



Judicial Council of California

520 Capitol Mall, Suite 600 · Sacramento, California 95814-4717

Telephone 916-323-3121 · Fax 916-323-4347

PATRICIA GUERRERO

*Chief Justice of California
Chair of the Judicial Council*

MILLCENT TIDWELL

Acting Administrative Director

June 8, 2023

Hon. Brian Maienschein, Chair
Assembly Judiciary Committee
1021 O Street, Suite 5640
Sacramento, California 95814

Subject: Senate Bill 21 (Umberg), as amended February 23, 2023 – Support

Dear Assembly Member Maienschein:

The Judicial Council is pleased to support SB 21, which extends the July 1, 2023, sunset to January 1, 2026 in Code of Civil Procedure (CCP) section 367.75, authorizing parties to continue to appear remotely in civil cases and the court to conduct civil conferences, hearings, and proceedings, in whole or in part, through the use of remote technology.

The bill also eliminates the sunset for CCP section 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.

We note that Senate Bill 22 (Umberg) addresses the sunset on remote proceedings for a certain subset of civil proceedings, Senate Bill 99 (Umberg) addresses the sunset on criminal remote proceedings, and your AB 1214 also addresses the sunset on criminal remote proceedings, albeit significantly more restrictive than current law.

Since the Legislature first passed legislation authorizing remote proceedings in 2021, the Judicial Council has submitted two reports to the Legislature and Governor on this topic. The first report submitted pursuant to [Code of Civil Procedure section 367.8](#) was submitted to the Legislature

and Governor in December 2022 and included the following data: (1) the number of proceedings conducted with use of remote technology, (2) technology issues affecting remote proceedings, (3) any relevant expenditure information related to remote proceedings, (4) the impact of remote proceedings on court users' ability to access the courts, (5) the impact of the use of remote proceedings on case backlogs as a result of the COVID-19 pandemic, (6) information regarding court workers' and court users' experience using remote technology, and (7) any other information necessary to evaluate the use of remote proceedings by the courts.

As part of that effort, the Judicial Council received data from 38 courts on the number of remote court proceedings in criminal matters. Based on this data, we estimate that in those courts there were approximately 422,000 remote felony and misdemeanor criminal proceedings and 125,000 infraction proceedings in a one-year period.

On the civil side – based on data from 51 courts -- we estimate that there were nearly 1 million civil remote proceedings annually in those courts.

That's over 6,000 remote hearings taking place in California courts each day. This increased access to justice has allowed Californians to avoid over 1.55 million trips to courthouses.

In a March 2022 – May 2023 survey, conducted by the Judicial Council as required by law, of the more than 75,000 individuals responding—including parties, attorneys, and court employees—96 percent reported that they had a positive experience. Parties and attorneys were 91 percent positive. Employees were 98 percent positive. These same individuals reported audio issues in just 1.8 percent of the proceedings and video issues in just 0.8 percent of the proceedings.

The second report is required under [Code of Civil Procedure section 367.9](#) which directed the council to convene a working group made up of many court stakeholders to consider and make recommendations on remote proceedings. That working group went through a long process where they collected information from stakeholders, received written comment, and held a two-hour public comment session. All of this input informed the development of the workgroup's recommendations. The working group held six remote meetings throughout July, August, and September 2022. All meetings were open to the public and recorded. All meeting agendas, materials, and minutes can be found on the Judicial Council website. The report and recommendations were submitted to the Legislature and Governor in January 2023.

- Among the recommendations, the working group identified strong support for making remote proceedings available, but not mandatory, in all case types -- both civil and criminal -- when:
 - Courts, parties, and other participants have access to remote technology;
 - Clear and private communication between parties and their attorneys is available; and

- Technology provides for clear communication between all participants and court interpreters.

