

Bench-Bar Coalition Fall Meeting

at the Annual Meeting of the
California **Judges**
Association

FRIDAY, SEPTEMBER 16, 2022

MARRIOTT MARQUIS HOTEL SAN DIEGO



JUDICIAL COUNCIL
OF CALIFORNIA

GOVERNMENTAL AFFAIRS



BENCH-BAR COALITION ANNUAL FALL MEETING

Friday, September 16, 2022

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BENCH-BAR COALITION 2022 FALL MEETING AGENDA

Welcome and Introduction <i>Hon. Paul Bacigalupo & Mr. Michael Johnson, Cochairs, Bench-Bar Coalition</i>	10:00–10:05 a.m.
Opening Remarks <i>Hon. Tani G. Cantil-Sakauye, Chief Justice, California Supreme Court and Chair of the Judicial Council of California</i>	10:05–10:15 a.m.
BBC Chairs Recognition of the Chief Justice <i>Hon. Paul Bacigalupo & Mr. Michael Johnson</i>	10:15–10:20 a.m.
Recognition of Outgoing and Installation of Incoming BBC Executive Committee Members <i>Chief Justice Tani G. Cantil-Sakauye and BBC Leadership</i>	10:20–10:30 a.m.
Update from the California Judges Association <i>Hon. Rupert Byrdsong, President Hon. David Rosenberg, President-Elect Ms. Nicole Virga Bautista, Executive Director Mr. Mike Belote, Legislative Advocate Mr. Cliff Costa, Legislative Advocate</i>	10:30–10:40 a.m.
Update from the Conference of California Bar Associations <i>Mr. Matt Schechter Chair M. Shaun Dabby Jacobs, Chair-Elect</i>	10:40–10:50 a.m.
Update from the State Bar of California <i>Ms. Leah Wilson, Executive Director</i>	10:50–11:00 a.m.
Update from the California Lawyers Association <i>Mr. Jeremy Evans, President Mr. Oyango Snell, CEO and Executive Director Mr. Saul Bercovitch, Director of Governmental Affairs</i>	11:00–11:10 a.m.
Update from the California Commission on Access to Justice <i>Hon. Mark A. Juhas, Chair Mr. Jack Londen, Executive Director</i>	11:10–11:20 a.m.
Update from the America Bar Association <i>Ms. Elizabeth Meyers, California representative on the ABA Board of Governors</i>	11:20–11:30 a.m.
Update from the Judicial Council of California <i>Mr. Martin Hoshino, Administrative Director Mr. Cory Jaspersen, Director of Governmental Affairs</i>	11:30–11:45 a.m.
BBC Activities and Announcements <i>Mr. Michael Johnson & Ms. Jennifer Kim, Cochairs, Bench-Bar Coalition</i>	11:45–11:55 a.m.
Closing Remarks and Adjournment <i>Mr. Michael Johnson & Ms. Jennifer Kim, Cochairs, Bench-Bar Coalition</i>	11:55–12:00 p.m.

Chief Justice Tani G. Cantil-Sakauye



After almost 12 years in office, Chief Justice Tani G. Cantil-Sakauye has emerged as one of the country's leading advocates for equal access to justice, civic education, and reform of court funding models and procedures that unfairly impact the poor.

When she was sworn into office in January 2011 as the 28th Chief Justice of California, she was the first person of color and the second woman to serve as the state's chief justice.

In recent years, Chief Justice Cantil-Sakauye has raised awareness of the unfair financial impact of fines, fees, and the bail system on the poor. She is a leading national advocate calling for bail system reform by addressing concerns about fairness and public safety.

As leader of California's judicial branch and chair of the Judicial Council, Chief Justice Cantil-Sakauye has led the judicial branch out of the state's worst fiscal crisis since the Great Depression. She has improved the branch's efficiency, accountability, and transparency in how it conducts business, sets policy, and discloses information. When she became Chief Justice, she opened meetings of the Judicial Council and its advisory bodies that were once closed to the public and has made public comment more accessible. Judicial Council meetings are now webcast, as are state Supreme Court oral arguments. She initiated a review and oversaw changes in court rules that will improve how judicial branch entities prevent and address harassment, discrimination, retaliation, and inappropriate workplace conduct. During the COVID-19 pandemic she pushed for remote court operations and issued hundreds of emergency orders so that courts continue to operate safely. She also launched a program to make retired judges available to fast track the resolution of some criminal cases.

She has been recognized for her early work on domestic violence issues, support for minority bar associations, and for advancing the role of women and minorities in the legal profession. The Chief Justice is a leader in revitalizing civic learning through her Power of Democracy initiative. She, along with other state leaders, fulfilled one of the initiative's goals in July 2016 when the state Board of Education unanimously approved an instructional framework that encourages civic learning. In 2019, she was honored with the Sandra Day O'Connor Award by the National Center for State Courts for her work inspiring, promoting, and improving civics education.

The Chief Justice has also convened leaders to address such issues as implicit bias, human trafficking, and truancy. All the Chief Justice's initiatives support her vision for a judicial branch that provides physical access through safe and secure courthouses, remote access through technology initiatives, and equal access to all Californians.

MARTIN HOSHINO
ADMINISTRATIVE DIRECTOR
JUDICIAL COUNCIL OF CALIFORNIA



Martin Hoshino has served as Administrative Director of the Judicial Council of California since 2014. He has worked with the Chief Justice on foundational issues of equal access to justice: advancing pretrial detention reform to correct socioeconomic inequities inherent in a money bail system and addressing the disproportionately negative impact of court fines and fees on low-income people. With civil justice reforms, Mr. Hoshino has been instrumental in extending court interpreters services for critical civil cases; doubling state funding to expand self-help services for unrepresented litigants; and addressing the language access needs of those with limited English skills. He spearheaded a statewide, multi-year grant program to support local court innovation and modernization initiatives; and has heightened the focus on data analytics as a means to improve court operations and strengthen advocacy for judicial branch priorities. He currently serves as vice president of the national Conference of State Court Administrators. Before joining the council, Mr. Hoshino served in leadership roles in executive branch for more than 20 years. As Undersecretary of Operations for the California Department of Corrections and Rehabilitation (CDCR), he played a central role in Public Safety Realignment reforms to close the revolving door of low-level inmates cycling in and out of state prisons. (Word count 203)

CORY T. JASPERSON
DIRECTOR, GOVERNMENTAL AFFAIRS
JUDICIAL COUNCIL OF CALIFORNIA



Cory T. Jasperson, was chosen to lead the Judicial Council’s legislative and executive advocacy efforts in December 2012. Mr. Jasperson worked in the State Capitol for the last twelve years, serving in senior staff positions in both the Assembly and Senate with a key policy focus on education, budget, insurance, pensions, and privacy. He was instrumental in the drafting and passage of well-known legislation to increase California’s minimum wage; make human trafficking a felony; limit the use of “gay panic” strategies by criminal defendants; equalize revenue limit funding for school districts; change the kindergarten entry-age and create California’s first new grade-level since 1891; and establish the San Francisco Bay Restoration Authority.

Former chief of staff to California State Senator Joe Simitian (Palo Alto), Cory’s key policy focus was education, budget, and privacy. He also served as the principal consultant to the Senate Select Committee on Privacy. As former chief of staff to Assembly Speaker pro Tempore Sally Lieber (Mountain View), he was responsible for managing and coordinating all aspects of the Speaker pro Tem’s legislative agenda.

Prior to his legislative service, he worked at the Santa Clara County Board of Supervisors, Office of the Dean of Graduate Policy & Research at Stanford University, Federal Bureau of Investigation (Hmong linguistic consultant), and at the Greenlining Institute—a statewide multi-ethnic public policy and advocacy center in Berkeley, where he was the recipient of the Greenlining Institute’s *2007 Big Foot Award* for exceptional leadership in stepping forward to pioneer new trails to empower California’s underserved communities.

Born in Afton, Wyoming, he has lived in California since 1989. Cory received his bachelor’s degree in international relations with an emphasis in world politics and China/Asia/Pacific Rim, and a minor in linguistics from the University of California, Davis.

MICHAEL JOHNSON
Cochair, Bench-Bar Coalition Executive Committee
Northern/Central Region



Mr. Johnson is currently a Co-Chair of the BBC and will serve again in that capacity for the 2022-2023 term.

In 2021, Mr. Johnson joined the Warner Bros. Discovery, Inc. Legal Department where he serves as Senior Counsel in the Direct to Consumer, Technology Legal Group. In that capacity, Mr. Johnson provides legal support, advice and counsel to the Chief Technology Officer, and is responsible for spearheading the drafting, negotiation and closing of complex technology agreements for cloud, SaaS and partnership agreements.

Prior to joining the Warner Bros. Legal Department Mr. Johnson served as Assistant Vice President, Senior Legal Counsel for AT&T's Enterprise business and medical business customer segments. In that capacity, Mr. Johnson was responsible for providing advice and counsel, litigation strategy recommendations and evaluation of legal risk to AT&T's corporate officers and senior business leadership regarding compliance with applicable federal and state commercial sales regulations; HIPAA; COPRA; GDPR; CCPA; FCPA; CPNI; advertising; privacy; data protection; intellectual property and licensing as well as supervision and hands-on management of outside litigation counsel.

Mr. Johnson's professional and community organization memberships are extensive and include the following:

- Charles Houston Bar Association, **General Counsel** (2019 – present)
- Alameda County Bar Association, **Past President** (2018)
- Alameda County Bar Association, Access Legal, **Past President** (2016)
- American Bar Association, **Member**
- Association of Corporate Counsel, **Member**
- Review Committee, Judicial Nominees Eval. Comm., State Bar of California, **Chairman** (2104-2015)
- Judicial Nominees Evaluation Committee, State Bar of California, **Commissioner** (Beginning, 2009 to 2012)
- Subcommittee for Moral Character Determinations, Committee of Bar Examiners, State Bar of California, **Chairman**, (2001-2002)
- Committee of Bar Examiners, State Bar of California, **Committee Member**, (1999-2003)
- Big Brothers/Big Sisters of the East Bay, **Board of Directors**, (1999-2002)
- DeAnza Law Project, **Student Coach**
- Ethnic Minority Relations Committee, State Bar of California, **Chairman** (1998-1999)
- International Association of Privacy Professionals, **Member**

JENNIFER KIM
Cochair-Elect, Bench-Bar Coalition Executive Committee
Southern Region



Jennifer Kim is a Supervising Deputy Attorney General in the California Department of Justice. Ms. Kim litigates healthcare, education, and welfare cases in both state and federal court. She has received three Attorney General Awards recognizing her excellent work, one of which was for a matter before the U.S. Supreme Court. Ms. Kim was the 2019 Chairperson for the Conference of California Bar Associations. She also serves as faculty for the National Association of Attorneys General – Training & Research Institute (NAGTRI). As part of the NAGTRI faculty, she has taught litigation skills courses at Attorney General’s Offices throughout the country and U.S. territories. Ms. Kim received her Bachelor of Arts degree from the University of California at Berkeley and her J.D. from Golden Gate

University School of Law.

HON. AUDRA IBARRA
Member at Large, Bench-Bar Coalition Executive Committee
Northern/Central Region



Judge Ibarra was appointed to the Santa Clara County Superior Court in December 2018 and served as a pro tem justice on the Second District Court of Appeal, Division 7, from June 2021 to January 2022. She has been appointed to the Judicial Council’s criminal law advisory committee and strategic plan for technology workstream. She serves on the executive committee of the Bench-Bar Coalition and advisory board of California Education of the Bar (CEB). She teaches evidence and criminal law primary assignment orientation for the California Center for Judicial Education and Research. She is guest faculty for Stanford Law School’s trial advocacy workshops and moot court competitions. She co-writes the book *California Objections Civil*

and *Criminal*, which is distributed by James Publishing, with Judge Gregory H. Ward (ret.). She is the president of the California Asian Pacific American Judges Association.

