Judicial Education and Research (Action Required)**

**Summary:** The Executive and Planning Committee recommends amending California Rules of Court, rule 10.50 (Governing Committee of the Center for Judicial Education and Research) to change the name of the committee to the Center for Judicial Education and Research Advisory Committee. The amendment will align the name of the committee with those of other Judicial Council advisory committees.

**Recommendation:** The Executive and Planning Committee (E&P) recommends that the Judicial Council, effective January 1, 2019, amend rule 10.50 to change the name of the Governing Committee of the Center for Judicial Education and Research to the Center for Judicial Education and Research Advisory Committee to align the name with the names of the other Judicial Council standing advisory committees.

[18-191](#)**Telephonic Appearances: Change in Fee Amount (Action Required)**

**Summary:** The Judicial Branch Budget Committee recommends amending rule 3.670 of the California Rules of Court to increase the fee to appear by telephone in civil cases from \$86 to \$94, effective January 1, 2019. The new fee would apply to the balance of the four-year term of the master agreement for telephone appearance services that was recently entered into with CourtCall, LLC. The fee increase reflects the estimated increase in the Consumer Price Index for All Urban Consumers for the term of the agreement.

**Recommendation:** The Judicial Branch Budget Committee recommends that the Judicial Council, effective January 1, 2019:

1. Amend California Rules of Court, rule 3.670(k)(1), to provide that the fee to appear by telephone is \$94 for each appearance; and
2. Amend rule 3.670(m)(2) to provide that the fee for vendor-provided telephone appearance services in proceedings under Title IV-D of the Social Security Act is \$74.

[18-200](#)**Juvenile Law: Electronic Filing and Service in Juvenile Court Matters (Implementation of AB 976) (Action Required)**

**Summary:** The Family and Juvenile Law Advisory Committee recommends amending 15 of the California Rules of Court, adopting one new rule, revising eight Judicial Council forms, and approving one new optional form. Assembly Bill 976 authorizes electronic filing and service in juvenile matters, pursuant to Code of Civil Procedure section 1010.6. The bill extends the ability to conduct electronic filing and service to all juvenile matters, with some important exceptions and conditions designed to protect the confidential information of minors and to preserve paper notice of specified proceedings. The bill also requires affirmative consent to electronic service as of January 1, 2019. These statutory changes

require the modifications to rules and forms recommended in this report.

**Recommendation:** The Family and Juvenile Law Advisory Committee recommends the following amendments to California Rules of Court and revisions to Judicial Council forms, in addition to the adoption of a new rule of court and the approval of a new optional form, to be effective January 1, 2019:

1. Amend California Rules of Court, rules 5.504, 5.522, 5.524, 5.534, 5.538, 5.565, 5.570, 5.590, 5.640, 5.695, 5.700, 5.726, 5.727, 5.728, and 5.906;
2. Adopt rule 5.523;
3. Revise forms EFS-005-JV/JV-141, JV-217-INFO, JV-221, JV-282, JV-310, JV-326, JV-326-INFO, and JV-510; and
4. Approve form JV-510(A).

### 18-202

#### **Civil Practice and Procedure: Name Change and Gender Change Forms (Action Required)**

**Summary:** The Civil and Small Claims Advisory Committee recommends adopting and revising various Judicial Council Name Change forms to reflect recently enacted legislative amendments that go into effect January 1, 2019. Assembly Bill 3250 adds new requirements for issuance and service of orders to show cause in certain name change and gender change proceedings initiated by parents or guardians, as well as requiring new judicial findings in gender change proceedings brought by guardians. Assembly Bill 2201 adds a new category of petitioners (those seeking to avoid human trafficking) to those who may seek confidential name changes. The advisory committee recommends that the forms be revised, and two additional forms adopted without circulation so that the forms will be correct under the new laws when they become effective.

**Recommendation:** To implement statutory changes enacted in Assembly Bill 3250 and Assembly Bill 2201, the Civil and Small Claims Advisory Committee recommends that the Judicial Council, effective January 1, 2019:

1. Adopt:
  - *Declaration of Guardian or Dependency Attorney (Supplemental Attachment to Form NC-500)* (form NC-510G), to provide the information guardians and guardians ad litem are required under the new law to include in such petitions; and
  - *Order Recognizing Minor's Change of Gender and for Issuance of New Birth Certificate and Decree Changing Name* (form NC-530G), to reflect the findings required under the new law in orders on petitions brought by guardians; and
2. Revise:
  - *Instructions for Filing a Petition for Change of Name* (form NC-100-INFO), to reflect the changes in law as to who can apply for confidential

- name changes (those seeking to avoid human trafficking) and who must be served with notice of the order to show cause (OSC);
- *Proof of Service of Order to Show Cause* (form NC-121), to reflect new law requiring multiple orders to show cause for which the form may be used;
  - *Order to Show Cause for Change of Name to Conform to Gender Identity* (form NC-125/NC-225), to reflect the change in law regarding what objections do not constitute good cause for objections;
  - *Confidential Cover Sheet-Name Change Proceeding Under Address Confidentiality Program (Safe at Home)* (form NC-400); *Information Sheet for Name Change Proceedings Under Address Confidentiality Program (Safe at Home)* (form NC-400-INFO); and *Declaration in Support of Application to File Documents Under Seal in Name Change Proceeding Under Address Confidentiality Program (Safe at Home)* (form NC-420), to add the new factual basis that supports seeking a confidential name change proceeding (to avoid human trafficking), and (in the information sheet) to reflect the elimination of filing fees by the new law for minors in the address-confidentiality program; and
  - *Petition for Recognition of Minor's Change of Gender and Issuance of New Birth Certificate and Change of Name* (form NC-500); *Instructions for Filing Petition for Recognition of Minor's Change of Gender and Issuance of New Birth Certificate and Change of Name* (form NC-500-INFO); and *Order to Show Cause for Recognition of Minor's Change of Gender and Issuance of New Birth Certificate and Change of Name* (form NC-520), to implement the changes in procedures for petitions for recognition of a minor's change of gender.

The advisory committee recommends an effective date of January 1, 2019, because the current mandatory forms, will contain incorrect statements of the law as of that date. The committee intends to ask the Rules and Project Committee to circulate the forms for comment postadoption, in the winter comment cycle.

