

JUDICIAL COUNCIL MEETING
Administrative Office of the Courts
Malcolm M. Lucas Board Room
455 Golden Gate Avenue
San Francisco, California 94102-3688
December 1, 2006
8:00 a.m.–1:40 p.m.
Open to the Public

AGENDA

- 8:00–8:05 a.m. **Swearing In of Judicial Council Members**
The Chief Justice administers the Oath of Office to members of the Judicial Council.
- 8:05–8:15 a.m. **Public Comment Related to Trial Court Budget Issues***
[Subject to requests]
*This time is reserved for public comment on discussion agenda items relating to trial court budgets.
- 8:15–8:20 a.m. **Approval of Minutes**
August 25, 2006, and October 20, 2006,
business meetings
[Minutes Tab]
- 8:20–8:40 a.m. **Judicial Council Committee Presentations**
Executive and Planning Committee
Hon. Richard D. Huffman, Chair
Policy Coordination and Liaison Committee
Hon. Marvin R. Baxter, Chair
Rules and Projects Committee
Hon. Suzanne N. Kingsbury, Chair
[Council Reports Tab]

Administrative Director's Report

A written report from William C. Vickrey, Administrative Director of the Courts, will be distributed at the meeting.

Chief Justice's Report

A written report from Chief Justice Ronald M. George on activities in which he has been involved since the last Judicial Council meeting will be distributed at the meeting.

Consent Agenda (Items 1A–1G, 2–8)

A council member who wishes to request that any item be moved from the Consent Agenda to the Discussion Agenda is asked to please notify Nancy Spero at 415-865-7915 at least 48 hours before the meeting.

ITEM 1 JUDICIAL COUNCIL–SPONSORED LEGISLATION

Item 1A [Conform the Access to Visitation Grant Program Legislative Report Requirement to the Federal Funding Cycle \(Fam. Code, § 3204\(a\)\) \(Action Required\)](#)

The Policy Coordination and Liaison Committee and AOC staff recommends sponsoring legislation to amend Family Code section 3204(d) to make reporting requirement for the Access to Visitation grant program apply in every even-numbered year to better correspond with the federal and AOC grant periods.

Staff: Ms. Tracy Kenny
 Office of Governmental Affairs

Item 1B [Discovery Objections and Responses \(Code Civ. Proc., §§ 2031.210, 2031.270, and 2031.280\) \(Action Required\)](#)

The Policy Coordination and Liaison Committee and the Civil and Small Claims Committee recommends sponsoring legislation to amend three discovery statutes to clarify the time for production of documents.

Staff: Mr. Patrick O’Donnell
 Office of the General Counsel
 Mr. Daniel Pone
 Office of Governmental Affairs

Item 1C [Small Claims: Electronic and Fax Filing \(Code Civ. Proc., § 116.320\(a\)\) \(Action Required\)](#)

The Policy Coordination and Liaison Committee and the Civil and Small Claims Committee recommends sponsoring legislation to amend the Small Claims Act to clarify the circumstances under which a small claims plaintiff may commence an action by filing a claim by fax or electronic means.

Staff: Ms. Cara Vonk

Office of the General Counsel
Mr. Daniel Pone
Office of Governmental Affairs

Item 1D

[County Fine and Forfeiture Maintenance of Effort \(MOE\) Obligation \(Gov. Code, § 77201.1– 77201.3\) \(Action Required\)](#)

The Policy Coordination and Liaison Committee recommends co-sponsoring legislation with the California State Association of Counties (CSAC) to add a new section to the Government code that codifies the adjusted county fine and forfeiture MOE amounts that have been paid as a result of the buyouts agreed to under AB 139 and AB 145. Additional conforming changes will be sought, consistent with the buyout agreements.

Staff: Ms. Eraina Ortega
Office of Governmental Affairs

Item 1E

[Uniform Civil Fees and Standard Fee Schedule Act of 2005: Technical and Clarifying Amendments \(Assem. Bill 145; Stats. 2005, ch. 75, as amended by Assem. Bill 1742; Stats. 2005, ch. 706\) \(Action Required\)](#)

The Policy Coordination and Liaison Committee recommends sponsoring legislation to make clarifying and technical amendments to the Uniform Civil Fees and Standard Fee Schedule Act of 2005.

The proposed changes will ensure the consistent application of the UCF and allow courts to appropriately manage unclaimed filing fees.