The Judicial Council has seen the many benefits of giving people the *option* to participate remotely in civil and criminal proceedings. The remote option helps preserve access to justice for many Californians and vulnerable court users by reducing time and expense for them when they are hospitalized or would otherwise lose time from school, work or childcare and would incur travel and parking costs for short hearings and appearances. It also preserves equal access to justice and increases the efficiency of court services by continuing to allow courts the flexibility to require in-person court proceedings when it is more appropriate.

Giving people the option to participate remotely has increased the participation of litigants, attorneys, court personnel, and others while maintaining and expanding efficient and effective courtroom proceedings.

The Judicial Council is actively working with Senator Umberg and stakeholders to address any outstanding concerns raised about remote proceedings and we look forward to continuing these productive conversations.

For these reasons, the Judicial Council strongly supports SB 21.

Funding to implement remote proceedings

An important clarification regarding funding and expenditures to implement remote proceedings in the courts: The Legislature continues to provide significant funding support for modernization in the courts. The 2020 Budget Act included \$25 million and the 2021 Budget Act also provided an additional \$25 million for modernizing court operations and increasing access to court services online. This has been an important funding source for the courts to implement remote proceedings beginning in 2020-21 to maintain and expand access to the courts in the face of the Covid-19 pandemic. During this time courts have utilized \$9.8 million in IT modernization funding to implement remote proceedings. This amount exceeds what is in the council's last [report to the Legislature](#) as additional courts reported expenditures after the December 2022 publication date.

The 2022 Budget Act provided a separate appropriation of \$33.2 million General Fund for two years and \$1.6 million annually thereafter to implement AB 716 ([Bennett, Ch. 526, Stats. 2021](#)). AB 716 requires, at a minimum, a public audio stream to listen to the proceedings when courthouses are physically closed. This funding to implement remote public access in all courtrooms (including courtrooms that are NOT being used for remote proceedings) has been, and continues to be, incorrectly conflated with funding and expenditures to implement remote proceedings. These are separate, distinct issues and should not be conflated.

In addition to the one-time IT modernization funding in 2020-21 and 2021-22, the 2022 Budget Act also provided \$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.

Hon. Brian Maienschein

June 8, 2023

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Should you have any questions or require additional information, please contact Aviva Simon at 916-323-3121.

Sincerely,



Cory T. Jaspersen

Director, Governmental Affairs

CTJ/AS/jh

cc: Members, Assembly Judiciary Committee
Hon. Thomas Umberg, Member of the Senate
Ms. Alison Merrilees, Chief Counsel, Assembly Judiciary Committee
Mr. Daryl Thomas, Consultant, Assembly Republican Office of Policy
Ms. Jessica Devencenzi, Deputy Legislative Secretary, Office of the Governor
Ms. Millicent Tidwell, Administrative Director, Judicial Council of California
Ms. Shelley Curran, Chief Policy & Research Officer, Judicial Council of California



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PATRICIA GUERRERO

*Chief Justice of California
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MILLICENT TIDWELL

Acting Administrative Director

March 21, 2023

Hon. Thomas Umberg, Chair
Senate Judiciary Committee
1021 O Street, Suite 6530
Sacramento, California 95814

Subject: Senate Bill 21 (Umberg), as amended February 23, 2023 – Support

Dear Senator Umberg:

The Judicial Council is pleased to support SB 21, which extends the July 1, 2023, sunset to January 1, 2026 in Code of Civil Procedure (CCP) section 367.75, authorizing parties to continue to appear remotely in civil cases and the court to conduct civil conferences, hearings, and proceedings, in whole or in part, through the use of remote technology.

The bill also eliminates the sunset for CCP section 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.

We note that Senate Bill 22 (Umberg) addresses the sunset on criminal and certain types of civil proceedings.