### [18-203](#)

#### **Protective Orders: Gun Violence Restraining Order Forms (Action Required)**

**Summary:** The Civil and Small Claims Advisory Committee recommends revising various Judicial Council gun violence restraining order (GVRO) forms to reflect recently enacted legislative amendments that go into effect January 1, 2019. Senate Bill 1200 (Stats. 2018, ch. 898) prescribes that orders under Penal Code section 18100 et seq. must be referred to as gun violence restraining orders, expands the definition of ammunition to include a magazine, prohibits a filing fee for GVRO forms and documents, requires a law enforcement officer to make a specific request when serving a GVRO, and provides that parties do not need to pay the sheriff for service of a GVRO. The bill also requires a court hearing within 21 days of issuing an emergency protective order to determine if a restraining order

after notice and hearing should be issued. The advisory committee recommends that the mandatory forms be revised effective January 1, 2019, so that the forms will be in compliance with the new laws when they become effective.

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

- EPO-002, *Gun Violence Emergency Protective Order*;
- GV-100, *Petition for Gun Violence Restraining Order*;
- GV-100-INFO, *Can a Gun Violence Restraining Order Help Me?*;
- GV-109, *Notice of Court Hearing*;
- GV-110, *Temporary Gun Violence Restraining Order*;
- GV-115, *Request to Continue Court Hearing for Gun Violence Restraining Order*;
- GV-116, *Order for Continuance and Notice of New Hearing Date*;
- GV-120, *Response to Petition for Gun Violence Restraining Order*;
- GV-120-INFO, *How Can I Respond to a Petition for a Gun Violence Restraining Order?*;
- GV-130, *Gun Violence Restraining Order After Hearing*;
- GV-200, *Proof of Personal Service*;
- GV-200-INFO, *What Is “Proof of Personal Service”?*;
- GV-250, *Proof of Service by Mail*;
- GV-600, *Request to Terminate Gun Violence Restraining Order*;
- GV-610, *Notice of Hearing on Request to Terminate Gun Violence Restraining Order*;
- GV-620, *Response to Request to Terminate Gun Violence Restraining Order*;
- GV-630, *Order on Request to Terminate Gun Violence Restraining Order*;
- GV-700, *Request to Renew Gun Violence Restraining Order*;
- GV-710, *Notice of Hearing on Request to Renew Gun Violence Restraining Order*;
- GV-720, *Response to Request to Renew Gun Violence Restraining Order*;
- GV-730, *Order on Request to Renew Gun Violence Restraining Order*;  
*and*
- GV-800-INFO, *How Do I Turn In, Sell, or Store My Firearms?*

All the forms are revised to reflect the legislative mandate under Penal Code section 18100 et seq. that the forms be referred to as gun violence restraining orders. Form EPO-002 is revised to reflect the new requirement that the court hold a hearing within 21 days of issuing an ex parte GVRO to determine whether an order should be issued after notice and hearing. Forms EPO-002, GV-100-INFO, GV-100, GV-110, GV-130, and GV-730 are also revised to

reflect the expanded definition of ammunition to include a magazine, which is defined as any ammunition feeding device, and the amended mandated notice to the restrained party. The information sheets and the order forms are also amended to reflect the statute's new provisions eliminating filing fees and the parties for service of orders by the sheriff.

### [18-230](#)

#### **Rules and Forms: Technical Changes**

**Summary:** Judicial Council staff and members of the branch have identified errors in Judicial Council family and juvenile law forms that are technical in nature. Judicial Council staff recommends making the necessary corrections to avoid confusion for court staff, judicial officers, and members of the public who use the forms.

**Recommendation:** Judicial Council staff recommends that the council, effective January 1, 2019:

1. Revise form DV-800/JV-252, *Proof of Firearms Turned In, Sold, or Stored*, item 5, to correct "Signature of law enforcement agent" to "Signature of licensed gun dealer" and the footer on page 1 to correct "§ 6389 et se." to "§ 6389 et seq.";
2. Revise form FL-150, *Income and Expense Declaration*, item 13a(1), to delete a duplicate line and correct a typographical error in the caption; and
3. Revise form JV-690, *School Notification of Court Adjudication*, footer on pages 1 and 2, to include a reference to Education Code, section 48267 in addition to some other minor edits.

### [18-197](#)

#### **Judicial Branch Technology: Information Security Framework Update (Action Required)**

**Summary:** The Judicial Council Technology Committee (JCTC) recommends approval of revisions to the Judicial Branch Information Security Framework. The original framework was approved by the Judicial Council in June 2014 with the understanding that it would require periodic updates. This revision cycle is focused on updates to make the document easier to use and on the addition of privacy controls specified in recently updated federal standards.

**Recommendation:** The Judicial Council Technology Committee recommends that the Judicial Council approve revisions to the Judicial Branch Information Security Framework:

1. Additional guidance has been added on the subjects of standards and how to establish security requirements.
2. Policy statements have been transferred to a separate policy manual template. This allows a clear demarcation to be maintained between the framework, which is intended to be a resource for courts to use in the development of local policies, and the policies themselves (which serve to implement the framework).
3. Privacy controls have been incorporated as set forth in the National Institute of Standards and Technology Special Publication 800-53. These controls

provide guidance on the handling of personally identifiable information (PII) and serve as a reference in the development operational resources such as the Judicial Branch Privacy Resource Guide.

4. Requirements have been relabeled as controls to maintain consistency and alignment with federal standards.

### [18-199](#)

#### **Jury Instructions: New, Revised, Revoked, and Renumbered Civil Jury Instructions (Release 33) (Action Required)**

**Summary:** The Advisory Committee on Civil Jury Instructions recommends approving for publication the new, revised, revoked, and renumbered civil jury instructions prepared by the committee. These revisions bring the instructions up to date with developments in the law over the previous six months. On Judicial Council approval, the instructions will be published in the official 2019 edition of the *Judicial Council of California Civil Jury Instructions (CACI)*.

**Recommendation:** The Advisory Committee on Civil Jury Instructions recommends that the Judicial Council, effective November 30, 2018, approve for publication the following civil jury instructions prepared by the committee:

1. Revisions to 18 instructions: CACI Nos. 206, 435, 450C, 1730, 1802, 2400, 2401, 2404, 2430, 3066, 3210, 3211, 3220, 3244, 3704, 3903J, 4550, and 4551;
2. Addition of 4 new instructions: CACI Nos. 1208, 2023, 2528, and 2705;
3. Merging of CACI No. 2402 into 2401, with the revocation of 2402.
4. Renumbering of CACI No. 2407 as 3963, of CACI No. 2433 as 3903P, and of CACI No. 3963 as 3965.