Additional changes may be recommended by the Task Force on Civil Fees, which is required to report to the Judicial Council and the Legislature by February 1, 2007.

Staff: Ms. Eraina Ortega
Office of Governmental Affairs

Item 1F

[Enhanced Collections \(Pen. Code, §§ 1463.007 and 1463.010; Rev. & Tax. Code, § 19280\) \(Action Required\)](#)

The Policy Coordination and Liaison Committee and the Collaborative Court-County Working Group on Enhanced Collections recommends sponsoring legislation to amend various statutes to establish a task force on criminal fines and penalties, reduce the minimum fine to the

Franchise Tax Board's Court-Ordered Debt Collection Program, expand the program to include other violation collections, and expand the use of enhanced collection programs to collect public defender fees, booking fees, and other criminal-justice-related fees.

Staff: Ms. Eraina Ortega
Office of Governmental Affairs

Item 1G

**Traffic Citations: Enforcement of Unsigned “Owner Responsibility”
Traffic Citations When the Cited Persons Fail to Appear (Veh.
Code, §§ 40002 and 40002.1) (Action Required)**

The Policy Coordination and Liaison Committee and the Traffic Advisory Committee recommend sponsoring legislation to amend sections 40002 and 40002.1 of the Vehicle Code to allow the court, after proper notice to the violator, to report a failure to appear on an unsigned citation issued for an owner-responsibility offense to the Department of Motor Vehicles (DMV) for a hold on the registration of the vehicle involved in the offense. To ensure due process rights are protected, the committees recommend that the vehicle owner be given 21 rather than 10 days to respond to the citation.

Staff: Ms. June Clark
Office of Governmental Affairs
Mr. Courtney Tucker
Office of the General Counsel

Item 2A

**Electronic Generation of Court Orders in Juvenile Court
Proceedings and Proceedings Under the Probate Code(amend Cal.
Rules of Court, rules 1.31 and 5.504 and adopt rule 7.101.5) (Action
Required)**

The Administrative Office of the Courts’ staff recommends that the Judicial Council amend rules 1.31 and 5.504 and adopt rule 7.101.5 of the California Rules of Court. Rule 1.31(e) prohibits courts from altering Judicial Council forms and requiring the use of the altered forms. Given implementation of the California Case Management System (CCMS)—a statewide software application currently under development that will allow trial courts to manage all case types in a uniform manner—juvenile and probate courts, for different reasons, require greater flexibility in generating mandatory court orders than contemplated in rule 1.31. Rule 1.31(e) would therefore be amended to identify the amended juvenile court rule and the new probate rule as exceptions to that rule’s prohibition of court-altered

mandatory Judicial Council forms. In addition, rule 5.504 would be amended and rule 7.101.5 adopted to authorize courts to generate modified Judicial Council mandatory form court orders under certain circumstances, as specified in these rules. This proposal would be an interim measure that would end effective January 1, 2012.

Staff: Ms. Melissa Ardaiz
Center for Families, Children & the Courts
Mr. Douglas C. Miller
Office of the General Counsel

Item 2B

[Technical Changes in Rules Governing Private Professional Guardians and Conservators \(amend Cal. Rules of Court, rules 7.1010 and 7.1060 \(Action Required\)\)](#)

The Probate and Mental Health Advisory Committee recommends the amendment of rules 7.1010 and 7.1060, concerning court-appointed private professional guardians and conservators. The proposed amendments would facilitate the transition to the requirements of the Omnibus Conservatorship and Guardianship Reform Act of 2006 during the eighteen month period from January 1, 2007 to July 1, 2008, when the comprehensive system of professional fiduciary licensure enacted in that legislation will entirely replace these rules and the existing statutes on which they are based.

Staff: Mr. Douglas C. Miller
Office of the General Counsel

Item 3

[Technical Changes to Forms to Conform to the Reorganization and Renumbering of the California Rules of Court \(revise forms JV-299, JV-300, and JV-305\) \(Action Required\)](#)

The Administrative Office of the Courts' staff recommends that the Judicial Council revise Judicial Council forms JV-299, JV-300, and JV-305 to update the rule numbers referenced on the forms to reflect the new rule numbers approved by the Judicial Council in the reorganization and renumbering of the California Rules of Court and Standards of Judicial Administration.