Before her appointment, Judge Ibarra was counsel at the firm California Appellate Law Group (now Complex Appellate Litigation Group) in San Francisco. She was a supervising Assistant U.S. Attorney and Deputy Chief of the Organized Crime Drug Enforcement Task Force at the U.S. Attorney’s Office in the Northern District of California and an Assistant U.S. Attorney in the Southern District of California. She was a litigator at Pillsbury Madison & Sutro in San Francisco and a Deputy District Attorney at the Solano County District Attorney’s Office. She served as a member of the Judicial Council, as well as the committee on appellate courts for both the State Bar of California and the California Lawyers Association. She was on the board of directors of the California Minority Counsel Program, the executive committee of the board of governors of California Women Lawyers, and its amicus committee chair. She was certified as an appellate specialist by the State Bar of California Board of Legal Specialization. She earned a J.D. from New York University School of Law and a B.A. from the University of California at Berkley.

OLIVER DUNLAP
Member at Large, Bench-Bar Coalition Executive Committee
Northern/Central Region



Oliver Dunlap is a Principal at Bartko Zankel Bunzel & Miller. He is a civil litigator and trial attorney with extensive experience in a broad range of complex matters, including work with clients in the life sciences, healthcare, technology, financial services, and energy and resources industries. He has successfully litigated matters involving class actions, antitrust, mass torts, complex commercial disputes, products liability, business litigation, intellectual property, toxic torts and environmental defense, securities and internal investigations, international human and civil rights, and wine law. Oliver regularly represents Fortune 500 and 1000 companies and industry leaders, as well as mid-sized corporations and start-ups, always with an eye to both his clients' litigation and

business goals.

Prior to joining Bartko, Oliver worked at King & Spalding and Morrison & Foerster, and served with the Office of the Prosecutor at the Yugoslavia and Rwanda War Crimes Tribunal. He has significant state and federal experience, and has led multi-firm and office teams in international complex litigation and in responding to major state and federal government investigations. He actively participates in community organizations, state bar and pro bono work, and professional diversity and training initiatives, serving on the Board of Directors for various youth services not-for-profits, the Conference of California Bar Associations, the Bench Bar Coalition, various CJA committees, and the Leadership Council's Legal Diversity initiative.

HON. PATRICIA GARCIA
Member at Large-Elect, Bench-Bar Coalition Executive Committee
Southern Region



Judge Patricia Garcia is the daughter of Mexican immigrants who was born and raised in Los Angeles and earned a Bachelor of Arts degree from UCSD, a law degree from the University of San Diego School of Law and then worked in civil law firms for a decade, developing an expertise in family law, to become one of the most experienced family judges on the San Diego Superior Court.

In private practice, Judge Garcia was Of Counsel and head of the Family Law department at Seltzer Caplan McMahon Vitek, earning Martindale Hubbell's AV lawyer rating. In 2000, she was selected by the San Diego Superior Court as a child support commissioner and served in that capacity until she was appointed by Governor Gray Davis in 2003. Judge Garcia continued to hone her skills and expertise in family law and supervised the family divisions in the branch courts until she took a criminal assignment in 2010, and just last year, in the fall of 2021, Judge Garcia volunteered to return to a family assignment, presiding over complex long cause matters and trials.

Judge Garcia has served on the San Diego Superior Court Executive Committee since 2019. She has also served on CJER's Family Law Education Committee and is currently serving her third year on the California Judges Association Executive Board, as Secretary-Treasurer.

PHILIP NULUD
Member at Large-Elect, Bench-Bar Coalition Executive Committee
Southern Region



Philip Nulud is a shareholder at Buchalter, a full-service business law firm, where he practices intellectual property law. A seasoned intellectual property attorney, Mr. Nulud has assisted clients in developing, protecting, and licensing their valuable ideas by providing critical freedom to use clearance and infringement opinions for patents and trademarks, while also preparing, prosecuting, and enforcing their patents, trademarks and copyrights.

Mr. Nulud has extensive experience serving clients in the apparel and textile industry. He has represented global fashion companies in brand protection, trademark clearance, international expansion, enforcement, and licensing transactions, including risk assessment of advertising campaigns and social media posts.

Community is important for Mr. Nulud and he has served as a Director of the National Asian Pacific American Bar Association, President of the Philippine American Bar Association, Founding Board Member of the California Asian Pacific American Bar Association, President of the Loyola Law School Alumni Association, Board of Governors, amongst other organizations. The *Los Angeles Business Journal* has recognized Mr. Nulud as one of the 2019 “Most Influential Minority Attorneys” and a nominee for “Service Provider of the Year” at the 2018 Fashion & Beauty Awards. He was awarded Best Under 40 by the National Asian Pacific American Bar Association. He was also selected as a 2020 and 2021 “Rising Star” by *Super Lawyers*.

HON. PAUL A. BACIGALUPO
Outgoing Cochair, Bench-Bar Coalition Executive Committee
Southern Region



Judge Paul A. Bacigalupo was elected in an open seat to the Los Angeles Superior Court in 2002. He has been assigned to the Van Nuys courthouse since 2014, conducts mandatory settlement conference full-time, and has had an independent calendar civil trial court. Between 2003 -2014, he held various criminal assignments at the Compton South Central District courthouse and was a Judge at the State Bar Court between 2000-2002, and the founding supervisor of the Southern California Alternative Attorney Discipline Program. Prior to becoming a judge, he practiced public and private complex construction and business litigation, employment, insurance, product liability and immigration law in state and federal courts. He was a founding attorney mediator and arbitrator at the JAMS/Endispute Los Angeles and Santa Monica offices in 1994.

Judge Bacigalupo is a former president of the California Judges Association and founding co-chair of CJA's Judicial Fairness Coalition, a committee of judicial officers and bar associations and leaders, and law school deans and professors that responds to unfair and unjust criticism against bench officers and the judiciary and presents civics education forums statewide. He's the founding co-chair of CJA's Mindfulness and Wellness Committee, former chair of CJA's Elections Committee, a member of the California Latino Judges Association and founding chair of its Judicial Applicant Support Committee.

Judge Bacigalupo is the elected co-chair of the Judicial Branch's Bench-Bar Coalition, a former member of the Judicial Council of California, is a Special Master with the Commission on Judicial Performance, and a CJP mentor. He's the former chair of the Judicial Branch Access, Ethics and Fairness Curriculum Committee and former member of the Judicial Branch Fairness Committee. He's on the Witkin Judicial College faculty and has presented courses for the Center for Judicial Education and Research to judges and court executives such as: *Building Resilient Leaders; Wellness; Trauma in the Courtroom; and The Excellence of Judicial Decision-Making*. He's a frequent speaker around the country to bar associations and organizations about attorney well-being.

Judge Bacigalupo is the appointed founding Chair of the Executive Committee of the California Judicial Mentor Program, a partnership between the executive and judicial branches, and one of the founding co-chairs of the Los Angeles Superior Court's Judicial Mentor Program.

NIKKI PRESLEY MILIBAND
Outgoing Member at Large, Bench-Bar Coalition Executive Committee
Southern Region



Nikki is a partner at Good Wildman where she practices trust and estate litigation in Orange County, California. She has practiced law for 32 years, and is licensed in California and Oklahoma. Nikki served as the 2018 President of the Orange County Bar Association (OCBA), and has held many leadership positions within the OCBA. She is currently a co-chair of both the OCBA Leadership Development Committee and the State Bar Task Force, and serves as Treasurer of the OCBA's Master Division. Nikki has also served as President of the Orange County Bar Association's Charitable Fund. Nikki currently serves as Secretary for Community Legal Aid SoCal, and is on the following board of directors: Gang Reduction Impact Partnership (GRIP) through the Orange County District Attorney's office, the

OCBA Charitable Fund, and the Collaborative Courts Foundation. Nikki also serves on the Executive Board for OCU School of Law, and the Executive Committee for the Bench Bar Coalition.



Background on the Bench-Bar Coalition

The statewide Bench-Bar Coalition (BBC) was formed in 1993 under the leadership of the California Association of Local Bars (CALB), the State Bar of California, and the Judicial Council to enhance communication and coordinate activities with the state, local, and specialty bar associations on issues of common interest to the judicial branch—particularly in the legislative arena. Securing adequate, dependable, and stable funding for the trial courts has been a primary focus for the BBC. BBC membership is open to members of the bench and bar including judges and the presidents, past-presidents, presidents-elect, executive directors, or other person(s) designated by the president, of state, local, minority or specialty bar associations; legal services organizations; or statewide organizations dedicated to improving the justice system.

The BBC is currently cochaired by Hon. Paul Bacigalupo, Judge, Superior Court of California, Los Angeles and Mr. Michael Johnson, Attorney, San Ramon. Judge Bacigalupo represents the Southern California region and Mr. Johnson represents the Northern/Central region. Members of the BBC's Executive Committee support the cochaairs in carrying out leadership responsibilities on quarterly conference calls, meetings, working groups, and related coalition activities.

In addition to its quarterly conference calls, the Bench-Bar Coalition holds meetings in conjunction with the State Bar of California and the judicial branch. The statewide BBC also participates in Day in Sacramento, in which groups of judges and bar leaders meet with their legislators to discuss issues of mutual interest, with emphasis on the judicial branch budget. Judicial Council members and leaders of special commissions and task forces also are invited to participate in this event, which is held annually in conjunction with the State of the Judiciary address by the Chief Justice of California.

The BBC has been successful in the development of strong working relationships and increased communication between the judiciary and members of the bar, as well as enhanced advocacy efforts with the legislative and executive branches. Subject areas of joint interest include the judicial branch budget and the need for stable, adequate funding; access to justice; court technology; new judgeships; and courthouse construction.

For more information about the BBC, please contact Cory Jasperson, the Judicial Council's liaison to the BBC, at (916) 323-3121 phone or email to cory.jasperson@jud.ca.gov.



BENCH-BAR COALITION

2022-2023 Calendar

Monday, October 24, 2023		BBC Quarterly Membership Meeting
January 2, 2023		2022-2023 Legislative Session begins
Monday January 30, 2023		BBC Quarterly Membership Meeting
February / March 2023 (Tentative)		2023 Day in Sacramento
Monday April 24, 2023		BBC Quarterly Membership Meeting
Monday July 31, 2023		BBC Quarterly Membership Meeting
September/October 2023 (Tentative)		2023 BBC Annual Fall Meeting
Monday October 30, 2023		BBC Quarterly Membership Meeting



JUDICIAL COUNCIL OF CALIFORNIA

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MEMORANDUM

Date

June 28, 2022

Action Requested

For Your Information

To

Judicial Officers, Court Administrators, and
Employees of the California Judicial Branch

Deadline

N/A

From

Martin Hoshino, Administrative Director
Judicial Council

Contact

Zlatko Theodorovic
Deputy Director, Budget Services
916-263-1397 phone
zlatko.theodorovic@jud.ca.gov

Subject

2022–23 Judicial Branch Budget

“This year’s budget represents an unprecedented investment in our judicial branch, and I thank the Governor and Legislature for their continued dedication to providing access to justice with sustainable funding for our courts.

In supporting access to justice, this budget will fund significant investments in technology, provide critically needed judgeships and courthouses, and expand remote access to court proceedings that played a key role during the pandemic.

As we emerge from the effects of the pandemic, this historic budget will benefit all Californians who depend on a functioning justice system.”

Tani G. Cantil-Sakauye

The Budget Act of 2022, signed into law by Governor Newsom on June 27th, along with changes anticipated to be approved later this week which reflects the budget agreement between the Governor and the Legislature, represents a historic budget for the judicial branch and reflects the tireless work by the Chief Justice to secure adequate, stable and sustainable funding. For the first time, trial court statewide average funding will exceed 92 percent of the estimated workload need. This is a remarkable achievement resulting from a series of incremental increases made since 2012-13 when trial courts were funded at a mere 55 percent of workload need. Comparing more recently, this budget marks a significant improvement over the 2020-21 average funding

level of 74.3 percent as the courts faced the COVID-19 pandemic. In short, this is the largest ongoing budget in branch history.

The budget addresses core structural funding issues including trial court workload, equity, operational cost increases, and civil assessments. These funding issues have been long standing priorities of the Chief Justice, Judicial Council and the courts in support of improved access for the public. Additionally, with these critical ongoing investments comes increased accountability reporting to the Legislature on various trial court operational and budgetary metrics.