### [18-206](#)

#### **Uniform Bail and Penalty Schedules: 2019 Edition (Action Required)**

**Summary:** The Traffic Advisory Committee recommends the Judicial Council adopt revisions to the Uniform Bail and Penalty Schedules, effective January 1, 2019. The 2019 proposal includes: (1) recommendations based on new legislation, as required under Vehicle Code section 40310 and Penal Code section 1269b, (2) changes to the Fish and Game Schedule recommended by the Department of Fish and Wildlife, and (3) miscellaneous technical additions and corrections.

Vehicle Code section 40310 requires that the Judicial Council annually adopt a uniform traffic infraction penalty schedule that conforms to new legislation. Additionally, Penal Code section 1269b and rule 4.102 of the California Rules of Court require all trial courts annually to revise and adopt a countywide schedule of penalties for all misdemeanor and infraction offenses, except Vehicle Code infractions. The penalty schedule for Vehicle Code infractions is established by the Uniform Traffic Penalty Schedule adopted by the Judicial Council in accordance with section 40310.

**Recommendation:** There are several proposed revisions for the 2019 schedules in response to recent changes in the law. There are also several proposed technical changes to the schedules and footnotes.

Proposed revisions to conform the 2019 schedules based on recent changes in law include:

1. Additions or modification, including deletions, of Vehicle Code infraction offenses:
  - 11754(a), Rental of Vehicle Subject to Recall;
  - 11754(c), Ride Share Vehicle Subject to Recall;
  - 16028(c), Evidence of Financial Responsibility (deleted);
  - 21761(a), (b), Safely Passing a Waste Removal Vehicle (effective 1/01/20);
  - 22650(a), Unauthorized Removal of Unattended Vehicle From Highway;
  - 24014(b), Motorcycles Required Pricing Information;
  - 27150(a), Adequate Muffler Required to be Properly Maintained;
  - 27151(a), Modification of Exhaust System Prohibited;
  - 27318(a)-(d), Safety Belts for Passengers on Buses;
  - 27319(a), (b), Safety Belts for Drivers on Buses; and
  - 35551(f)(1), Computation of Allowable Gross Weight (change to Overweight Chart footnote).
  
2. Additions or modifications of misdemeanor offenses or enhanced penalty amounts for violations of the Vehicle Code:
  - 23152(e), Driving a Motor Vehicle When a Passenger for Hire Is a Passenger in the Vehicle at the Time of the Offense with a .04 or Higher BAC;
  - 23152(f), Driving Under Influence of Drug;
  - 23152(g), Driving Under the Influence of Alcohol and Drug;
  - 23153(e), Driving a Motor Vehicle When a Passenger for Hire Is a Passenger in the Vehicle at the Time of the Offense with a .04 or Higher BAC and Causing Injury;
  - 23153(f), Driving Under Influence of Drug While Causing Injury; and
  - 23153(g), Driving Under the Influence of Alcohol and Drug While Causing Injury.
  
3. Addition or modification of Business and Professions Code sections:
  - 8550, License Required to Practice Structural Pest Control (footnote).

Proposed revisions to conform the 2019 schedules based on requests from courts, outside agencies, or technical changes include:



4. Additions or modification, including deletions, to the Fish and Game schedule:
  - Fish and Game Code section 1054.2, License, Tab, Stamp, or Permit Requirement;
  - California Code of Regulations, title 14 sections:
    - 27.67, Transport of Recreational Finfish Through a Restricted Fishing Area Without Permit (deleted);
    - 27.82, Management Areas, Seasons, Depths, Exceptions, and Fishery Closure Process Described (deleted);
    - 27.83, California Rockfish Conservation Area (deleted);
    - 28.41, Sixgill Shark, Sevengill Shark;
    - 28.42, Shortfin Mako Shark, Thresher Shark, and Blue Shark;
    - 28.47, Petrale Sole and Starry Flounder;
    - 28.48, Pacific Sanddab, Rock Sole, Sand Sole, Butter Sole, Curlfin Sole, Rex Sole, and Flathead Sole;
    - 28.49, Soupfin Shark, Dover Sole, English Sole, Arrowtooth Flounder, Spiny Dogfish, Skates, Ratfish, Grenadiers, Finescale Codling, Pacific Cod, Pacific Whiting, Sablefish and Thornyheads;
    - 28.62, Herring (deleted);
    - 27.91, Green Sturgeon;
    - 27.92, White Sturgeon Reporting and Tagging Requirements for Ocean Waters
    - 28.38, Tunas;
    - 29.16, Abalone Report Card and Tagging Requirements;
    - 29.91, Spiny Lobster Report Card Requirements;
    - 251, Prohibition on Pursuing or Shooting Birds and Mammals from Motor Driven Air or Land Vehicles;
    - 257.5, Hunting Over Bait; and
    - 700, Fishing License in Possession.
  
5. Additions or modification, including deletion, of Vehicle Code infraction offenses:
  - 5201(b), Replace and Destroy Temporary License Plate Upon Receipt of Permanent License Plates;
  - 5201(c), Illegal License Plate Covering;
  - 5201(d), Reading or Recognition of License Plate by an Electronic Device or Remote Emission Sensing Device Illegally Obstructed or Impaired;
  - 21460(c), Improper Turns Over Double Lines/Solid Lines to Right Prohibited;
  - 21655.1(a), Driving in Restricted Use Designated Public Transit Bus Lane;
  - 22356(b), Exceeding 70 MPH Maximum Speed;

- 22515(a)(b), Unattended Vehicles;
  - 23123.5(a), Driving Motor Vehicle While Holding and Operating a Handheld Wireless Telephone or Electronic Wireless Communications Device;
  - 23220(a), Drinking Alcoholic Beverage, Smoking or Ingesting Marijuana Product While Driving Off-Highway Prohibited;
  - 23220(b), Drinking Alcoholic Beverage, Smoking or Ingesting Marijuana Product While Riding as a Passenger Off-Highway Prohibited;
  - 23221(a), Drinking Alcoholic Beverage, Smoking or Ingesting Marijuana Product by Driver Prohibited;
  - 23221(b), Drinking Alcoholic Beverage, Smoking or Ingesting Marijuana Product by Passenger Prohibited;
  - 23222(b), Possession of Open Container of Cannabis by Driver;
  - 24400(b), Failure to Operate Headlamps as Required During Darkness or Inclement Weather;
  - 24611(c), Failure to Display Reflective Material on Trailer or Semitrailer as Required;
  - 24612(a) - (c), Failure to Display Reflective Material on Trailer or Semitrailer as Required;
  - 34507, Display of Distinctive Identification Symbol Required;
  - 34507.5(a)-(c), (g)-(h), Failure to Display Carrier Identification Number;
  - 38375(a), Off-Highway Motor Vehicle Equipped With Siren; and
  - 38375(b), Use of Siren While Driving an Off-Highway Motor Vehicle.
6. Proposed revisions of the Public Utilities Code include:
- 99170(a)(1), Operation of or Interference with a Transit District's Vehicles;
  - 99170(a)(2), Interference with Transit Operator;
  - 99170(a)(3), Extending Body from Transit District's Vehicles;
  - 99170(a)(4), Throwing Objects from Transit District's Vehicle;
  - 99170(a)(5), Behavior Causing Injury to Person or Property;
  - 99170(a)(6), Violating Safety or Security Instruction;
  - 99170(a)(7), Providing False Information to Transit District Employee or Obstructing Issuance of Citation; and
  - 99170(a)(8), Violating Rules Regarding Boarding Transit Vehicles with Bicycles.