Staff: Ms. Melissa Ardaiz
Center for Families, Children & the Courts

Item 4

Probation Services: Status Report on the Implementation of the Recommendations of the Probation Services Task Force Final Report (For Information Only)

AOC Center for Families, Children & the Courts staff asks that the Judicial Council receive this status report on the implementation of the Probation Services Task Force. From August 2000 through June 2003, the Probation Services Task Force, a joint body of the Judicial Council and the California State Association of Counties, conducted a comprehensive examination of probation services in California. The final report was presented to the Judicial Council in August 2003. Upon receiving the report, the Judicial Council directed staff to build on the work of the task force by, among other things, conducting further research to assess probation in California, working with probation departments and Chief Probation Officers to enhance probation services, developing appropriate rules and forms, and working collaboratively with other justice system partners. A report to the Council outlining these efforts was to be submitted by December 2006.

Staff: Ms. Audrey Fancy
Center for Families, Children & the Courts

Item 5

2007 Uniform Bail and Penalty Schedules (revise Schedules) (Action Required)

The Traffic Advisory Committee has proposed revisions to the Uniform Bail and Penalty Schedules (Schedules) to become effective January 1, 2007. Vehicle Code section 40310 provides that the Judicial Council must annually adopt a uniform traffic penalty schedule for all nonparking Vehicle Code infractions. According to rule 4.102 of the California Rules of Court, trial courts, in performing their duty under Penal Code section 1269(b), must annually revise and adopt a schedule of bail and penalties for all misdemeanor and infraction offenses except Vehicle Code infractions. The penalty schedule for traffic infractions is established by the Schedules approved by the Judicial Council. The proposed revisions would conform the Schedules with recent legislation.

Staff: Mr. Courtney Tucker
Office of the General Counsel

Item 6

Annual Report of Trial Court Expenditures for Fiscal Year 2005–2006 (Action Required)

Administrative Office of the Courts staff recommends that the council approve the annual report of fiscal year 2005–2006 Quarterly Financial Statement expenditures.

Staff: Mr. Stephen Nash
Finance Division
Mr. Ruben Gomez
Finance Division
Mr. Steven Chang
Finance Division

Item 7

Equal Access Fund: Distribution of Funds for Partnership Grants (Action Required)

The Legal Services Trust Fund Commission of the State Bar has prepared a report requesting approval of an allocation of \$1,397,120 in Equal Access Funds for distribution to legal services providers for programs conducted jointly with courts to provide legal assistance to pro per litigants (partnership grants). The Budget Act authorizing the Equal Access Fund provides that the Judicial Council must approve the commission's recommendations if the Judicial Council determines that the awards comply with statutory and other relevant guidelines. The report demonstrates that the commission has complied with those guidelines.

Staff: Ms. Bonnie Hough
Center for Families, Children & the Courts

Item 8

Small Claims Plain-Language Forms (revise forms SC-100, SC-100A, SC-104, SC-104C, SC-105, SC-108, SC-109, SC-120, SC-120A; approve forms SC-105A and SC-108A) (Action Required)

The Civil and Small Claims Advisory Committee recommends revising three small claims forms in the plain-language format, revising six existing plain-language forms, and approving two new small claims forms in the plain-language format so that the forms can be more easily understood, completed, and filed by laypeople. This consent item appeared on the October 20, 2006, agenda and is being resubmitted to confirm the council's approval of the item.

Staff: Ms. Cara Vonk

Office of the General Counsel

Discussion Agenda (Items 9–17)

Item 9

8:40–9:10 a.m.

Final Report: Trust and Confidence in the California Courts, Phase II: Public Court Users and Judicial Branch Members Talk About the California Courts (For Information Only)

Phase II of the Public Trust and Confidence study: *Trust and Confidence in the California Courts, Phase II: Public Court Users and Judicial Branch Members Talk About the California Courts* is now complete. The phase II report is a follow-up to the Judicial Council's landmark survey, *Trust and Confidence in the California Courts: A Survey of the Public and Attorneys*, a report that demonstrated that public trust and confidence in the California courts is substantially higher now than in previous years.

Presentation (20 minutes)

Speakers: Ms. Ruth A. Wooden
President, Public Agenda
Lead consultant for phase II
Mr. David B. Rottman, Ph.D.
Principal Research Consultant
Author of phase I findings report
National Center for State Courts
Mr. Kenneth L. Kann
Executive Office Programs Division

Discussion/Council Action (10 minutes)

Item 10

9:10–9:30 a.m.