Other key budget proposals include additional funding for branchwide technology modernization, data governance, 23 new judgeships, dependency counsel, legal aid programs, additional facilities maintenance/modifications, and new courthouse construction.

The budget provides a total of \$1.2 billion in new operational and facility funding for the judicial branch.

Judicial Branch Funding for FY 2022–23

Judicial Branch Entity	Total Funding (\$ in millions)
Supreme Court	\$54.9 m
Courts of Appeal	\$276.0 m
Trial Courts	\$3,925.9 m
Judicial Council	\$371.7 m
Judicial Branch Facility Program	\$718.2 m
Habeas Corpus Resource Center	\$18.7 m
Subtotal, Operational Budget	\$5,365.4 m
Offset from Local Property Tax Revenue	-\$128.4 m
Adjusted Operational Budget	\$5,237.0 m
Less Nonstate Funds ¹	-\$180.7 m
Adjusted Operational Budget, State Funds	\$5,056.3 m
Court Construction Projects²	<u>\$389.5 m</u>
Total Funding (Sum of Adjusted Operational Budget & Court Construction Projects) ³	\$5,626.5 m

Note: Some totals will not be exact because of rounding.

¹ Includes federal funds and reimbursements.

² Includes additional funding for current projects.

³ Includes General Fund; special, bond, federal, and non-governmental cost funds; and reimbursements, and is the total of Adjusted Operational Budget and Court Construction Projects funding.

Trial Courts

Support for Trial Court Operations: \$184.2 million ongoing General Fund to address core structural funding needs for the trial courts. This amount includes \$84.2 million, associated with a 3.8 percent Consumer Price Index adjustment for trial court operational costs due to general inflationary pressures facing all government operations. The remaining \$100 million is proposed to be allocated by the Judicial Council to promote fiscal equity among the trial courts.

Trial Court Operational and Budgetary Data Reporting: As required by budget bill language, an annual report from the Judicial Council by February 1 of each year to the Legislature on the operations of each trial court with various operational and budgetary metrics, including but are not limited to, time to disposition and case clearance rates by case type, backlogs by case type, court hours of operations including public counter hours, staff vacancy rates by classification, fund balance detail from the prior fiscal year, the calculated funding level of each court and the percent of funding actually provided to each court, and the funding level of each trial court as measured by the Judicial Council—approved workload formula.

Criminal Remote Proceedings: Effective July 1, 2022, pending criminal remote legislation allows a defendant to consent to a remote appearance in misdemeanor and felony proceedings, with the exception of trial and felony sentencing. The parties and the court may consent to a remote appearance by a witness in criminal proceedings except for felony trials, and attorneys may appear remotely when appropriate. The legislation sunsets on January 1, 2024.

Trial Court Trust Fund Backfill: \$151.5 million General Fund backfill for the Trial Court Trust Fund (TCTF) related to the continued decline in civil fee and criminal fine and penalty revenues expected in 2022–23.

Civil Assessment Fee Revenue Backfill: \$110 million General Fund in 2022-23 and \$100 million General Fund annually thereafter to backfill civil assessment fee revenue loss due to the reduction in the amount of the civil assessment from \$300 to \$100 and elimination of prior debt. Civil assessment revenues will be deposited into the General Fund rather than the TCTF.

Community Assistance, Recovery, and Empowerment (CARE) Act Implementation: \$39.5 million General Fund in 2022-23 and \$37.7 million General Fund annually thereafter to fund implementation of the proposed CARE Act. The resources would address costs to the judicial branch related to conducting additional hearings, expanding self-help centers, supporting program administration at the trial courts, and updating court case management systems.

Additional Legal Aid Funding: A total of \$45 million one-time General Fund to fund additional legal aid services, of which \$15 million is for a consumer debt protection and \$30 million is for eviction defense.

Firearm Relinquishment: \$40 million one-time General Fund, available for expenditure for three fiscal years, to support court-ordered firearm relinquishment pilot programs.

Superior Court Judgeships: \$39.9 million General Fund in 2022-23 and \$39.1 million annually thereafter for 23 additional superior court judgeships. The Budget also proposes funding to address the increased security needs placed on counties because of the additional judgeships.

Dependency Counsel: \$30 million ongoing General Fund and \$9 million reimbursements (Title IV-E federal funding) to address updated cost assumptions in the dependency counsel funding model.

State Level Judiciary Employee and Judicial Officers Costs: \$36.9 million in General Fund and \$234,000 increase in other funds to adjust retirement costs, and prior year salary and benefit costs for employees of the Supreme Court (\$1.5 million), Courts of Appeal (\$7.8 million), Judicial Council (\$7.1 million), Habeas Corpus Resource Center (\$562,000), Compensation for Superior Court Judges (\$19.5 million), and Assigned Judges (\$693,000).

Court Appointed Special Advocate (CASA) Funding: \$20 million one-time General Fund for support of CASA programs across the state.

Trial Court Employee Costs: \$20.9 million ongoing General Fund for increased trial court employee health benefits costs, based on updated trial court benefit and retirement costs.

Filing Fees Waiver: \$18 million ongoing General Fund to backfill branch funds related to an increase in the income threshold for automatic filing fee waivers in civil cases.

Chapter 257, Statutes of 2021 (Assembly Bill (AB) 177) – Administrative Fees: \$10.3 million ongoing General Fund to backfill revenues lost from the repeal of fees in AB 177.

Incompetent to Stand Trial/Alienist Training Program: \$5 million in reimbursement authority to develop a training program to improve the quality of evaluations that are utilized by the courts to make determinations regarding a defendant's competency status. These funds will be provided by the Department of State Hospitals (DSH), who will serve as a consultant partner with the Judicial Council in the development of the training.

Legal Counsel in Tribal Child Welfare Cases: \$300,000 ongoing General Fund for the Judicial Council to support the state's effort to provide legal counsel in tribal child welfare cases.

Carry-over Pretrial Funding: Budget bill language allowing trial courts to carry-over the unexpended balances of the \$70 million of ongoing pretrial related fund into 2022-23.

Court Reporter Budget Bill Language: Amended budget bill language related to the expenditure of \$30 million ongoing court report funding. The amendments would allow the funds to be used for recruitment and retention purposes, filling existing vacancies, converting part-time positions into full time positions, increasing salary schedules, and providing signing

and retention bonuses to enable trial courts to compete with private employers in the labor market.

Judicial Entities at the State Level

Courts of Appeal Court-Appointed Counsel: \$8.3 million ongoing General Fund to support the Courts of Appeal Court Appointed Counsel Program. This total amount includes a \$6.4 million ongoing General Fund for a \$15 rate increase for non-capital appeal appointments and \$1.9 million for a permanent 10.5 percent increase in the Project Offices annual contracts.

Chapter 417, Statutes of 2021 (AB 1194) - Conservatorship: \$1.3 million one-time in 2022–23 to support costs of conducting a comprehensive study of probate conservatorships in California and developing statewide recommendations, as required by Assembly Bill 1194.

Public Access Staffing: \$1.1 million ongoing General Fund to address the rapidly increasing volume and complexity of work related to requests for legal guidance on and support for public access requirements for judicial branch administrative records and proceedings.

General Fund Support for the State Trial Court Improvement and Modernization Fund (IMF): Budget bill language, which would authorize General Fund backfill to the IMF, to ensure critical trial court programs are funded. Because of declining fines and fees to the IMF, resources may be insufficient to support Judicial Council approved allocations. Budget bill language was also adopted to require additional reporting on IMF programs.

Establishment of Judicial Council Climate Change Unit: \$1.2 million ongoing General Fund to establish a unit within the council to provide ongoing training, technical assistance, and legal support to California’s trial courts on environmental and climate change issues.

Rent Costs: \$740,000 for rent increases in buildings occupied by the Supreme Court, Courts of Appeal, Judicial Council, and Habeas Corpus Resource Center.

Judicial Branch Technology Modernization

Branchwide IT Modernization: \$34.7 million General Fund in 2022-23 increasing to \$40.3 million in 2025-26 and ongoing to support Judicial Branch modernization and stabilization efforts for the Supreme Court, Courts of Appeal, and trial courts. These investments will also support initiatives that promote public access to digital records and court proceedings by expanding electronic case filing, digitizing court documents, enabling online dispute resolutions, and enhancing remote proceedings. The funds will also be used to recruit managers, project managers, engineers, development architects, and security staff to support these investments.

Judicial Branch Data Governance: \$15 million General Fund in 2022-23 and \$3.8 million annually thereafter to implement a data and information framework to improve data collection

from trial and appellate courts. This investment will enhance the ability of all three branches of government to assess court programs.

Chapter 526, Statutes of 2021 (AB 716) - Remote Access to Court Proceedings: \$33.2 million General Fund for two years and \$1.6 million annually thereafter to implement and support remote access to courtroom proceedings pursuant to AB 716. Specifically, these resources will be used to provide a publicly accessible audio stream for every courthouse in the state

Chapter 681, Statutes of 2021 (AB 887) – Domestic Violence Restraining Orders and Chapter 686, Statutes of 2021 (SB 538) – Gun Violence Restraining Orders: \$2.6 million in 2022–23 and \$1.7 million annually thereafter to implement and support electronic filing interfaces for domestic violence restraining orders, domestic temporary restraining orders, and gun violence restraining orders for all trial courts as required by AB 887 and SB 538.

Judicial Branch Facilities

Trial Court Facility Modifications: \$15.4 million ongoing General Fund for critical building repairs in the trial courts and Courts of Appeal, mitigating the overall risk of building system failures, and an additional \$4 million in reimbursement authority to reflect additional funding from counties.

San Diego Hall of Justice: \$29.7 million one-time General Fund to fund facility modifications related to the repair of existing elevators, escalators, and the air conditioning system at the Hall of Justice in San Diego County.

New Judgeships Facility Modification: \$24.3 million one-time General Fund for facility modifications to accommodate new judgeships in existing or leased trial court facilities. Seventeen new judgeships and associated support staff will be accommodated to improve service to the public in seven superior court jurisdictions (Fresno, Kern, Madera, Placer, Riverside, San Bernardino, and Stanislaus).

San Diego East County Regional Center: \$15.3 million one-time General Fund to fund facility modifications that correct fire, life, and safety deficiencies at the East County Regional Center in San Diego County.

Courthouse Lactation Facilities: \$15 million one-time General Fund to expand lactation facility access in the courts.

Orange County - Central Justice Center: \$11.3 million one-time General Fund to support facility modification projects that resolve deficiencies by expanding the fire, life, and safety systems at the Central Justice Center in Orange County. This request is for an augmentation to 2021-22 funding to complete this project in full.

State Court Facilities Construction Fund (SCFCF) Solvency: Budget bill language to allow for a General Fund backfill, to the extent revenues decline and are not sufficient to support SCFCF obligations.

Court Facilities Trust Fund Reimbursement Authority Increase: An ongoing increase of \$4.4 million in reimbursement authority to accommodate increases in utilities and maintenance expenditures in shared facilities.

Capital Outlay

The Judicial Branch Capital Outlay budget appears as a separate line item in the Budget Act.

Court Construction: \$165.6 million General Fund and \$220 million Public Buildings Construction Fund in 2022-23 for funding new projects and continued funding of previously approved projects and \$3.9 million General Fund for various reappropriations:

New projects:

- Los Angeles County – New Santa Clarita Courthouse – \$41.7 million for Acquisition and \$11.3 million for Performance Criteria
- Plumas County – New Quincy Courthouse – \$4.0 million for Acquisition and \$3.1 million for Performance Criteria
- Solano County – New Solano Hall of Justice (Fairfield) - \$16.5 million for Acquisition and \$4.9 million for Performance Criteria
- Fresno County – New Fresno Courthouse - \$21.2 million for Acquisition
- San Luis Obispo County – New San Luis Obispo Courthouse - \$29.2 million for Acquisition
- New Judgeship Courtroom Buildouts — \$29.6 million General Fund for the build out of shelled courtrooms and support spaces for new judgeships in existing trial court facilities. Five new judgeships and associated support staff will be accommodated among four superior court jurisdictions (Kings, Sacramento, San Joaquin, and Sutter).

