

**JUDICIAL COUNCIL OF CALIFORNIA
ADMINISTRATIVE OFFICE OF THE COURTS**

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Report

TO: Members of the Judicial Council

FROM: Tina Hansen, Director, Finance Division 415-865-7951
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DATE: November 10, 2004

SUBJECT: Authorization for Administrative Director of the Courts to Allocate
Trial Court Trust Fund Monies in Excess of the Established Base
Court-Appointed Counsel Funding to Pay for Actual Court-
Appointed
Counsel Expenditures in Juvenile Dependency Proceedings
(Action Required)

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Issue Statement

Court expenditures for court-appointed counsel in juvenile dependency cases in fiscal year (FY) 2003–2004 exceeded the amount of base funding set aside to pay for these costs. In addition, one court was not fully reimbursed for court-appointed counsel costs in FY 2002–2003 due to a reporting error. Judicial Council approval is required to provide the Administrative Office of the Courts (AOC) authority to distribute reimbursement funding to address these costs.

Background

At its April 27, 2001 meeting, the Judicial Council directed AOC staff to develop a new fiscal policy related to trial court expenditures for court-appointed counsel in juvenile dependency proceedings that would impose line-item controls on this portion of the trial court budget so that these funds could not be reallocated by the courts for other purposes.

At the August 24, 2001 Judicial Council meeting, Center for Families, Children & the Courts (CFCC) staff presented a proposed interim fiscal policy that had two goals: to ensure the provision of high-quality court-appointed counsel services throughout the state by requiring that designated court-appointed counsel funds be

used only for that purpose, and to bolster the Judicial Council's ability to effectively pursue court-appointed counsel growth funds. The policy was approved for implementation in FY 2002–2003, with the further direction that any surplus program funding in court systems resulting from implementation of this policy be used to address program shortfalls in other court systems on a case-by-case basis.

The new policy established trial courts' baseline court-appointed counsel budgets based upon their respective FY 1996–1997 court-appointed counsel expenditure levels as modified by maintenance-of-effort adjustments and any deficiency and growth funding augmentations since that time. The total of all courts' court-appointed counsel baselines established the overall base for the program.

Beginning in FY 2003–2004, dependency counsel funding was deducted from each trial court's baseline allocation and a reimbursement process was implemented whereby courts pay for court-appointed dependency counsel services and then seek subsequent reimbursement of these costs from the AOC. These statutorily required dependency counsel services are provided to the courts pursuant to contract and the costs are subject to increase on a periodic basis.

The final review of FY 2003–2004 court-appointed counsel expenditures identified \$3.012 million of costs in excess of the level of funding established for reimbursement to courts on a statewide basis. In addition, \$1.209 million in underreported and non-reimbursed costs have been identified for FY 2002–2003 for one court. These costs have been determined to be qualified court appointed counsel program costs that would have been recommended for reimbursement if they had been properly recorded and reported. Total court-appointed counsel costs for which reimbursement is sought pursuant to this report is \$4.221 million and reflects the aggregate of underreported amounts in FY 2002–2003 and the FY 2003–2004 statewide program shortfall. While base funding for the program has been exceeded, there are one-time savings in other trial court programs that could be used on a one-time basis to address these costs. The AOC, however, does not have specific authority to use these funds for this purpose without Judicial Council approval.

Recommendation

AOC staff recommends that the Judicial Council approve the specific allocations identified on the attached table for court appointed counsel costs for fiscal years 2002–2003 and 2003–2004 that exceed the level of funding already allocated for this purpose, and delegate authority to the Administrative Director of the Courts to make technical adjustments to this allocation if necessary.

Rationale for Recommendation

Senate Bill 2160 (Chapter 450, Statutes of 2000) amended section 317 of the Welfare and Institutions Code to require the appointment of independent counsel for each child who is the subject of a dependency action “unless the court finds that the child would not benefit from the appointment of counsel.” This statute reflected the increased legislative priority placed upon the provision of counsel services in these types of proceedings. Meeting this mandate has necessarily resulted in more attorneys being appointed in some courts and in additional costs for court-appointed counsel services. As with other services, the costs increase over time in order to maintain the availability of high quality staff to perform this important function. If these actual costs are not reimbursed, courts may have to either switch to lower cost, and possibly, lesser quality service providers, if this is possible, or absorb the cost, which would be difficult for many courts because of the unallocated reductions they have already had to face.

Alternative Actions Considered

As mentioned above, alternatives to allocating available FY 2003–2004 funding would be to require courts to absorb the FY 2003–2004 shortfall and to deny relief to one court system that, due to a reporting error, was not fully reimbursed for FY 2002–2003 court appointed counsel costs. An allocation of currently available Trial Court Trust Fund monies would appear to be the best alternative to addressing these prior fiscal year shortfalls.

Comments from Interested Parties

Not applicable.

Implementation Requirements and Costs

If this recommendation is approved, funding from other program areas in which one-time savings were incurred in FY 2003–2004 (such as reimbursed jury) would be utilized to reimburse the courts for FY 2003–2004 court-appointed counsel expenditures that exceed their base level of funding, and one court’s FY 2002–2003 expenditures which were un-reimbursed, representing a total allocation increase of \$4.221 million.

**Court-Appointed Counsel Program Reimbursements
Additional Funding Need
FY 2002-03 and 2003-04**

Attachment A

Court System	02-03 Court Appointed Counsel Funding Need	03-04 Court Appointed Counsel Funding Need	Total Funding Increase Needed
Alameda	1,209,465	319,070	1,528,535
Alpine		-	-
Amador		3,378	3,378
Butte		12,437	12,437
Calaveras		4,220	4,220
Colusa		-	-
Contra Costa		45,248	45,248
Del Norte		5,957	5,957
El Dorado		12,030	12,030
Fresno		125,508	125,508
Glenn		5,443	5,443
Humboldt		222,684	222,684
Imperial		70,932	70,932
Inyo		1,721	1,721
Kern		37,264	37,264
Kings		6,515	6,515
Lake		10,259	10,259
Lassen		3,002	3,002
Los Angeles		278,510	278,510
Madera		2,999	2,999
Marin		8,022	8,022
Mariposa		3,046	3,046
Mendocino		29,648	29,648
Merced		17,545	17,545
Modoc		-	-
Mono		-	-
Monterey		632	632
Napa		4,025	4,025
Nevada		1,569	1,569
Orange		174,977	174,977
Placer		5,770	5,770
Plumas		2,303	2,303
Riverside		74,171	74,171
Sacramento		101,472	101,472
San Benito		12,348	12,348
San Bernardino		467,671	467,671
San Diego		670,604	670,604
San Francisco		-	-
San Joaquin		58,182	58,182
San Luis Obispo		4,467	4,467
San Mateo		-	-
Santa Barbara		42,765	42,765
Santa Clara		37,932	37,932
Santa Cruz		13,310	13,310
Shasta		2,816	2,816
Sierra		596	596
Siskiyou		11,418	11,418
Solano		31,103	31,103
Sonoma		7,677	7,677
Stanislaus		-	-
Sutter		1,195	1,195
Tehama		29,776	29,776
Trinity		367	367
Tulare		13,274	13,274
Tuolumne		-	-
Ventura		-	-
Yolo		11,857	11,857
Yuba		3,936	3,936
Total	1,209,465	3,011,649	4,221,114