[18-205](#)**Traffic: Selection of Online Traffic Adjudication Pilot Project Expansion Courts (Action Required)**

**Summary:** The Budget Act of 2018-19 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 to adjudicate these 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, adding three additional courts to join the five already involved in the pilot.

**Recommendation:** Judicial Council staff recommend that the Judicial Council, effective November 30, 2018:

Approve the proposed pilot court additions of the Superior Courts of Fresno, El Dorado, and Monterey Counties, establishing the selection of these courts as pilot courts, along with the existing five pilot courts currently partnering with the Judicial Council.

#### [18-194](#)

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

**Summary:** The Trial Court Budget Advisory Committee's (TCBAC) Fiscal Planning Subcommittee recommends approving two new requests and three amended requests from five trial courts for Trial Court Trust Fund (TCTF) funds to be held on behalf of the trial courts. Under the Judicial Council-adopted process, courts may request reduced funding as a result of a court's exceeding the 1 percent fund balance cap, to be retained in the TCTF for the benefit of that court.

**Recommendation:** Based on actions taken at its meeting on October 3, 2018, the Fiscal Planning Subcommittee of the Trial Court Budget Advisory Committee recommends that the Judicial Council, effective November 30, 2018:

1. Approve the following new requests totaling \$372,854 (Attachment A):
  - \$326,538 request of the Superior Court of Tehama County (Attachment B); and
  - \$46,316 request of the Superior Court of Butte County (Attachment C); and
2. Approve the following, amended requests totaling \$664,779 (Attachment D):
  - \$420,000 request of the Superior Court of Colusa County, which increases its original request of \$350,000 by \$70,000 (Attachment E).
  - Request of the Superior Court of Sutter County to partially amend its request of \$60,840 to redirect Tyler funds for the purchase of peripherals in conjunction with Odyssey. (Attachment F).
  - \$183,939 request of the Superior Court of Mono County, which increases its original request of \$133,279 by \$50,660. (Attachment G)

#### [18-204](#)

#### **Recidivism Reduction Fund Annual Report (Action Required)**

**Summary:** The Criminal Justice Services office recommends that the Judicial Council receive

the *Recidivism Reduction Fund Court Grant Program: Annual Report, 2018*; direct the Administrative Director to submit this annual report to the Joint Legislative Budget Committee and the Department of Finance as mandated by the Budget Act of 2015 (Assem. Bill 93, Stats. 2015, ch. 10).

**Recommendation:** Staff to the Judicial Council, Criminal Justice Services office, recommends that the Judicial Council:

1. Receive the attached *Recidivism Reduction Fund Court Grant Program: Annual Report, 2018*, that documents the establishment of the Recidivism Reduction Fund (RRF) court grant program, describes grant-related activities of the Judicial Council and the grantees, and provides preliminary information on program implementation;
2. Direct the Administrative Director to submit this report to the Joint Legislative Budget Committee (JLBC) and the Department of Finance (DOF) as mandated by the Budget Act of 2015 (Assem. Bill 93, Stats. 2015, ch.10); and,
3. Authorize staff to continue to work with the courts to complete data analysis for the 2019 RRF Final Report.

#### [18-196](#)

#### **Report to the Legislature: Statewide Collection of Court-Ordered Debt for 2017-18 (Action Required)**

**Summary:** Judicial Council staff recommend approval of the *Statewide Collection of Court-Ordered Debt for 2017-18* for transmittal to the Legislature. Penal Code section 1463.010(c) requires the Judicial Council to report the extent to which each court or county collections program is following best practices, the programs' performance, and any changes necessary to improve performance of collection programs statewide. Additionally, as stated in the October 2018 report to the Department of Finance (DOF) and the Joint Legislative Budget Committee (JLBC) per Government Code section 68514, this report contains revised or additional information from programs that did not submit data, or submitted incomplete data for inclusion in the October 1 report. The first report required under Government Code section 68514 was submitted to the Legislature in October 2018 and is available at [www.courts.ca.gov/7466.htm](http://www.courts.ca.gov/7466.htm).

**Recommendation:** The Judicial Council's Funds and Revenue Unit of Budget Services recommends that the Judicial Council, effective November 30, 2018:

1. Approve the attached report, *Report on the Statewide Collection of Delinquent Court-Ordered Debt for 2017-18*; and
2. Direct Judicial Council staff to submit the report to the Legislature by December 31, 2018.

#### [18-198](#)

#### **Report to the Legislature: Court Facilities Trust Fund Expenditures 2017-18 (Action Required)**

**Summary:** Judicial Council staff recommend approval of the annual report of *Court Facilities Trust Fund Expenditures: 2017-18*. Government Code section 70352(c) requires that the Judicial Council report to the Legislature annually all expenditures from the Court Facilities Trust Fund after the end of each fiscal year.

**Recommendation:** Judicial Council staff recommends that the Judicial Council:

1. Approve the annual report of *Court Facilities Trust Fund Expenditures: 2017-18*; and
2. Direct Judicial Council staff to submit the report to the Legislature.

### [18-201](#)

#### **Report to the Legislature: State Trial Court Improvement and Modernization Fund Expenditures for 2017-18 (Action Required)**

**Summary:** Judicial Council staff recommend approval of the *Report of State Trial Court Improvement and Modernization Fund Expenditures for 2017-18* for transmittal to the Legislature. Government Code section 77209(i) requires the Judicial Council to report annually to the Legislature on the use of the State Trial Court Improvement and Modernization Fund and include any appropriate recommendations.

**Recommendation:** The Judicial Council's Funds and Revenue Unit of Budget Services recommends that the Judicial Council, effective November 30, 2018:

1. Approve the *Report of State Trial Court Improvement and Modernization Fund Expenditures for 2017-18*;
2. Direct Judicial Council staff to submit the report to the Legislature by December 31, 2018.