Previously approved projects:

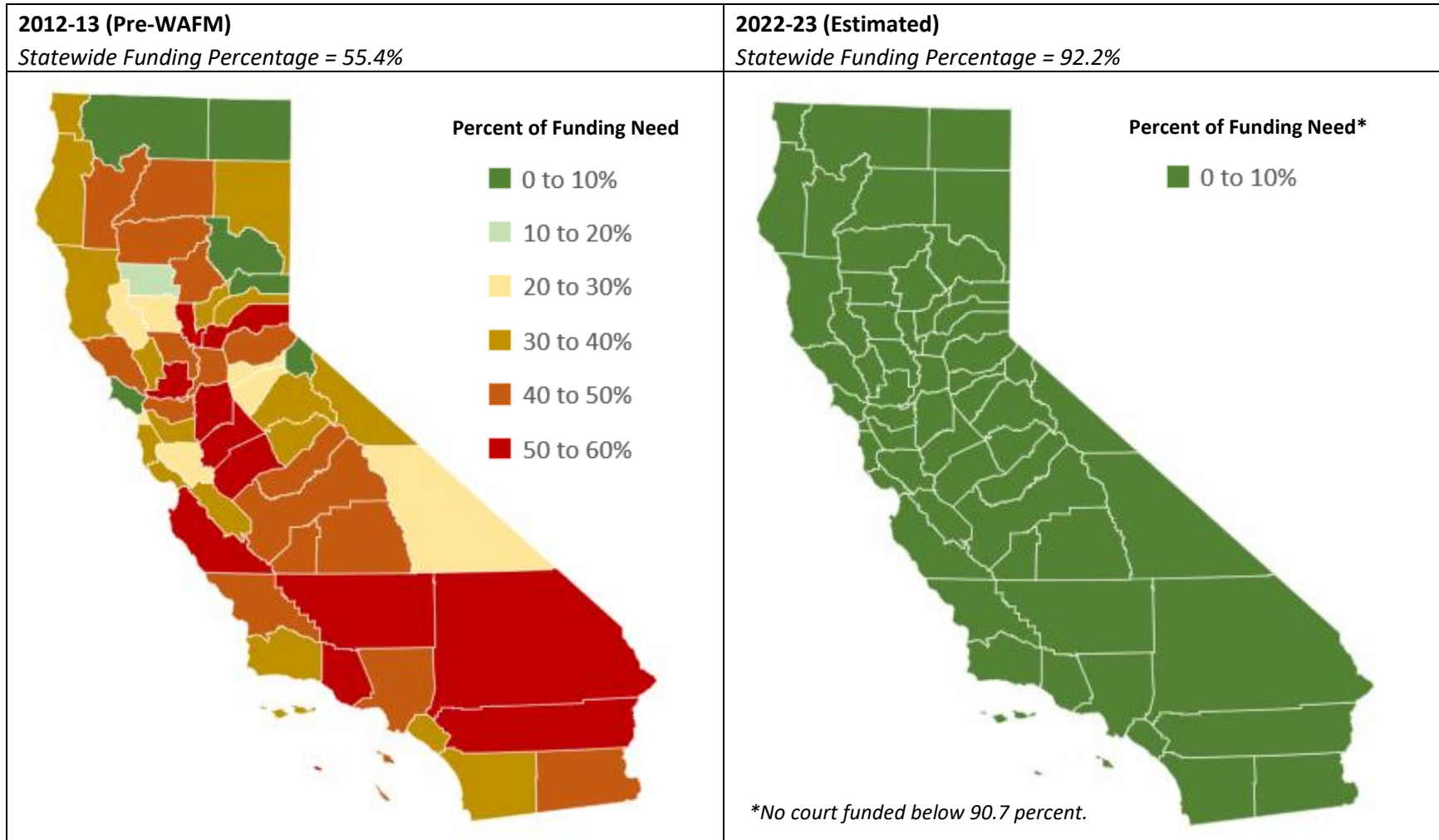
- Mendocino County – New Ukiah Courthouse – \$136.3 million for Design-Build
- Butte County – Juvenile Hall Addition and Renovation – \$3.4 million for Construction
- San Bernardino County – Juvenile Dependency Courthouse Addition and Renovation - \$0.7 million for Working Drawings
- Lake County - New Lakeport Courthouse \$77.2 million for Design-Build
- Stanislaus County - New Modesto Courthouse – \$6.5 million for Construction including the cost to build out a courtroom for a new judgeship.

Various Reappropriations:

- Butte County – Juvenile Hall Addition & Renovation (\$328,000 for Working Drawings)
- Monterey County – New Fort Ord Courthouse (\$3,101,000 for Performance Criteria)
- San Bernardino County – Juvenile Dependency Courthouse Addition & Renovation (\$479,000 for Preliminary Plans)

MH/zt

Judicial Council of California Workload Formula Funding Comparison



History of trial court funding:

- Trial Court Funding Act of 1997 which shifted funding for courts from the county level to the state.
- 2012-13 – Before implementation of the Judicial Council-approved Workload-Based Allocation & Funding Formula (WAFM).
- 2013-14 – Implementation of the five-year WAFM funding plan.
- 2018-19 – Implementation of the current Workload Formula.
- 2022-23 – Reflects proposed funding included in the 2022-23 Governor’s Budget; includes \$110 million civil assessment backfill.



JUDICIAL COUNCIL OF CALIFORNIA

GOVERNMENTAL AFFAIRS

LEGISLATIVE UPDATE

September 7, 2022

Civil

AB 2313 (Bloom) — Water: judges and adjudications.

Authorizes the Judicial Council, on or before January 1, 2025, to establish a program that provides training and education to judges in technical, scientific, legal, management, and infrastructure actions relating to water. Defines an “action relating to water” as an action that partially or wholly consists of an action involving a list of twelve types of water actions, listed in the bill.

For actions relating to water, requires a court to prioritize assigning a judge with the aforementioned water training provided that the court has a judge with the training and the judge with the training is available within a reasonable timeframe, as determined by the court. If a specially trained judge is not available, allows the court to assign another judge. Allows the court to request that the Chairperson of the Judicial Council assign a judge with water training.

Requires the Judicial Council to identify experts in water science or management, or research attorneys, who may be available to any judge adjudicating an action relating to water as an expert under Evidence Code section 730 or as a research attorney, or to consult on the contents of a document submitted by a party. Allows the council to reimburse courts for the costs of employing or contracting with such experts or attorneys. Allows a judge to appoint a special master to assist the judge with an action relating to water. Sets forth responsibilities and compensation for the special master. Requires an appropriation from the General Fund to cover all reasonable and appropriate compensation for these persons.

Note: Legislation Committee adopted an “oppose unless amended” position on this bill. The Legislation Committee subsequently removed their opposition to the bill after amendments addressed the committee’s concerns.

Status of AB 2313: Amended in the Senate on June 30, 2022. Approved by Senate Judiciary Committee. Held under submission in Senate Appropriations Committee.

SB 1056 (Umberg) Violent Posts

Requires a social media platform with one million or more monthly users to clearly and conspicuously state whether it has a mechanism for reporting violent posts. Allows a person who is the target of a violent post to seek an order from a court requiring the violent post be removed and ordering that any related violent post the court determines should be removed in the interests of justice.

Status of SB 1056: Amended in the Assembly on August 15, 2022. Approved by the Legislature and ordered to engrossing and enrolling.

Criminal

AB 1706 (Bonta) Cannabis crimes: resentencing.

Requires the court to, on its own accord, to recall or redesignate specified cannabis convictions, as authorized by Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act (AUMA), on or before March 1, 2023. Deems all convictions eligible for relief under Proposition 64 that have not been challenged by the prosecution as unchallenged, recalled, dismissed, and redesignated, as applicable. Requires the courts to update their records and report all cannabis convictions that have been recalled, dismissed, redesignated, or sealed pursuant to Proposition 64 to the Department of Justice (DOJ) no later than March 1, 2023. Requires the DOJ to ensure that all of the records in the state summary criminal history information database that have been recalled, dismissed, sealed, or redesignated pursuant to Proposition 64 have been updated no later than July 1, 2023. Requires the DOJ to conduct an awareness campaign regarding record changes for specified cannabis convictions. Requires the ~~Judicial Council and the DOJ~~, in consultation with the Judicial Council, to submit a quarterly progress report to the Legislature on the status of cases recalled, dismissed, sealed, and redesignated in each county, and the status of the DOJ's update to the state summary criminal history database, starting March 1, 2023, and until June 1, 2024.

Status of AB 1706: Amended in the Senate on August 11, 2022. Approved by the Legislature and ordered to engrossing and enrolling.

AB 1744 (Levine) Probation and mandatory supervision: flash incarceration

Extends the sunset, until January 1, 2028, on the authority of a court to authorize the use of flash incarceration to detain a person in county jail for not more than 10 days for a violation of the conditions of that person's probation or mandatory supervision.

Note: The Legislation Committee voted a support position on this bill.

Status of AB 1744: Amended in the Senate on August 2, 2022. Approved by the Legislature and ordered to engrossing and enrolling.

AB 1803 (Jones-Sawyer) Probation: ability to pay.

Exempts a person who meets the criteria for a waiver of court fees and costs from being obligated to pay these fees for specified expungement petitions. Prohibits a court from denying relief under these provisions to an otherwise qualified person, and who meets the criteria for a waiver of court fees and costs, solely on the basis that the person has not satisfied their restitution obligations.

Status of AB 1803: Amended in the Senate on August 22, 2022. Approved by the Legislature and ordered to engrossing and enrolling.

AB 1924 (Gipson) Criminal law: certificate of rehabilitation.

Amends the law that allows a person convicted of a felony, other than a registrable sex offense, to file a petition without certain requirements, including, among other requirements, the dismissal of the accusatory pleading and that the person has not been incarcerated since the dismissal. Retains the existing requirements for filing a petition for any person convicted of a registrable sex offense.

Status of AB 1924: Amended in the Assembly on May 19, 2022. Approved by the Legislature and ordered to engrossing and enrolling.

AB 2167 (Kalra) Alternatives to Incarceration

Requires a court to consider alternatives to incarceration, including, without limitation, collaborative justice court programs, diversion, restorative justice, and probation. States the intent of the Legislature that the disposition of any criminal case use the least restrictive means available.

Status of AB 2167: Amended in the Assembly on May 19, 2022. Approved by the Legislature and ordered to engrossing and enrolling.

AB 2799 (Jones-Sawyer) Evidence: admissibility of creative expressions.

Adds a new section 352.2 to the Evidence Code, which requires trial judges to take into consideration certain concerns when engaging in a section 352 balancing of probative value against prejudicial effect when it comes to rap lyrics and other forms of creative expression.

Note: Legislation Committee voted an “oppose” position on this bill, prior to its new amendments removing the jury instruction.

Status of AB 2799: Amended in the Senate on August 9, 2022. Approved by the Legislature and ordered to engrossing and enrolling.

SB 262 (Hertzberg) Bail.

~~Requires the Judicial Council to, starting January 1, 2023, prepare, adopt, and annually revise a statewide bail schedule. Requires the Judicial Council, when adopting that schedule, to consider the seriousness of the offense charged and input from stakeholders, experts, and other interested parties. Requires the court, prior to setting bail, to consider whether nonfinancial conditions will reasonably protect the public and the victim and reasonably assure the arrestee’s presence at trial.~~

Requires the court to order a return of money or property paid to a bail bond company when the action or proceeding against an arrestee is dismissed or when no charges are filed against the arrestee within 60 days of arrest.

Prohibits costs relating to the conditions of release on bail from being imposed on persons released on bail or on their own recognizance.

Authorizes the bail bond licensee to retain a surcharge not to exceed 10% of the amount paid by the arrestee or on behalf of the arrestee.

Status of SB 262: Amended in the Assembly on August 25, 2022. Approved by the Senate. Removed from the Assembly inactive file, amended, and ordered to Third Reading. Failed on the Assembly Floor by a vote of 32 – 29.

SB 467 (Wiener) Trial testimony: expert witnesses: writ of habeas corpus

Allows a person to prosecute a writ of habeas corpus if a significant dispute has emerged or further developed in the petitioner’s favor regarding expert medical, scientific, or forensic testimony that was introduced at trial and contributed to the conviction, such that it would have more likely than not changed the outcome at trial, as specified. Expands the definition of false evidence to include the opinions of experts that are undermined by the state of scientific knowledge that existed at the time of the expert’s testimony and opinions.