Branchwide Planning: Strategic Plan for California's Judicial Branch for Fiscal Years 2006–2007 Through 2011–2012 Strategic (Action Required)

The Executive and Planning Committee recommends that the Judicial Council adopt *Justice in Focus: The Strategic Plan for California's Judicial Branch, 2006–2012*, as the guiding vision and direction for the California court system. Developed over the last 18 months, *Justice in Focus* has been shaped by contributions from more than 3,000 branch stakeholders, including members of the public, community leaders, the executive team of the State Bar of California, judicial officers, court executives and administrators, members of the Executive and Legislative branches, and many other interested parties. *Justice in*

Focus provides a strategic framework for accomplishing the council’s mission: “...improving the quality and advancing the consistent, independent, impartial and accessible administration of justice.”

Presentation (10 minutes)

Speakers: Hon. Richard D. Huffman
Chair, Executive and Planning Committee
Mr. William C. Vickrey
Administrative Director of the Courts

Discussion/Council Action (10 minutes)

Item 14A
9:30–10:15 a.m.

[Jury Rule Proposals \(adopt Cal. Rules of Court, rules 2.1032, 2.1033, 2.1034, 2.1035, and 2.1036\) \(Action Required\)](#)

The Judicial Council and California courts have been engaged in jury reform efforts for more than 10 years. The Blue Ribbon Commission on Jury System Improvement, created in 1995, and the Task Force on Jury System Improvements proposed the adoption of rules of court to institutionalize certain jury trial practices. Staff recommends the adoption of the proposed rules of court, which would assist judicial officers by instituting innovative trial court practices that clarify judicial authority, assist trial court judges and litigants with recommended techniques, and encourage judges’ use of the techniques.

Item 14B

[Juror Note-Taking \(adopt Cal. rules of Court, rule 2.1031\) \(Action Required\)](#)

Note-taking during trial is a simple and effective aid for jurors, assisting in juror comprehension, retention of information, and attentiveness. The rule will promote uniform access to this practice for all jurors. Staff recommends that the Judicial Council adopt the proposed rule recommending that jurors be permitted to take notes in all civil and criminal cases. If note-taking is allowed, the proposed rule requires courts to provide jurors with materials suitable for note-taking.

Presentation (20 minutes)

Speakers: Hon. Judith D. McConnell
Presiding Justice, Fourth Appellate District
Mr. John A. Larson
Executive Office Programs
Ms. Susan R. Goins
Office of the General Counsel

Discussion/Council Action (25 minutes)

10:15–10:30 a.m. **BREAK**

Item 11

10:30–10:50 a.m.

Domestic Violence: Domestic Violence Practice and Procedure Task Force Interim Report (For Information Only)

The Judicial Council Domestic Violence Practice and Procedure Task Force submits this interim report to summarize its activities since its appointment and initial status report to the Judicial Council on December 2, 2005. This interim report chronicles the major task force activities and accomplishments during the past year and describes the task force plan for its second and final year of operation. The task force would also like to highlight an important pilot project launched to improve entry of protective orders into the statewide database, a key task force objective. A final report will be presented to the council in December 2007.

Presentation (15 minutes)

Speakers: Hon. Laurence Donald Kay (Ret.)
Chair, Domestic Violence Practice and Procedure Task Force
Ms. Patricia M. Yerian
Information Services Division
Mr. Alan Slater
Chief Executive Officer, Superior Court of Orange County
Member, Domestic Violence Practice and Procedure Task Force
Mr. Snorri Ogata
Chief Information Officer, Superior Court of Orange County
Mr. Stuart Marsh
Technical Architect, Superior Court of Orange County

Discussion/Council Action (5 minutes)

ITEM 12

JUDICIAL COUNCIL–SPONSORED LEGISLATION

Item 12A

10:50 –

11:25 a.m.

2007 Judicial Council Legislative Priorities (Action Required)

This presentation will focus on proposals for Judicial Council–sponsored legislation that are critical to the council's strategic plan and that have been in process or have been partially implemented in recent years. For 2007, these proposals include: new judgeships, conversion of

eligible SJO positions, JRS II reform, court facilities program improvements, and access to justice issues such as access to interpreters in civil proceedings.