### [18-224](#)

#### **Report to the Legislature: California Community Corrections Performance Incentives Act of 2009 (Action Required)**

**Summary:** The Criminal Justice Services office recommends that the Judicial Council receive the 2018 *Report on the California Community Corrections Performance Incentives Act of 2009: Findings from the SB 678 Program* and direct the Administrative Director to submit this annual report to the California Legislature and Governor, as mandated by Penal Code section 1232. Under the statute, the Judicial Council is required to submit a comprehensive report on the implementation of the program-including information on the effectiveness of the act and specific recommendations regarding resource allocations and additional collaboration-no later than 18 months after the initial receipt of funding under the act and annually thereafter.

**Recommendation:** The staff of the Criminal Justice Services office of the Judicial Council recommend that the Judicial Council, effective November 30, 2018:

1. Receive the attached 2018 *Report on the California Community*

*Corrections Performance Incentives Act of 2009: Findings from the SB 678 Program* documenting program history, findings, and recommendations related to the California Community Corrections Performance Incentives Act of 2009 (Sen. Bill 678; Stats. 2009, ch. 608); and

2. Direct the Administrative Director to submit this report to the California Legislature and Governor by December 3, 2018, including information on the effectiveness of the program and policy recommendations regarding resource allocation for improvements to the SB 678 program, to comply with Penal Code section 1232.

[18-190](#)

**Judicial Council Administration: Judicial Council Conflict of Interest Code (Action Required)**

**Summary:** Judicial Council staff recommends amending the *Conflict of Interest Code for the Judicial Council of California* (Code) to replace office names and job titles with leadership areas and job classifications. The proposed changes would provide flexibility in the event of an organizational restructuring-which may require the transfer of positions between offices-and will ensure that classifications required to report their economic interests will continue to do so regardless of office or organizational changes. The Judicial Council must review proposed amendments to the Code and approve the Code as amended or direct that it be further revised and resubmitted for approval.

**Recommendation:** Judicial Council staff recommends amending the *Conflict of Interest Code for the Judicial Council of California*, effective December 1, 2018, to:

1. Change its effective date from 2015 to 2018
2. Consolidate Judicial Council member classifications into Voting and Nonvoting Members and Voting and Nonvoting Attorney Members;
3. Consolidate the Governmental Affairs, Audit Services classifications under the Executive Level structure;
4. Consolidate all Supervisor and Manager classifications into one disclosure category, Supervisorial and Management-Level Classifications, under both the Executive Level and the All Divisions structures;
5. Consolidate the classifications within the Leadership Services Division, Operations & Programs Division, and Administrative Division into the All Divisions structure;
6. Under the All Divisions structure:
  - a. Consolidate all Attorney and Supervising Attorney classifications into one disclosure category, All Attorney and Supervising Attorney Classifications; and
  - b. Add disclosure category 3 to the Legislative Advocate classification; and
7. To the All Divisions structure, add the following classifications:
  - a. Facilities Analyst, with an assigned disclosure category (ADC) of 7;
  - b. Engineer, with an ADC of 7;

- c. All Classifications in Procurement & Contracts and Phoenix Purchasing Support Services, with ADCs of 3 and 4;
- d. Information Technology Architect, with an ADC of 5;
- e. Education Developer and Senior Education Developer, with an ADC of 6; and
- f. Administrative Coordinators in Conference & Registration Services, with ADCs of 3 and 4.

## DISCUSSION AGENDA

### [18-213](#)

#### **Judicial Council: 2019 Legislative Priorities (Action Required)**

**Summary:** Each year, the Judicial Council authorizes sponsorship of legislation to further key council objectives and establishes priorities for the upcoming legislative year. In past years, the council's legislative priorities have focused on implementing efficiencies in the courts, investing in the judicial branch, and securing critically needed judgeships. The Policy Coordination and Liaison Committee (PCLC) recommends to the Judicial Council a similar approach for the 2019 legislative year.

**Recommendation:** The Policy Coordination and Liaison Committee recommends that the Judicial Council approve the following legislative priorities in 2019:

1. Advocate for (a) continued investment in the judicial branch to include a method for stable and reliable funding for courts to address annual cost increases in baseline operations and plan for the future, and for (b) sufficient additional resources to improve physical access to the courts by keeping courts open, to expand access by increasing the ability of court users to conduct branch business online, and to restore programs and services that were reduced over the past few years;
2. Increase the number of judgeships and judicial officers in superior courts with the greatest need by:
  - Seeking funding for 10 of the 48 authorized but unfunded judgeships, to be allocated to the courts with the greatest need based on the most recently approved Judicial Needs Assessment;
  - Seeking funding for one additional justice in the Court of Appeal, Fourth Appellate District, Division 2 (Inyo, Riverside, and San Bernardino Counties); and
  - Advocating for legislative ratification of the Judicial Council's authority to convert 16 subordinate judicial officer (SJO) positions to judgeships in eligible courts, and sponsoring legislation for legislative ratification of the council's authority to convert up to 10 additional SJO positions to judgeships, in eligible courts, if the conversion will result in an additional judge sitting in a family or juvenile law assignment that was previously presided over by an SJO;
3. Seek legislative authorization, if needed, for the disposition as authorized by the Judicial Council of unused courthouses in 2019 in a fair market value transaction,

with the proceeds to be directed to the Immediate and Critical Needs Account (ICNA) of the State Court Facilities Construction Fund established by Senate Bill 1407 (Perata; Stats, 2008, ch. 311) or any other Judicial Council facilities fund authorized by the Legislature;

4. Continue to sponsor or support legislation to improve judicial branch operational efficiencies, including cost savings and cost recovery measures;
5. Advocate for legislation to implement the recommendations of the Commission on the Future of California's Court System, as recommended by the Judicial Council and its advisory bodies;
6. Advocate for legislation to implement pretrial detention reform; and
7. Delegate to PCLC the authority to take positions or provide comments on behalf of the Judicial Council on proposed legislation (state and federal) and administrative rules or regulations, after evaluating input from council advisory bodies, council staff, and the courts, provided that the input is consistent with the council's established policies and precedents.

**A motion was made by Judge Hopp, seconded by Ms. Nelson, that this proposal be approved. The motion carried by a unanimous vote.**

#### [18-212](#)

### **Judicial Branch Administration: Strategic Plan for Technology 2019-2022**

**Summary:** The Judicial Council Technology Committee (JCTC) and the Strategic Plan Update Workstream, appointed by the JCTC, recommend that the Judicial Council adopt the *Strategic Plan for Technology 2019-2022* to supersede the 2014-2018 plan. The updated plan was developed as a result of analyzing goals, judicial branch business drivers, and objectives, as well as by evaluating the benefits, outcomes, and measures of success, and was subsequently refined following circulation for branch and public comment. This plan provides a comprehensive and cohesive technology strategy, with clear, measurable goals and objectives at the branch level.