Status of SB 467: Amended in the Assembly on August 22, 2022. Approved by the Legislature and ordered to engrossing and enrolling.

SB 731 (Durazo) Criminal Records: relief.

Expands automatic arrest record and conviction relief to additional felony offenses, including felonies where the defendant was sentenced to state prison, rather than just realigned felonies, excludes serious and violent felonies, and felonies requiring sex registration. Prohibits the record of a conviction for possession of specified controlled substances that is more than 5 years old and for which relief was granted from being presented to the California Commission on Teacher Credentialing or from being used to deny a teaching credential.

Status of SB 731: Amended in the Assembly on June 23, 2022. Approved by the Legislature and ordered to engrossing and enrolling.

SB 918 (Portantino) — Firearms

Creates a new issuing process for concealed carry weapons licenses (CCW licenses) following the June 2022 U.S. Supreme Court ruling in *New York Rifle and Pistol Association v. Bruen*. Among other things, creates a hearing process in the superior court for a person to challenge a determination by DOJ that they are not a “qualified person,” as defined, who may receive or renew a CCW license.

Status of SB 918: Amended in the Assembly on August 25, 2022. Approved by the Senate. Failed passage on the Assembly Floor, reconsideration granted. Failed passage upon reconsideration.

SB 1034 (Atkins) Sexually violent predators.

Requires counsel for the committed individual, the sheriff or the chief of police of the locality for placement, and the county counsel and the district attorney of the county of domicile, or their designees, to provide assistance and consultation in the department’s process of locating and securing housing within the county. Requires the department to convene a committee with the participants listed above for the purpose of obtaining that assistance and consultation information and would authorize the court to order a status conference to evaluate the progress of the department in locating and securing housing and in obtaining relevant assistance and consultation information from the participants.

Under this bill, the court would be authorized to make a finding of extraordinary circumstances only after the county of domicile has petitioned the court to make that finding. Authorizes the court to grant the petition and make a finding of extraordinary circumstances only after certain events have occurred, including that the county of domicile has demonstrated to the court that the county of domicile has engaged in an exhaustive housing search with meaningful and robust participation from the participants listed above, the county of domicile has provided at least one alternative placement county for consideration, and the department and the district attorney of a proposed alternative placement county have had an opportunity to be heard at a noticed hearing. Requires the court, if it finds that extraordinary circumstances require the placement to occur outside the county of domicile, to state its findings on the record and the grounds supporting its findings. Requires the Judicial Council to report to the Legislature on an annual basis the instances in which a court issues a finding of extraordinary circumstances, as specified.

Assembly Amendments clarify that the court shall make a determination that the person would not be a danger to the health and safety of others in that the person will engage in sexually criminal behavior due to the person’s diagnosed mental disorder before releasing on conditional release; requires 30 days notice to the district attorney if the person is being placed in a different county.

Status of SB 1034: Amended in the Assembly on August 15, 2022. Approved by the Legislature and ordered to engrossing and enrolling.

SB 1209 (Eggman) Sentencing: members of military: trauma.

Allows a defendant suffering from military related trauma (sexual trauma, traumatic brain injury, post-traumatic stress disorder, substance abuse, or mental health problems) to petition for recall of sentence and resentencing, as specified, without regard to whether the defendant was sentenced prior to January 1, 2015. Excludes from resentencing any person convicted of certain violent and sexual offenses.

Note: The Legislation Committee voted a support position on this bill.

Status of SB 1209: Amended in the Senate on May 19, 2022. Approved by the Legislature and ordered to engrossing and enrolling.

SB 1468 (Glazer) Factual Innocence

Provides relief in the form of updating criminal history records and issuing a "certificate of innocence" to people who have been found factually innocent by a court or the California Victim Compensation Board.

Requires courts to order nonmonetary relief when a person is found to be factually innocent and requires the court to report a finding of factual innocence to the Department of Justice (DOJ). Additionally requires the DOJ to send notice of findings of innocence to all agencies and officers that it had previously notified of the arrest or other proceedings against the person.

Note: Legislation Committee voted a "support" position on this bill.

Status of SB 1468: Amended in the Assembly on August 25, 2022. Approved by the Legislature and ordered to engrossing and enrolling.

Family

AB 421 (Ward) Change of gender and sex identifier.

Requires the court to make an order if the petition is not signed by all living parents, and requires the order to direct the parent or parents who did not sign the petition to show cause why the petition should not be granted by filing a written objection, as specified.

Under certain circumstances, requires the court to make an order directing the living grandparents to show cause why the petition for a court order to recognize a change in the minor's gender and sex identifier should not be granted within 6 weeks, as specified.

Status of AB 421: Signed by the Governor (ch. 40, stats. 2022).

SB 616 (Rubio) Child custody: child abuse and safety.

Specifies that prohibited ordered family reunification services include reunification therapy, treatments, programs, workshops, or camps that are predicated on cutting off a child from a parent with whom the child is bonded or to whom the child is attached. Requires the Judicial Council's family law training program to be designed to improve the ability of judges and others who perform duties in family law matters to recognize and respond to child abuse, domestic violence, and trauma in all family victims and to make appropriate custody decisions that prioritize child safety and well-being and are culturally responsive. Requires the Judicial Council's domestic violence training program to include child abuse, and include those who perform duties in child custody and visitation matters in the target audience for that training.

Requires a judge assigned to family law matters involving child custody proceedings, as well as a judge, referee, commissioner, mediator, child custody recommending counselor, and evaluator involved in child custody proceedings, to participate in a program of continuing instruction in domestic violence, including child abuse. Requires a minimum of 25 training hours for the orientation session, and a minimum of 20 training hours every three years thereafter.

Note: Legislation Committee adopted an oppose position at the August 11th meeting. Staff continues working with the author to see if the training requirements can be better aligned with existing training and requirements to avoid a costly mandate on judicial officers and court-connected staff. The author indicated that she would not bring the bill up for a vote in the Senate.

Status of SB 616: Amended in the Senate on June 20, 2022. Approved by the Assembly. Pending on the Senate Unfinished Business file. Ordered to the Inactive File.

SB 935 (Min) Domestic violence: protective orders.

Clarifies that certain protective orders issued under the Domestic Violence Protection Act (DVPA) may be renewed for 5 or more years, or permanently, at the discretion of the court, subject to termination, modification, or subsequent renewal.

Status of SB 935: Signed by the Governor (ch. 88, stats. 2022).

Juveniles

AB 2309 (Friedman) Guardianships: Changes to Procedure

Authorizes the court to order a legal guardianship and appoint a legal guardian if the parent advises the court that the parent is not interested in family maintenance or family unification services. requires the parent to execute a written waiver of family maintenance or family reunification services prior to the court ordering a legal guardianship and appointing a legal guardian, as specified. Under the bill, if the parent designates a specific person to be the child's guardian, and the child, or the child's legal counsel, as specified, does not object to that person's appointment, and the court finds that the proposed guardian agrees to the appointment as the child's guardian, as well as all the rights and responsibilities of being a legal guardian, the court would be required to appoint the proposed guardian, unless it finds by a preponderance of the evidence that the person's appointment would be contrary to the best interests of the child.

Prohibits the court from ordering a continuance, except for the limited purpose of preparing a specified assessment, if the parent has advised the court that they wish to proceed with an appointment of a guardian through the process described above, the parent has completed a written waiver of any family maintenance or family reunification services, and the parent wishes to designate a guardian, and if the minor has been placed with the prospective guardian pending disposition. The bill would limit the continuance to 10 days.

Note: Amended in Senate Appropriations to permit continuances of juvenile court dispositional hearings.

Status of AB 2309: Amended in the Senate on August 11, 2022. Approved by the Legislature and ordered to engrossing and enrolling.

AB 2361 (Bonta) Juveniles: transfer to court of criminal jurisdiction.

Requires the juvenile court to make a finding by clear and convincing evidence that the minor is not amenable to rehabilitation while under the jurisdiction of the juvenile court in order to find that the minor should be transferred to a court of criminal jurisdiction, and requires the order reciting the court's basis for its decision to transfer jurisdiction to include the reasons supporting the court's finding that the minor is not amenable to rehabilitation while under the jurisdiction of the juvenile court.

Status of AB 2361: Amended in the Assembly on March 31, 2022. Approved by the Legislature and ordered to engrossing and enrolling.

AB 2369 (Salas) Domestic Violence Prevention Act: attorney's fees and costs.

Requires a prevailing petitioner in a domestic violence action to be awarded attorney's fees and permits a prevailing respondent to be awarded attorney's fees if certain conditions are met.

Status of AB 2369: Amended in the Senate on August 11, 2022. Approved by the Legislature and ordered to engrossing and enrolling.

AB 2391 (Cunningham) DVPA actions: vexatious litigants.

Authorizes a person protected by a restraining order pursuant to the Domestic Violence Prevention Act, after a hearing, to file a petition, without fee, to have the person who is the subject of that order declared a vexatious litigant if, while the restraining order is still in place, they commence, prosecute, or maintain litigation against the person protected by the restraining order that is determined to be meritless and causes the person protected by the order to be harassed or intimidated.

Status of AB 2391: Approved by the Governor (ch. 84, stats. 2022).

AB 2595 (Jones-Sawyer) Juveniles: dependency: jurisdiction of the juvenile court

Requires the State Department of Social Services to update all regulations, all-county letters, and other instructions relating to the investigation of a minor who may be within the jurisdiction of the juvenile court to ensure that, when a social worker is investigating an alleged case of child abuse or neglect, a parent's or guardian's use or possession of cannabis is treated in the same manner as a parent's or guardian's use or possession of alcohol and legally prescribed medication.

Status of AB 2595: Amended in the Assembly on March 30, 2022. Approved by the Legislature and ordered to engrossing and enrolling.

SB 1085 (Kamlager) Court Jurisdiction: No Jurisdiction Related to Poverty or Lack of Access to Medical Care or Food

Adds additional factors, related to various conditions of financial difficulty, that prohibit a child from being found to be within the jurisdiction of the juvenile court, as specified. States that neither indigence nor other conditions of financial difficulty, including, but not limited to, poverty, the inability to provide or obtain clothing, home or property repair, or childcare shall not be the sole basis upon which a child might be found to be within the jurisdiction of the juvenile court. Asserts that it is the intent of the Legislature that families should not be subject to the jurisdiction of the juvenile court nor should children be separated from their parents based

on conditions of financial difficulty, including, but not limited to, a lack of food, clothing, shelter or childcare. States that reasonable services to prevent juvenile court intervention or children being separated from their parents include services to alleviate a potential risk to a child based on conditions of financial difficulty, including, but not limited to, referrals to community-based organizations. States that it is consistent with existing law that no family should be subject to the jurisdiction of the juvenile court nor should children be separated from their parents based on conditions of financial difficulty unless there is willful or negligent action or failure to act and a nexus to harm such that the child has suffered or there is a substantial risk the child will suffer serious physical harm or illness.

Status of SB 1085: Amended in the Assembly on June 9, 2022. Approved by the Legislature and ordered to engrossing and enrolling.

Probate

AB 1663 (Maienschien) Protective proceedings.

Among other provisions, provides that, when equally qualified as other potential conservators, the conservatee's preference and the prior conservator's preference, to a prescribed extent, should prevail and that the Director of Developmental Services could be appointed subject to the order of preference.

Requires the court to provide conservators with written information concerning the conservator's obligation to support the conservatee to maximize their autonomy, support and respect their preferences, accommodate their preferences to the greatest extent possible, keep them informed of decisions made on their behalf, and to use supported decisionmaking as far as possible. Requires the court, within 30 days of the establishment of a conservatorship and annually thereafter, to provide conservatees under the court's jurisdiction with written information regarding their rights and options, including a personalized list of the rights the conservatee retains.

Requires the Judicial Council to establish a conservatorship alternatives program within each self-help center in each superior court. Establishes a supported decisionmaking process and a process for entering into a supported decisionmaking agreement for adults with disabilities, as defined. Defines "supported decisionmaking" as an individualized process in which an adult with a disability chooses one or more trusted supporters to help them understand, make, communicate, implement, or act on, their own choices.