Since the Legislature first passed legislation authorizing remote proceedings in 2021, the Judicial Council has submitted two reports to the Legislature and Governor on this topic:

The first report submitted pursuant to [Code of Civil Procedure section 367.8](#) was submitted to the Legislature and Governor in December and included the following data: (1) the number of proceedings conducted with use of remote technology, (2) technology issues affecting remote proceedings, (3) any relevant expenditure information related to remote proceedings, (4) the

impact of remote proceedings on court users' ability to access the courts, (5) the impact of the use of remote proceedings on case backlogs as a result of the COVID-19 pandemic, (6) information regarding court workers' and court users' experience using remote technology, and (7) any other information necessary to evaluate the use of remote proceedings by the courts.

As part of that effort, the Judicial Council received data from 38 courts on the number of remote court proceedings in criminal matters. Based on this data, we estimate that in those courts there were approximately 422,000 remote felony and misdemeanor criminal proceedings and 125,000 infraction proceedings in a one-year period.

On the civil side – based on data from 51 courts -- we estimate that there were nearly 1 million civil remote proceedings annually in those courts.

That's over 6,000 remote hearings taking place in California courts each day. This increased access to justice has allowed Californians to avoid over 1.55 million trips to courthouses.

In a March 2022 – February 2023 survey, conducted by the Judicial Council as required by law, of the more than 60,000 individuals responding—including parties, attorneys, and court employees—96 percent reported that they had a positive experience. Parties and attorneys were 91 percent positive. Employees were 98 percent positive. These same individuals reported audio issues in just 1.8 percent of the proceedings and video issues in just 0.8 percent of the proceedings.

The second report is required under [Code of Civil Procedure section 367.9](#) which directed the council to convene a working group made up of many court stakeholders to consider and make recommendations on remote proceedings. That working group went through a long process where they collected information from various stakeholders, received written comment, and held a two-hour public comment session. All of this input informed the development of the workgroup's recommendations. The report and recommendations were submitted to the Legislature and Governor in January.

- Among the recommendations, the working group identified strong support for making remote proceedings available, but not mandatory, **in all case types -- both civil and criminal --** when:
 - Courts, parties, and other participants have access to remote technology;
 - Clear and private communication between parties and their attorneys is available; and
 - Technology provides for clear communication between all participants and court interpreters.

The Judicial Council has seen the many benefits of giving people the *option* to participate remotely in civil and criminal proceedings. The remote option helps preserve access to justice for many Californians and vulnerable court users by reducing time and expense for them when they are hospitalized or would otherwise lose time from work, childcare and would incur travel

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and parking costs for short hearings and appearances. It also preserves equal access to justice and increases the efficiency of court services by continuing to allow courts the flexibility to require in-person court proceedings when it is more appropriate. And court users have also noted the benefits of remote participation in court proceedings: in a March – October 2022 survey, conducted by the Judicial Council, 35,000 individuals – including parties, attorneys, and court employees responded to a simple question about their experience with the remote proceedings and 96% of those who responded reported that they had a positive experience with the remote proceeding. This includes parties, attorneys, and court employees. Parties and attorneys were 91% positive. Employees were 98% positive.

Giving people the option to participate remotely has increased the participation of litigants, attorneys, court personnel, and others while maintaining and expanding efficient and effective courtroom proceedings.

The Judicial Council is actively working with Senator Umberg and stakeholders to address the concerns raised about SB 21 and we look forward to continuing these productive conversations.

For these reasons, the Judicial Council strongly supports SB 21.

Should you have any questions or require additional information, please contact Aviva Simon at 916-323-3121.

Sincerely,

Sent March 21, 2023

Cory T. Jaspersen
Director, Governmental Affairs

CTJ/AS/jh

cc: Members, Senate Judiciary Committee
Hon. Thomas Umberg, Senate Judiciary Committee
Ms. Margie Estrada, Chief Counsel, Senate Judiciary Committee
Mr. Morgan Branch, Consultant, Senate Republican Office of Policy
Ms. Jessica Devencenzi, Deputy Legislative Secretary, Office of the Governor
Ms. Millicent Tidwell, Administrative Director, Judicial Council of California
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