**Recommendation:** The JCTC recommends that the Judicial Council adopt, effective December 1, 2018, the *Strategic Plan for Technology 2019-2022*, which is the first update of the initial judicial branch technology strategic plan of 2014-2018. The technology strategic plan was established within the Technology Governance, Strategy, and Funding Proposal (*Court Technology Governance and Strategic Plan*), effective October 2014.

**A motion was made by Justice Hull, Jr., seconded by Mr. Kelly, that this proposal be approved. The motion carried by a unanimous vote.**

#### [18-210](#)

### **Rules and Forms: Qualifications of Counsel for Appointment in Death Penalty Appeals and Habeas Corpus Proceedings (Action Required)**

**Summary:** To achieve competent representation without unduly restricting the pool of attorneys willing and able to accept appointment in death penalty appeals and habeas corpus



proceedings, the Proposition 66 Rules Working Group recommends the adoption of two new rules and amendments to two existing rules relating to qualifications of counsel. These proposed rule changes are intended to partially fulfill the Judicial Council's obligation under Proposition 66 to reevaluate the competency standards for the appointment of counsel in death penalty direct appeals and habeas corpus proceedings. This proposal is submitted concurrently with a separate report to the Judicial Council containing the working group's proposal for related rules regarding the vetting and appointment of counsel for death penalty-related habeas corpus proceedings in the superior courts.

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

1. Adopt Cal. Rules of Court, rule 8.601, to provide definitions for terms used in the rules addressing qualifications of counsel for death penalty appeals and habeas corpus proceedings, and specifically to:
  - a. Include the terms and definitions currently set forth in existing rules 8.600(e) and 8.605(c)(1)-(5);
  - b. Amend the definition of "associate counsel" and the advisory committee comment thereto, to delete, as unnecessary, language regarding specific duties of counsel;
  - c. Amend the definition of "assisting counsel or entity" to add "a Court of Appeal district appellate project" to the list of possible assisting entities;
  - d. Further amend the definition of "assisting counsel" to clarify that an assisting counsel:
    - Must be an experienced capital appellate counsel or habeas corpus practitioner;
    - In an automatic appeal must meet the qualifications for appointed appellate counsel, including the nonalternative case experience requirements; and
    - In a habeas corpus proceeding must have filed a death penalty-related habeas corpus petition in a California state court.
  - e. Newly define the terms "panel" and "committee," two entities that are proposed and discussed in greater detail in the separate but related council report regarding the appointment of counsel for death penalty-related habeas corpus proceedings in the superior courts; and
  - f. Make minor changes to existing definitions, including to reflect changes to death penalty-related habeas corpus proceedings (e.g., statutory right to appeal) enacted by Proposition 66;
2. Amend rule 8.600 as follows and renumber as rule 8.603:
  - a. Add the Habeas Corpus Resource Center to the list of individuals and entities who receive a certified copy of the judgment of death;
  - b. Delete the definition for trial counsel in subdivision (e), which would be moved to proposed new rule 8.601(6); and

- c. Make a minor conforming change;
3. Amend rule 8.605 to:
  - a. Limit its application to counsel appointed in automatic appeals, including by moving the qualifications standards for counsel in death penalty-related habeas corpus proceedings to a new rule;
  - b. Amend the statement of “purpose” to clarify that the qualifications are designed to promote competence and assist the court in appointing counsel;
  - c. Delete the definitions, which have been moved to proposed rule 8.601;
  - d. Modify the experience requirement to provide that the appeals may be on behalf of either party, but a subset of the appeals must be as counsel of record on behalf of the defendant;
  - e. Modify the training requirement to add that counsel may receive training credit for instruction if approved by the Supreme Court;
  - f. Clarify that the recent automatic appeals experience may satisfy “some or all” of the training requirement; and
  - g. Make other minor clarifying and conforming changes;
4. Adopt rule 8.652 to contain the qualifications standards for counsel to be included on a panel, appointed by the Supreme Court, or appointed by a superior court for a death penalty-related habeas corpus proceeding, including those standards currently set forth in existing rule 8.605, and specifically to:
  - a. Parallel the overall structure of the qualifications standards for automatic appeals in proposed rule 8.605 by describing required years of practice, case experience, knowledge, training, skills, and alternative experience;
  - b. Increase the current required length of time counsel has been in the active practice of law from four years to five;
  - c. Modify and streamline the existing case experience requirement by:
    - Providing that it may be satisfied by past service as counsel of record for a person in a death penalty-related habeas corpus proceeding;
    - Providing that it may be satisfied by any combination of completed appeals, jury trials, or habeas corpus proceedings (as opposed to the current requirement of a certain number of appeals or writs, and a certain number of jury trials or habeas corpus proceedings), on behalf of any party, but in at least two cases counsel must have filed habeas corpus petitions involving serious felonies;
    - Deleting the reference to “writ proceedings” so that writ proceedings other than habeas corpus proceedings no longer satisfy the case experience requirement; and
    - Deleting the requirement that at least one appeal or writ proceeding must involve a murder conviction;
  - d. Modify the existing training requirement by:
    - Increasing from 9 to 15 the required number of hours of appellate criminal defense or habeas corpus defense training, of which at least 10 (increased from 6) hours must address death penalty-related habeas corpus