Requires the council to report to the Legislature on the use of supported decisionmaking, as prescribed, and makes the information about specific individuals engaging in supported decisionmaking exempt from disclosure as public records.

Note: Amended in Senate Appropriations to eliminate the specified JCC funding (\$2 million for materials, \$3 million for self-help centers) and make the implementation of the court self-help centers' conservatorships alternatives program contingent upon an appropriation, as well as other procedural changes.

Senate Amendments also add a preference for a conservator selected by the conservatee; add requirements for supporters and supported decisionmaking agreements; delete the requirement that a supported decisionmaking agreement may be relied upon by a third party, and that supported decisionmaking be encouraged and used to the maximum extent possible for those under conservatorships; delete the requirement that the State Council on Developmental Disabilities administer a statewide Supported Decisionmaking Technical Assistance Program, and delete the appropriation and make certain provisions contingent on funding.

Status of AB 1663: Amended in the Senate on August 22, 2022. Approved by the Legislature and ordered to engrossing and enrolling.

Mental Health

AB 1630 (Weber) Competence to stand trial: statewide application.

Shifts the burden of proof to the prosecution to prove a finding of competence to stand trial when a court-appointed psychiatrist or licensed psychologist indicates that the defendant is incompetent. Requires the inclusion of a finding of incompetence to stand trial in a person's state summary criminal history information.

Status of AB 1630: Amended in the Assembly on May 19, 2022. Approved by the Assembly. Approved by the Senate Public Safety Committee. Rereferred to Senate Appropriations Committee, held under submission.

AB 2275 (Woods) Mental health: involuntary commitment.

Among other things, requires the Judicial Council to provide the State Department of Health Care Services, by October 1 of each quarter, disaggregated data from each superior court the department deems necessary to complete the report described in this section, including providing the number and outcomes of certification review hearings held pursuant to Section 5256, petitions for writs of habeas corpus filed pursuant to Section 5275, judicial review hearings held pursuant to Section 5276, petitions for capacity hearings filed pursuant to Section 5332, and capacity hearings held pursuant to Section 5334 in each superior court.

Note: Amended in Senate Appropriations to eliminate the reporting requirements, including the very specific court/council reporting mandates.

Status of AB 2275: Amended in the Senate on August 25, 2022. Approved by the Legislature and ordered to engrossing and enrolling.

SB 184 (Committee on Budget and Fiscal Review) Health.

Among many other things, revises the requirement that a court determine whether a defendant lacks the capacity to make decisions regarding the administration of antipsychotic medication, and increases documentation requirements prior to ordering a defendant be committed to a treatment facility. Authorizes a court to order the involuntary administration of antipsychotic medication based upon a reevaluation.

Status of SB 184: Approved by the Governor (ch. 47, stats. 2022).

SB 903 (Hertzberg) Prisons: California Rehabilitation Oversight Board.

Requires the California Rehabilitation Oversight Board (C-ROB) to examine the CDCR's efforts to address the housing needs of incarcerated persons, including those who are identified as having serious mental health needs, who are released to the community as parolees or subject to post-release community supervision. Requires the board to examine the department's efforts to address the housing needs of incarcerated persons, including those who are identified as having serious mental health needs, who are released to the community as parolees. Requires the board to include specified data on homelessness in its reports.

Note: The Legislation Committee voted to support this legislation.

Status of SB 903: Amended in the Assembly on August 22, 2022. Approved by the Legislature and ordered to engrossing and enrolling.

SB 1223 (Becker) Criminal procedure: mental health diversion.

Changes the eligibility criteria for pretrial diversion to include a diagnosis of a mental disorder instead of the court finding the defendant suffers from a mental disorder and requires that the diagnosis or treatment for a diagnosed mental disorder be within the last 5 years. Limits the period of diversion to one year for misdemeanors and two years for felonies, and requires a court to accept, a declaration in lieu of testimony that the county mental health agency is unable to provide services to a defendant.

Status of SB 1223: Amended in the Assembly on June 29, 2022. Approved by the Legislature and ordered to engrossing and enrolling.

SB 1227 (Eggman) Involuntary commitment: intensive treatment.

Authorizes the professional person in charge of the facility providing intensive treatment to the person to file a petition in the superior court for the county in which the facility is located, seeking approval for up to an additional 30 days of intensive treatment. Requires the petition to be filed after 15 days of the first 30-day period, but before expiration of the 30 days. Requires reasonable attempts to be made by the facility to notify family members or any other person designated by the patient of the time and place of the judicial review, unless the patient requests that the information not be provided. Requires facilities treating the patient to advise the patient of the patient's right to request that the information not be provided. Requires courts to either deny the petition or order an evidentiary hearing to be held within 2 court days after the petition is filed. Authorizes courts to order the person to be held for up to an additional 30 days of intensive treatment if, at the evidentiary hearing, the court makes specified findings, based on the evidence presented, including a finding that the person, as a result of mental disorder or impairment by chronic alcoholism, is a danger to others or to the person, or is gravely disabled. Requires the person to be released no later than the expiration of the original 30-day period if the court does not make all of the required findings. Makes conforming changes to the evaluation requirements for determining whether the patient is likely to qualify for appointment of a conservator.

Assembly Amendments specify that after 15 days of the initial 30-day period of intensive treatment, but at least 7 days before expiration of the 30 days, the professional staff of the agency or facility treating the person may file a petition in the superior court for the county in which the facility providing intensive treatment is located to seek approval for up to an additional 30 days of intensive treatment. Assembly amendments also require the court to either deny the petition or order an evidentiary hearing to be held within two court days after the petition is filed, and permit the court to order that the person be held for up to an additional 30 days of intensive treatment if certain requirements are met.

Status of SB 1227: Amended in the Assembly on August 23, 2022. Approved by the Legislature and ordered to engrossing and enrolling.

SB 1427 (Ochoa-Bogh) Board of State and Community Corrections: Homeless and Mental Health Court and Transitioning Home Grant Programs.

Establishes two new grant programs: the Homeless and Mental Health Court Grant Program that would, subject to an appropriation by the Legislature, provide grants to counties for the purpose of establishing or expanding homeless courts and mental health courts, as specified; and the Transitioning Home Grant Program that would, subject to an appropriation by the Legislature, provide grants to county sheriffs and jail administrators to fund programs aimed at reducing homelessness among inmates released from custody, as specified. The Homeless and Mental Health Court Grant Program would be administered by the Judicial Council, and the Transitioning Home Grant Program would be administered by the Board of State and Community Corrections

Status of SB 1427: Amended in the Assembly on June 21, 2022. Approved by the Senate. Approved by Assembly Public Safety Committee. Held under submission in the Assembly Appropriations Committee.

SB 1338 (Umberg) Community Assistance, Recovery, and Empowerment (CARE) Act Program.

Creates a system whereby a petition can be filed with the court to qualify a respondent for mental health services that, if so qualified, would require the court to oversee and ensure the respondent receives the services, supports, programs and other elements – including possibly housing and medication as specified.

Permits a criminal court to refer a defendant charged with a misdemeanor and found mentally incompetent to the CARE program, as specified. Includes chaptering out language that includes language from SB 1223 in case SB 1338 is signed after SB 1223.

Provides that there shall be two cohorts of counties which will permit staggered implementation of CARE Act programs across the state. Specifies that the first cohort shall be the counties of Glenn, Orange, Riverside, San Diego, San Francisco, Stanislaus, and Tuolumne which shall begin CARE Act programming no later than October 1, 2023. Specifies that the second cohort will include the remainder of the counties and begin CARE Act programming no later than December 1, 2024. Permits the Department of Health Care Services to grant extensions to no later than December 1, 2025, under specified circumstances.

Defines terms specific to CARE Act, including definitions for parties and petitioner. Establishes qualifications for individuals who may be respondents to CARE Act petitions as specified. Provides for specific CARE Act jurisdiction. Permits specified individuals and entities to file petitions to initiate CARE proceedings. Requires the Judicial Council to develop a mandatory form for use to file a CARE petition and any other forms as necessary. Specifies the contents of the petition.

Specifies respondent’s rights, including the right to be entitled to be represented by counsel at all stages of a proceeding commenced under this chapter, regardless of the ability to pay. Ensures the privacy of respondent and confidentiality of the proceedings by making CARE proceedings presumptively closed. Establishes detailed court procedures for reviewing petitions, relieving non-county behavioral health petitioners, hearing evidence, and making decisions about a respondent’s participation in CARE Act services. Requires the judge to control the proceedings, and except when there is a contested issue of fact or law, requires the proceedings to be conducted in an informal nonadversarial atmosphere with a view to obtaining the maximum cooperation of the parties.

Seeks to hold petitioner and respondent (as well as added parties) accountable for CARE services and success. Permits either the respondent or the county behavioral health agency to appeal an adverse court determination.

Requires the Department of Health Care Services, in consultation with the Judicial Council, to develop an annual reporting schedule for the submission of CARE Act data from the trial courts and specifies what data from the trial courts shall be submitted to the Judicial Council.

Status of SB 1338: Amended in the Assembly on August 25, 2022. Approved by the Legislature and ordered to engrossing and enrolling.

Court Administration & Operations
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AB 1655 (Jones-Sawyer) State holidays: Juneteenth.

Adds June 19th, known as “Juneteenth” as a California state holiday and judicial holiday and authorizes state employees, as defined, to elect to receive eight hours of holiday credit for Juneteenth in lieu of receiving 8 hours of personal holiday credit.

Note: By virtue of amending section 6700 of the Government Code, this bill would also create a judicial holiday for the courts. The Legislation Committee voted a “support” position for this bill.

Status of AB 1655: Amended in the Senate on August 22, 2022. Approved by the Legislature and ordered to engrossing and enrolling.

AB 1801 (Nazarian) State holidays: Genocide Remembrance Day.

Adds April 24th, known as “Genocide Remembrance Day,” as a California state holiday and judicial holiday and authorizes state employees, as defined, to elect to receive eight hours of holiday credit for Genocide Remembrance Day in lieu of receiving 8 hours of personal holiday credit.

Note: Amended in Senate Appropriations to specify that the bill will not create an additional judicial holiday.

Status of AB 1801: Amended in the Senate on August 18, 2022. Approved by the Legislature and ordered to engrossing and enrolling.

AB 2596 (Low) Lunar New Year holiday.

Adds “Lunar New Year” as a California state holiday which occurs on the date corresponding with the second new moon following the winter solstice, or the third new moon following the winter solstice should an intercalary month intervene (sometime between Jan. 21 and Feb. 20). Authorizes state employees to elect to receive eight hours of holiday credit in lieu of receiving 8 hours of personal holiday credit, and to elect to use 8 hours of vacation, annual leave, or compensating time off, consistent with departmental operational needs and collective bargaining agreements, for Lunar New Year, as specified. Makes Lunar New Year a judicial holiday.

Note: Amended in Senate Appropriations to specify that the bill will not create an additional judicial holiday.

Status of AB 2596: Amended in the Senate on August 25, 2022. Approved by the Legislature and ordered to engrossing and enrolling.

AB 1865 (Bennett) Court fee waiver: water rights cases.

Requires a court to initially grant a person who was joined or countersued in a case involving a water right to proceed without paying court fees.

Status of AB 1865: Amended in the Assembly on March 16, 2022. Approved by the Assembly. Approved by Senate Judiciary Committee. Rereferred to Senate Appropriations Committee, held under submission.

AB 1972 (Ward) Grand juries.

Requires the fee paid for service on grand juries to be equal to 70 percent of the county median daily income for each day’s attendance.

Requires the list of grand jurors to contain the person’s gender, age, race or ethnicity, and residential ward, judicial district, or supervisorial district of the respective counties. Authorizes the presiding judge to add up to 10 jurors from among the list of qualified jurors not selected in an effort to balance demographic diversity to reflect the general population of the county.

Requires each court, on or before March 15, 2024, and on or before March 15 of each year thereafter, to provide the Judicial Council with the list and aggregate data of specified prospective and impaneled jurors containing the person's gender, age, race or ethnicity, and residential ZIP Code or supervisorial district of the respective counties, as well as the name of the judge who selected each person, and would require the Judicial Council to, on or before June 15, 2024, and on or before June 15 of each year thereafter, report that information to the Legislature. Authorizes trial jury summonses to contain information on how to become a grand juror.