- proceedings;
- Providing that the State Bar of California-not the Supreme Court-must approve the training courses; and
  - Mirroring the training requirement in proposed amended rule 8.605 to clarify that past capital case experience may satisfy “some or all” of the training requirement, and to provide that an instructor may receive credit for teaching a course upon approval of the entity vetting counsel’s qualifications;
- e. Modify the existing skills requirement by retaining the requirement that recommendations, evaluations, and writing samples must be considered in an assessment of counsel’s qualifications, but clarifying that it is counsel’s responsibility to submit the necessary recommendations and writing samples, and the responsibility of the entity vetting counsel-which may be a committee or a superior court, as proposed in the separate council report regarding the appointment of death penalty-related habeas corpus counsel, or the Supreme Court-to obtain and review any applicable evaluations;
- f. Further modify the existing skills requirement to specify that the writing samples must include:
- At least two filed habeas petitions involving serious felonies; or
  - At least one filed death penalty-related habeas corpus petition; or
  - Habeas corpus petitions filed, if any, if counsel is qualifying for appointment under the alternative experience standard;
5. Renumber and reorganize several rules, chapters, and divisions in title 8 that do not relate to capital proceedings so as to permit the rules regarding posttrial capital proceedings in the Supreme Court and Courts of Appeal to be located together, for the most part, in division 2 (new rules adopted by the Judicial Council on September 21, 2018), specifically:
- a. Renumber chapters 11 and 12, in division 1, as chapters 1 and 2, respectively, and move these chapters to new division 3;
  - b. Renumber rule 8.495 as 8.720, rule 8.496 as 8.724, rule 8.498 as 8.728, and rule 8.499 as 8.730, and move these renumbered rules to new chapter 3 in new division 3;
  - c. Reserve for future use chapter 8 in division 1, which will have no rules under it once rules 8.495, 8.496, 8.498 and 8.499 are renumbered and moved; and
  - d. Renumber existing divisions 2-5 as divisions 4-7; and
  - 6. Refer to the appropriate Judicial Council advisory body or bodies, for their consideration, commenters’ suggestions for additional substantive changes to the rules that the working group was not able to consider at this time.

**A motion was made by Ms. Nelson, seconded by Mr. Kelly, that this proposal be approved. The motion carried by a unanimous vote.**

[18-209](#)

**Criminal and Appellate Procedure: Superior Court Appointment of Counsel in Death Penalty-Related Habeas Corpus Proceedings**

**(Action Required)**

**Summary:** To provide procedures for superior courts to determine if an attorney meets the minimum qualifications for counsel in death penalty-related habeas corpus proceedings and to appoint such counsel for indigent persons subject to a judgment of death, the Proposition 66 Rules Working Group proposes amending one rule and adopting four new rules and two new forms. These proposed rules changes are intended to partially fulfill the Judicial Council's rule-making obligations under Proposition 66. A second report to the Judicial Council presents the working group's recommendations for amendments to related rules governing qualifications of counsel for appointment in death penalty appeals and habeas corpus proceedings.

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

1. Amend chapter 3 of division 6 of title 4 of the California Rules of Court to divide the chapter into three new articles:
  - Article 1-General Provisions;
  - Article 2-Noncapital Habeas Corpus Proceedings in the Superior Court; and
  - Article 3-Death Penalty-Related Habeas Corpus Proceedings in the Superior Court;
2. Adopt rule 4.545 to provide definitions of terms for chapter 3 and to incorporate by reference the definitions in rule 8.601, which includes terms relevant to the appointment of counsel in death penalty-related habeas corpus proceedings;
3. Amend rule 4.550 to establish that article 2 governs noncapital habeas corpus proceedings in the superior courts;
4. Adopt rule 4.560 to establish that article 3 governs death penalty-related habeas corpus proceedings in the superior courts;
5. Adopt rule 4.561 to establish procedures by which superior courts appoint qualified counsel to represent indigent persons in death penalty-related habeas corpus proceedings, including by:
  - a. Establishing the principle that California courts, whenever possible, should appoint counsel first for those persons subject to the oldest judgments of death within the state;
  - b. Providing a mechanism by which the presiding judges of the superior courts will be notified when the judgments of death imposed in their respective courts are among the 25 oldest judgments of death in the state without habeas corpus counsel;
  - c. Providing a process for the appointment of one or more attorneys from (1) a statewide panel of qualified counsel, (2) an entity that employs qualified counsel, including the Habeas Corpus Resource Center, the local public defender's office or alternate public defender's office, or (3) if the superior court has adopted a local rule, an attorney that the superior court has determined to be qualified under that local rule;
  - d. Requiring the superior courts to use the *Order Appointing Counsel in Death*

- Penalty-Related Habeas Corpus Proceeding* (form HC-101) when appointing counsel; and
- e. Requiring the designation of an assisting entity or counsel to provide assistance to appointed counsel, except in cases in which the Habeas Corpus Resource Center is appointed as counsel;
6. Adopt rule 4.562 to establish procedures for the recruitment of counsel and determination of whether counsel have met the minimum qualifications for appointment in death penalty-related habeas corpus proceedings by:
    - a. Requiring those superior courts in which a judgment of death has been entered against an indigent person for whom habeas corpus counsel has not been appointed to develop and implement a plan to identify and recruit qualified counsel who may apply to be available for appointment;
    - b. Providing for each Court of Appeal to establish a death penalty-related habeas corpus committee that will:
      - Assist superior courts in their efforts to recruit qualified attorneys;
      - Accept applications from interested attorneys;
      - Determine if applicants meet the minimum qualifications, as provided in the Rules of Court, to represent indigent persons in death penalty-related habeas corpus proceedings; and
      - Upon the request of a superior court, assist superior courts in matching one or more qualified attorneys from the statewide panel to a specific case;
    - c. Providing for the membership, appointment, and governance of the committees;
    - d. Providing for a statewide panel of counsel that includes applicants the committees have determined meet the minimum qualifications;
    - e. Authorizing superior courts to adopt a local rule establishing local procedures for determining whether attorneys meet the minimum qualifications under proposed rule 8.652(c) to represent indigent persons in death penalty-related habeas corpus proceedings and to appoint such attorneys in those proceedings;
  7. Adopt new *Declaration of Counsel re Minimum Qualifications for Appointment in Death Penalty-Related Habeas Corpus Proceedings* (form HC-100) for mandatory use by attorneys who seek a determination that they meet the minimum qualifications and new *Order Appointing Counsel in Death Penalty-Related Habeas Corpus Proceeding* (form HC-101) for mandatory use by superior courts appointing counsel; and
  8. Refer to the appropriate Judicial Council advisory body or bodies, for their consideration, commenters' suggestions for additional substantive changes to the rules that the working group was not able to consider at this time.

**A motion was made by Ms. Nelson, seconded by Mr. Kelly, that this proposal be approved. The motion carried by a unanimous vote.**

## **INFORMATION ONLY ITEMS (NO ACTION REQUIRED)**

[18-214](#)**Judicial Branch Education: Final Report on the 2016-2018 Education Plan (No Action Required)**

**Summary:** The Governing Committee of the Center for Judicial Education and Research (CJER) has completed the final report on its *2016-2018 Education Plan Final Report* for the judicial branch (see Attachment A). The education plan, developed by the CJER Governing Committee for all the judicial branch audiences that CJER serves, contains training and education programs and products that enable those audiences to fulfill the education requirements and expectations outlined in rules 10.451-10.491 of the California Rules of Court. This final report provides an overview of the education plan's execution.