Note: Legislation Committee voted a “neutral if amended” position on this bill.

Status of AB 1972: Amended in the Assembly on May 19, 2022. Approved by the Assembly. Approved by Senate Judiciary Committee. Rereferred to Senate Appropriations Committee, held under submission.

AB 1981 (Lee) Jury duty.

Requires courts to reimburse jurors for the mileage they incur to *and from* jury service. Provides jurors and prospective jurors with free access to public transportation, or alternatively, a public transit reimbursement of up to a daily maximum of twelve dollars (\$12). States the legislative intent to establish a pilot program to study the relationship between juror travel reimbursement and per diem rates and juror participation, including, but not limited to, juror diversity. Requires the Judicial Council to sponsor a pilot program for 2 fiscal years to study whether increases in juror compensation and mileage reimbursement rates increase juror diversity and participation. Recent amendments add Alameda to the list of courts participating in this pilot program. Requires the council to provide a report to the Legislature describing the findings of the pilot program and providing information for promoting juror diversity.

Note: The Legislation Committee voted to support and sponsor this legislation.

Status of AB 1981: Approved by the Legislature. Enrolled and presented to the Governor on August 30, 2022, at 4 pm.

AB 2193 (Gabriel) Sargent Shriver Civil Counsel Act.

Requires programs under the Sargent Shriver Civil Counsel Act to provide services without regard to the citizenship or immigration status of the person represented. Additionally require the Judicial Council to consider, among other related factors, the program's plan for providing service to all potential clients regardless of immigration status. Requires program applications to include in that description whether and how the program will ensure that services are available to all eligible individuals seeking services regardless of immigration status.

Status of AB 2193: Amended in the Assembly on June 23, 2022. Approved by the Legislature and ordered to engrossing and enrolling.

AB 2268 (Gray) Charles James Ogletree, Jr. Courthouse.

Renames the main courthouse of the Superior Court of California, County of Merced, currently located at 2260 N Street in the City of Merced, as the Charles James Ogletree, Jr. Courthouse.

Status of AB 2268: Amended in the Senate on August 25, 2022. Approved by the Legislature and ordered to engrossing and enrolling.

AB 2791 (Bloom) Sheriffs: service of process and notices.

Among other things, would require the Judicial Council to create, on or before January 1, 2024, a form or forms required to be used by litigants in civil actions or proceedings to request service of process or notice by a marshal or sheriff. Would require all requests to a marshal or sheriff, including their department or office, for service of a notice or other process under these provisions to be made on the Judicial Council form or forms.

Note: Amended in Senate Appropriations to clarify that the public records request exemption is for a judicial council form containing specified information and permits any person to deliver the forms for service to the marshal or sheriff, including their department or office, on behalf of a litigant.

Status of AB 2791: Amended in the Senate on August 25, 2022. Approved by the Legislature and ordered to engrossing and enrolling.

AB 2841 (Low) Disqualification from Voting

Requires the clerk of the superior court of each county to notify the Secretary of State each month of findings made by the court regarding a person's competency to vote and the number of court proceedings related to the determination of a person's competency to vote, as specified. Requires the Secretary of State, upon receipt of identifying information for the affected persons, to send this information to the appropriate county elections official, who must proceed to cancel the person's registration or notify the person that their right to vote has been restored, as applicable. Requires the elections official to provide notice of the intent to cancel the person's registration between 15 and 30 days before the cancellation. Requires the Secretary of State to post a report on their internet website each month showing the number of disqualifications and restorations of voting rights that occurred in each county, and to deliver a training to court officers and elections officials regarding the aforementioned requirements.

Note: Passed from Senate Appropriations with delayed implementation date of January 1, 2024.

Status of AB 2841: Amended in the Senate on August 11, 2022. Approved by the Legislature and ordered to engrossing and enrolling.

AB 2962 (Assembly Judiciary Committee) Court records: fees.

Requires courts to make public court records that are maintained in an electronic format available to the public for inspection and copying at a courthouse during hours when the courthouse is open to the public. Requires courts to provide remote access to all public court records about civil cases, including registers of actions, calendars, and indexes, that are maintained by the court in an electronic format, as specified. Prohibits courts that provide the public with remote access to these records from charging a fee to search for, download, or copy public court records. Authorizes courts to charge a fee to a commercial user for viewing, searching, duplicating, downloading, or printing public court records in an electronic format. Further requires the Judicial Council, by January 1, 2025, to develop a rule of court establishing statewide commercial user fees or a process for courts to use in developing commercial user fees.

Note: Legislation Committee adopted an "oppose unless amended" position at its June 23rd meeting but deferred this position based on a commitment by the author to work with the council on amendments.

Assembly Judiciary staff indicated they will run the bill again next year.

Fiscal Impact: AB 2962 prohibits all trial courts from charging any cost recovery fees for the first two years until the Judicial Council develops a rule of court by January 1, 2025, to establish statewide commercial user fees or a process for courts to use in developing commercial user fees.

In 2020-21, ten of the 16 courts that provide online access to electronic civil case records received \$22.7 million in actual cost recovery. If all 58 trial courts were able to recover costs at this rate, the estimated statewide total would be approximately \$32 million. Based on actual cost recovery and the estimated statewide total, the fiscal impact of AB 2962 would range from \$45.4 million to \$64 million in the first two years.

Additionally, there would be unknown costs in the tens of millions for information technology build out for trial court case management and online systems, both one-time and on-going, as well as on-going personnel costs to comply with the requirements of the bill. If funding is not provided to cover the new costs for the judicial branch to implement this bill, it would result in delays in court services, prioritization of cases, and may impact access to justice. The workload impact to the Judicial Council to develop a rule of court to establish user fees would be minor and absorbable.

Status of AB 2841: Amended in the Senate on June 30, 2022. Approved by Senate Judiciary Committee. Held under submission in Senate Appropriations Committee.

SB 848 (Umberg) Civil Actions: Parties and Postponements

Extends the July 1, 2023, sunset from Code of Civil Procedure (CCP) section 367.75 to January 1, 2026, which allows the use of remote technology in civil proceedings as enacted last year in [SB 241](#).

Also eliminates the sunset for CCP 599, which provides that during the COVID-19 state of emergency and for 180 days after the end of the state of emergency, a continuance or postponement of a trial or arbitration date extends any deadlines applicable to discovery, including the exchange of expert witness information, mandatory settlement conferences, and summary judgment motions, which have not already passed as of March 19, 2020, for the same length of time as the continuance or postponement of the trial date.

Requires each superior court to report to the Judicial Council on or before October 1, 2023, and annually thereafter, and for the Judicial Council to report to the Legislature on or before December 31, 2023, and annually thereafter, to assess the impact of technology issues or problems affecting civil remote proceedings and purchases and leases of technology and equipment to facilitate civil remote conferences, hearings, or proceedings.

As amended August 15, 2022, eliminates the remote option in all civil commitment and juvenile delinquency proceedings for a one-year period commencing January 1, 2023. As amended August 18, 2022, allows a court to conduct an adoption finalization hearing, in whole or in part, through the use of remote technology.

Note: The Legislation Committee modified its “support” position on this bill to “support if amended” in response to hostile amendments added by the Assembly Appropriations Committee to prohibit all remote proceedings in juvenile delinquency and civil commitment cases.

Status of SB 848: Amended in the Assembly on August 18, 2022. Approved by the Assembly. Failed on the Senate Floor by a vote of 0-38 when the author asked for a NO vote on concurrence in Assembly amendments.

SB 1096 (Limon) Online tool: traffic violator school

Prohibits a defendant’s request for an ability-to-pay determination through the online tool from impacting their eligibility to attend traffic violator school.

Status of SB 1096: Approved by the Governor (ch. 191, stats. 2022).



JUDICIAL COUNCIL OF CALIFORNIA

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MEMORANDUM

Date

October 27, 2014

Action Requested

For Your Information Only

To

Cory Jaspersen, Director
Laura Speed, Assistant Director
Governmental Affairs

Deadline

N/A

From

Deborah C. Brown, Chief Counsel
Mark Jacobson, Senior Attorney *MJ*
Legal Services

Contact

Mark Jacobson
415-865-7898 phone
415-865-7664 fax
mark.jacobson@jud.ca.gov

Subject

Ethical Principles Applicable to Judges
Engaged in Legislative Activities

You have asked Legal Services to provide an information sheet setting forth the ethical principles that pertain to judicial officers who participate in legislative activities that can be distributed to judicial officers who engage in Bench-Bar Coalition legislative outreach activities. To assist judicial officers, this memorandum provides the following information: (1) the applicable canons from the California Code of Judicial Ethics; (2) an analysis of a recent formal opinion from the Supreme Court's Committee on Judicial Ethics Opinions; and (3) relevant excerpts from David M. Rothman's *California Judicial Conduct Handbook*.

Relevant Canons¹**Governmental Activities**

The canon most directly on point for judges who wish to participate in legislative activity is canon 4C(1), which prohibits a judge from appearing at a public hearing or consulting with an

¹ The full text of the canons discussed in this section is set forth in the attached appendix.

executive or legislative body or a public official except on matters concerning the law, the legal system, and the administration of justice. In deciding whether to engage in such activities, a judge must also consider whether that conduct would violate any other provision of the Code of Judicial Ethics. For example, the activity must uphold the integrity, impartiality, and independence of the judiciary (canons 1 and 2A), and it must not cause the judge to be disqualified (canon 4A(4)).

Political Activity

Canon 5 provides that judges may not be involved in political activity that is inconsistent with the independence, integrity, or impartiality of the judiciary or that creates the appearance of political bias or impropriety. Canon 5D states that a judge is not permitted to engage in political activity unless it is related to the law, the legal system, or the administration of justice.

Extrajudicial Activities, Appearance of Impropriety, Lending the Prestige of Office

There are several other canons that should be considered when a judge is involved in legislative activity. Canon 4A states that a judge must conduct any extrajudicial activity so that such activity does not (1) interfere with judicial duties, (2) cast doubt on the judge's impartiality, or (3) lead to frequent disqualification. Canon 2 provides that a judge must not engage in conduct that creates the appearance of impropriety. Canon 2A prohibits a judge from making any statement that commits the judge with respect to cases, controversies, or issues that are likely to come before the courts. Finally, canon 2B(2) states that a judge must not lend the prestige of judicial office to advance the pecuniary or personal interests of the judge or others.

CJEO Formal Opinion No. 2014-006

The Supreme Court's Committee on Judicial Ethics Opinions issued a formal opinion on October 2, 2014, entitled "Judicial Comment at Public Hearings and Consultation with Public Officials and Other Branches of Government."² The opinion addressed the circumstances under which a judge may appear at a public hearing or officially consult with executive or legislative bodies on "matters concerning the law, the legal system, or the administration of justice." (See canon 4C(1), Appendix, p. 1.) The committee concluded that canon 4C(1) allows comment and consultation concerning the court system or matters of judicial administration. The canon permits a judge to appear before or consult with representatives of the other two branches of government "when the subject of the appearance or consultation is one with respect to which the judge's experience and perspective *as a judge* gives him or her unique qualifications to assist the other branches of the government in fulfilling their responsibilities to the public." (CJEO Formal Opn. 2014-006, p. 2, emphasis in original.)

² The full opinion can be found on the CJEO website at http://www.judicialethicsopinions.ca.gov/sites/default/files/CJEO_Formal_Opinion_2014-006.pdf.

The committee stated that based on the reference in canon 4C(1) to matters concerning the administration of justice, judges may testify or advocate at public hearings only on behalf of the legal system, i.e., focusing on court users, the courts, or the administration of justice. (CJEO Formal Opn. 2014-006, *supra*, at p. 7.) There are situations in which a judge may comment about substantive legal issues where the purpose is to benefit the law and legal system itself rather than any particular cause or group and when the comment or consultation is made from a judicial perspective. (*Ibid.*) Thus, any comments from a *legal* knowledge/experience perspective should be provided by attorneys, not judges. (*Ibid.*) Where a judge has both judicial and attorney experience to draw from (or only attorney experience) in a particular area of law, the judge's comments or consultation should be presented from a purely judicial perspective. (*Ibid.*)

The committee noted that even if the exception in canon 4C(1) applies, the judge must ensure that the appearance or consultation does not violate any other canons, such as those set forth in the appendix to this memorandum.