[18-215](#)**Court Facilities: Lease-Revenue Bond Issuance, Fall 2017 and Spring 2018**

**Summary:** As authorized and directed by the Judicial Council, the Administrative Director presents this report on actions taken in connection with lease-revenue bonds issued by the State Public Works Board (SPWB) in fall 2016 and spring 2017, for the financing of court facilities projects. No new lease-revenue bonds were issued by the SPWB on behalf of the Judicial Council in fall 2017 and spring 2018. However, in the fall of 2018, the Judicial Council requested and was granted approval of interim general fund loans to start construction on five capital outlay projects, with the payback from funds generated in a future bond sale.

[18-217](#)**Court Facilities: FY 2017-18 Trial Court Facility Modification Advisory Committee Annual Report**

**Summary:** The Trial Court Facility Modification Advisory Committee has completed allocating facility modification funding for fiscal year (FY) 2017-18 and submits its *Annual Report of the Trial Court Facility Modification Advisory Committee for Fiscal Year 2017-18* for informational purposes.

[18-218](#)**Judicial Workload Assessment: Preliminary 2018 Update of the Judicial Needs Assessment**

**Summary:** *The Need for New Judgeships in the Superior Courts: Preliminary 2018 Update of the Judicial Needs Assessment*, a report to the Legislature required by Government Code section 69614(c)(1), shows that 127 new judicial officers are needed based on workload. This analysis is based on judicial caseweights that were established in 2011 and are in the process of being updated; as a result, the workload measures will not reflect many factors that have changed judicial workload since 2011. The analysis will be updated and resubmitted to the council once the new workload measures are finalized in mid-2019. This report also includes information about the conversion of additional subordinate judicial officers to fulfill the reporting requirement of Government Code section 69614(c)(3). And, while not part of the legislative report itself, this report to the Judicial Council shows how new judicial resources might be distributed if any new judgeships were authorized and funded

using the council-approved methodology described in Government Code section 69614(b).

[18-220](#)      **Report to the Legislature: Court Realignment Data (Calendar Year 2017)**

**Summary:** Penal Code section 13155 requires Judicial Council staff, commencing January 1, 2013, to collect information from trial courts regarding the implementation of the 2011 Criminal Justice Realignment Legislation and make the data available annually to the California Department of Finance (DOF), Board of State and Community Corrections (BSCC), and Joint Legislative Budget Committee (JLBC) by September 1. This is the sixth annual court realignment data report, and was distributed to the DOF, BSCC, and JLBC on August 28, 2018. The report, *Court Realignment Data (Calendar Year 2017)*, is included as Attachment A to this report.

[18-216](#)      **Report to the Legislature: Allocations and Reimbursements to the Trial Courts in Fiscal Year 2017-18**

**Summary:** Government Code section 77202.5(a) requires that the Judicial Council report to the Legislature annually on allocations and reimbursements to the trial courts. Judicial Council staff submitted to the Legislature on September 30, 2018, the report *Fiscal Year 2017-18 Allocation and Reimbursement to Trial Courts*. The information in this report was provided to the Judicial Council by the superior courts.

[18-222](#)      **Report to the Legislature: Allocation of the State Level Reserve in the Trial Court Trust Fund**

**Summary:** As required in Government Code section 68502.5(c)(2)(B), funds are set aside in the Trial Court Trust Fund to be allocated by the Judicial Council and used by the trial courts for unforeseen emergencies, unanticipated expenses for existing programs, or unavoidable funding shortfalls. Judicial Council staff submitted to the Legislature on October 1, 2018, the *Report of Allocation of the State Level Reserve in the Trial Court Trust Fund in 2017-18*.

[18-226](#)      **Report to the Legislature: Court Innovations Grant Program for Fiscal Year 2017-18 (No Action Required)**

**Summary:** The Budget Act of 2016 allocated \$25 million to the judicial branch to promote court innovations and efficiencies through the Court Innovations Grant Program. The Budget Act of 2016 requires the Judicial Council to report to the Legislature no later than September 30, 2017, and each year thereafter the progress on that program and its projects. This year's report was submitted as required.

[18-221](#)      **Report to the Legislature: Standards and Measures That Promote the Fair and Efficient Administration of Justice**

**Summary:** The Judicial Council should approve the transmittal of the attached report to the Legislature, *Standards and Measures That Promote the Fair and Efficient Administration of Justice*. Government Code section 77001.5 requires the Judicial

Council to adopt and annually report on judicial administration standards and measures that promote the fair and efficient administration of justice, including, but not limited to, the following subjects: (1) providing equal access to courts and respectful treatment for all court participants; (2) case processing, including the efficient use of judicial resources; and (3) general court administration.

[18-227](#)**Trial Courts: Public Notice by Courts of Closures or Reduced Clerks' Office Hours (Gov. Code, § 68106-Rep. No. 47)**

**Summary:** Government Code section 68106 (1) directs trial courts to notify the public and the Judicial Council before closing courtrooms or clerks' offices, or reducing clerks' regular office hours; and (2) directs the council to post all such notices on its website and relay them to the Legislature. This is the 47th report to date listing the latest court notices received by the council under this statutory requirement. Since the previous report, four superior courts-the Superior Courts of San Francisco, Fresno, San Diego, and Madera Counties-have issued new notices.

**Circulating Orders**[18-228](#)**Circulating Orders since the last business meeting.**

**Summary:** Approved minutes for Trial Court Budget: Allocation of \$75 Million in Discretionary Funds (CO-18-01)

Approved minutes for Allocation of \$15 Million From the Trial Court Trust Fund to support start-up activities associated with Implementation of Pretrial Reform (CO-18-02)

**Appointment Orders**[18-229](#)**Appointment Orders since the last business meeting.****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. John J. Almquist, Superior Court of California, County of Santa Cruz
- Hon. Victoria E. Cameron, Superior Court of California, County of Riverside
- Hon. Thomas N. Douglass, Jr. (Ret.), Superior Court of California, County of Riverside
- Hon. Terry M. Finney (Ret.), Superior Court of California, County of El Dorado
- Hon. Kenneth R. Kingsbury (Ret.), Superior Court of California, County of Alameda
- Hon. Romero J. Moench (Ret.), Superior Court of California, County of Kern
- Hon. Edwin M. Osborne (Ret.), Superior Court of California, County of Ventura



## Adjournment

With the meeting's business completed, the Chief Justice adjourned the meeting at approximately 11:40 a.m.

*Respectfully submitted by Administrative Director Martin Hoshino, Secretary to the Judicial Council, on January 15, 2019.*