The opinion provides the following illustrative examples:

- A judge may comment or consult about the judicial branch's budget, or a bond measure for court construction, or a bill proposing to replace court reporters with electronic recording.
- Regarding a proposed constitutional amendment to replace the death penalty with life without parole, a judge may comment on the dysfunction of the present system from a judicial perspective, but advocacy for or against the death penalty as a policy matter would violate canon 4C(1).
- A judge who was an environmental attorney may express his or her views in support of a new CEQA settlement process, but only from the viewpoint of a judge who is, for example, seeking to unburden the court's docket by resolving CEQA cases earlier in the judicial process.
- A judge who was a prosecutor but has no judicial experience in criminal law may express support for proposed legislation to reduce the number of peremptory challenges in misdemeanor cases, but those views should be expressed in terms of how the law would affect the legal system or the administration of justice by improving juror satisfaction, enhancing jury diversity, and saving court costs, while still providing the full panoply of due process.
- A judge may not appear at a public hearing of a legislative committee to advocate for longer sentences for certain drug offenders because, even though such comments are

about a matter “concerning the law,” advocacy for longer sentences for only a particular type of offender could undermine public confidence in the impartiality of the judiciary, thus violating canons 1 (upholding the integrity and independence of the judiciary), 2A (promoting public confidence in the integrity and impartiality of the judiciary), 3B(9) (commenting publicly on pending cases), and 4A(1) (casting doubt on the judge’s capacity to act impartially). The judge could, however, discuss the impact of such sentences on the courts or the adjudicatory process.

- Based on the judge’s expertise, a judge may advocate for improvements in the administration of justice that would seek to reduce recidivism by providing information about collaborative court programs the judge had presided over or administered that employ alternative sentencing or probation periods for drug offenders.
- A judge may advocate for statewide use of alternative programs based on the judge’s experience, but must not comment on the outcome of cases involving particular offenders and must not imply that the judge will be ruling in a particular way in a class of cases.
- Judicial advocacy for specific legislation on proposed death penalty or collective bargaining measures could violate the prohibition in canon 2A against making statements that commit a judge with respect to cases, controversies, or issues that are likely to come before the court or that are inconsistent with the impartial performance of duties. But a judge may appear before a public body to explain, from a judicial perspective, the effects of proposed laws on the judicial process or judicial administration.

Rothman, *California Judicial Conduct Handbook*

In the *California Judicial Conduct Handbook* (3d ed. 2007), Judge Rothman addresses judicial involvement in executive and legislative matters:

[§11.03] Appearances at Public Hearings and Participation in Executive or Legislative Matters

Ethics rules on the subject. A judge . . . must . . . draw the distinction between inappropriate involvement with the legislative and executive branch in what could be called “political” matters as opposed to appropriate involvement in matters that concern the law, legal system, and administration of justice. Thus, for example, a judge may endorse legislation that would provide the court with facilities and services, because such matters deal with the administration of justice.

* * *

Recognition of the separation of powers—urging moderation in advocacy by judges. Judges have frequently been active in advocating positions before the legislative and executive branches on a variety of subjects. The Code of Judicial Ethics does not prohibit this activity so long as the activity is limited to issues related to the law, the legal system, and administration of justice. The boundary, however, of this limitation is often stretched.

I am not alone in the belief that judges should greatly limit advocacy of issues before the legislative and executive branches to only the clearest and most urgent of circumstances. Where judges frequently engage in such advocacy, they may be perceived as encroaching on legislative and executive prerogatives. When judges do so they should not be surprised if the legislative and executive branches feel comfortable in doing the same in the judicial arena.

Examples abound of an increasing comfort on the part of the legislature in tinkering with the judicial branch. This may be the result of a basic lack of understanding and appreciation of basic concepts of our form of government. Separation of powers and preservation of the independence of the judiciary require judges to ration their advocacy.

Special position of juvenile and family court judges. The special demands of juvenile and family court assignments frequently involve judges in proactive efforts to improve the law. The above caution is less urgent for these judges because they are expected to regularly make recommendations concerning civil procedure and the development of programs to help children.

Examples of issues concerning appropriate advocacy. Is it proper for a judge to be involved in writing a statute that increases or reduces child support, or deals with the length of sentences in juvenile or criminal cases? Judges regularly advocate for additional judicial officers, but would it be improper for them to advocate for additional police officers?

Judges do not agree on the answers to these questions. Some believe that such activity is part of the judicial function and is permissible. Others, however, believe that the test is whether such advocacy could “cast reasonable doubt on the judge’s capacity to act impartially.”

It would be proper for a judge to endorse a bond measure that increases county revenues, which would increase funding for judicial-related activities as well as increasing revenues for non-legal system county projects, provided the

endorsement was carefully phrased to focus on judicial needs, while avoiding endorsement of nonjudicial issues. Because of the Trial Court Funding Act, local judicial-related funding advocacy would be very limited, if any, at the local level.

A judge may write a letter to the legislature regarding a bill proposing to replace court reporters with electronic recording as this plainly concerns the administration of justice. A judge, however, who was formerly a member of the legislature, should not be further involved in legislation or consult with legislators or others except on legislation and other matters concerning the law, the legal system or the administration of justice.

(Rothman, *California Judicial Conduct Handbook*, 3d ed. [California Judges Association, 2007] pp. 569–571.)

Judge Rothman also discusses judicial support of or opposition to ballot measures in the context of inappropriate political activity:

[§11.24] Supporting or Opposing Ballot Measures

Measures not related to improvement of the law, legal system or administration of justice. Although one might argue that anything on the ballot relates to the improvement of the law, such is not the case. For example, it would be improper for a judge to draft, promote, or be listed publicly as supporting a school bond ballot proposal as such a proposal would not fit the limited purpose related to improvement of the legal system. A judge may not sign a ballot statement, essentially a public endorsement, for an ordinance advocating criminal penalties for violation of a law/ordinance.

* * *

Appropriate ballot measures for comment by judges. Appropriate judicial activity related to ballot measures would include public support of a tax override measure or other ballot proposition that would provide revenue for court operations or jail construction, since the objects of the funding pertain to the administration of justice. A court and its judges may also take a public position on a ballot proposition that affects judicial funding and the administration of justice. A judge may support or oppose a ballot measure dealing with the unification of the court.

A judge may speak and take a public stance against a ballot measure that would take away the power to appoint and retain the chief probation officer from the courts and place it in the hands of the board of supervisors.

A judge may act in support of political goals that directly relate to improvement of the judicial system such as jail construction or renovation of a juvenile detention facility.

A judge may participate in a newspaper ad concerning a ballot measure that concerns the law, legal system or administration of justice.

(Rothman, *supra*, at pp. 578–579.)

Disqualification and Disclosure

Judges who are involved in legislative activity should be aware of the disqualification and disclosure implications if it appears that the judge cannot be impartial in ruling on a matter concerning the issue with which the judge was involved. Code of Civil Procedure section 170.1(a)(6)(A)(iii) provides that a judge is disqualified if “[a] person aware of the facts might reasonably entertain a doubt that the judge would be able to be impartial.” A judge is *not* disqualified, however, if the judge “[h]as as a lawyer or public official participated in the drafting of laws or in the effort to pass or defeat laws, the meaning, effect or application of which is in issue in the proceeding unless the judge believes that his or her prior involvement was so well known as to raise a reasonable doubt in the public mind as to his or her capacity to be impartial.” (Code Civ. Proc., § 170.2(c).)

Judge Rothman addresses this issue:

[A] judge’s expression of opinions outside of the context of judicial decision may raise disclosure and disqualification issues.

* * *

Drafting or advocating concerning laws. Although there can be an argument that the use of the term “public official” is not intended to encompass a judge, subdivision (c) of section 170.2 above appears to allow a judge (i.e., a “public official”) to participate in the drafting of or advocacy concerning laws that the judge may later have to interpret. Judges have been involved on many occasions in such activities although, as noted in the concluding language of subdivision (c), such involvement has the potential of requiring disqualification.

Cory Jasperson
Laura Speed
October 27, 2014
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(Rothman, *California Judicial Conduct Handbook*, 3d ed. [California Judges Association, 2007] pp. 368–369.)

Judges should also be aware of canon 4A(4), which states that a judge must conduct all of the judge's extrajudicial activities so that they do not lead to frequent disqualification of the judge.

Contact Information for Questions

If judicial officers have questions about whether their own conduct would violate any provision of the Code of Judicial Ethics, they may contact the Supreme Court's Committee on Judicial Ethics Opinions at judicial.ethics@jud.ca.gov or 855-854-5366, or the California Judges Association's Judicial Ethics Hotline at 866-432-1252. For more general information about ethical constraints discussed in this memorandum, they may contact Senior Attorney Mark Jacobson at 415-865-7898 or mark.jacobson@jud.ca.gov.

DCB/MJ/ms
Attachment
cc: Jody Patel, Chief of Staff

Appendix

Canon 2

A judge shall avoid impropriety and the appearance of impropriety in all of the judge's activities.

Canon 2A

A. Promoting Public Confidence

A judge shall respect and comply with the law and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary. A judge shall not make statements, whether public or nonpublic, that commit the judge with respect to cases, controversies, or issues that are likely to come before the courts or that are inconsistent with the impartial performance of the adjudicative duties of judicial office.

Canon 2B(2) states:

A judge shall not lend the prestige of judicial office or use the judicial title in any manner, including any oral or written communication, to advance the pecuniary or personal interests of the judge or others.

Canon 4A

A. Extrajudicial Activities in General

A judge shall conduct all of the judge's extrajudicial activities so that they do not

- (1) cast reasonable doubt on the judge's capacity to act impartially;
- (2) demean the judicial office;
- (3) interfere with the proper performance of judicial duties; or
- (4) lead to frequent disqualification of the judge.

Canon 4C(1)

A judge shall not appear at a public hearing or officially consult with an executive or legislative body or public official except on matters concerning the law, the legal system, or the administration of justice or in matters involving the judge's private economic or personal interests.

Advisory Committee Commentary to Canon 4C(1) (added January 1, 2013)

When deciding whether to appear at a public hearing or whether to consult with an executive or legislative body or public official on matters concerning the law, the legal system, or the

administration of justice, a judge should consider whether that conduct would violate any other provisions of this code. For a list of factors to consider, see the explanation of “law, the legal system, or the administration of justice” in the Terminology section. See also Canon 2B regarding the obligation to avoid improper influence.

Canon 5

A judge or candidate for judicial office shall not engage in political or campaign activity that is inconsistent with the independence, integrity, or impartiality of the judiciary.

Judges and candidates for judicial office are entitled to entertain their personal views on political questions. They are not required to surrender their rights or opinions as citizens. They shall, however, not engage in political activity that may create the appearance of political bias or impropriety. Judicial independence, impartiality, and integrity shall dictate the conduct of judges and candidates for judicial office.

Canon 5D

A judge or candidate for judicial office may engage in activity in relation to measures concerning the improvement of the law, the legal system, or the administration of justice, only if the conduct is consistent with this code.

Advisory Committee Commentary to Canon 5D (added January 1, 2013)

When deciding whether to engage in activity relating to measures concerning the law, the legal system, or the administration of justice, such as commenting publicly on ballot measures, a judge must consider whether the conduct would violate any other provisions of this code. See explanation of “law, the legal system, or the administration of justice” in the terminology section.

Explanation of “law, the legal system, or the administration of justice” from the Terminology section (added January 1, 2013)

When a judge engages in an activity that relates to the law, the legal system, or the administration of justice, the judge should also consider factors such as whether the activity upholds the integrity, impartiality, and independence of the judiciary (Canons 1 and 2A), whether it impairs public confidence in the judiciary (Canon 2), whether the judge is allowing the activity to take precedence over judicial duties (Canon 3A), and whether engaging in the activity would cause the judge to be disqualified (Canon 4A(4)).