Presentation (15 minutes)

Speakers: Ms. Kathleen T. Howard
Office of Governmental Affairs
Ms. Donna Hershkowitz
Office of Governmental Affairs

Discussion/Council Action (20 minutes)

Item 12B

11:25–11:40 a.m.

[Fee Waiver Statutory Provisions \(Repeal Gov. Code, § 68511.3 and add Gov. Code, §§ 68630.010–68630.100\) \(Action Required\)](#)

The Policy Coordination and Liaison Committee and the Fee Waiver Working Group recommend that the Judicial Council sponsor legislation to revise the fee waiver statute consistent with the proposal currently circulating for comment. To achieve this result, the Committee recommends that the council direct the PCLC, along with the chairs of the council’s Executive and Planning Committee and Rules and Projects Committee, to review the recommendations of the Fee Waiver Working Group for revisions to the draft proposal based on the comments received during the comment period, and to approve the final text for introduction in the 2007 Legislative Session. The revised statute will clarify the process for obtaining a waiver of court fees and establish a process for recovering fees in cases where such recovery is appropriate.

Presentation (10 minutes)

Speakers: Hon. Carolyn B. Kuhl
Chair, Fee Waiver Working Group
Ms. Cara Vonk
Office of the General Counsel
Ms. Florence Prushan
Southern Regional Office
Ms. Tracy Kenny
Office of Governmental Affairs

Discussion/Council Action (5 minutes)

Item 13

11:40 a.m.–
12:10 p.m.

Court Facilities: Report from the Judicial Council to the Budget and Fiscal Committees of the Legislature: County Reporting on Local Courthouse Construction Funds for the Period of January 1, 1998–December 31, 2005 (Action Required)

The Courthouse Construction Fund Steering Committee of the Administrative Office of the Courts recommends that the Judicial Council approve the Report from the Judicial Council to the Budget and Fiscal Committees of the Legislature on Local Courthouse Construction funds for the period of January 1, 1998 through December 31, 2005. This is the first of a series of annual reports due from the Judicial Council to the Legislature as mandated by statute.

Presentation (20 minutes)

Speakers: Ms. Kim Davis
Office of Court Construction and Management
Ms. Gisele Corrie
Office of Court Construction and Management

Discussion/Council Action (10 minutes)

Item 15

12:10–12:25 p.m.

Allocation of Revenue From the Trial Court Improvement Fund in Accordance with rule 6.105 of the California Rules of Court and Government Code section 77205(a) (Action Required)

Administrative Office of the Courts staff recommends approval of specific one-time allocations pursuant to Gov. Code 77205(a) for fiscal year 2005–2006 for distribution in January 2007.

Presentation (10 minutes)

Speakers: Ms. Christine M. Hansen
Finance Division
Mr. Stephen H. Nash
Finance Division
Mr. Ruben Gomez
Finance Division

Discussion/Council Action (5 minutes)

12:25–12:55 p.m.

LUNCH BREAK

Item 16
12:55–1:20 p.m.

**Allocation of Fiscal Year 2006–2007 State Appropriations
Limit Security Funding to Address Security Costs for New or
Transferring Facilities (Action Required)**

This item presents policy recommendations related to the allocation of trial court State Appropriations Limit funding for security-related costs for facilities scheduled to open or transfer during the period July 1, 2006 to September 30, 2007.

Presentation (15 minutes)

Speakers: Ms. Christine M. Hansen
Finance Division

Discussion/Council Action (10 minutes)

Item 17
1:20–1:40 p.m.

**Juvenile Dependency: DRAFT Pilot Program and
Court-Appointed Counsel (Action Required)**

AOC Center for Families, Children & the Courts staff recommends that the council direct the DRAFT (Dependency Representation, Administration, Funding, and Training) Pilot Program Implementation Committee to provide a final DRAFT pilot program report in August 2007 with recommendations regarding: (1) proposed court-appointed counsel caseload, compensation, and performance standards for statewide implementation; and (2) cost containment approaches accounting for both the limited nature of available funding and the import of quality representation in the state's juvenile dependency courts.

Presentation (10 minutes)

Speakers: Ms. Diane Nunn
Center for Families, Children & the Courts
Ms. Leah Wilson
Center for Families, Children & the Courts
Mr. Lee Morhar
Center for Families, Children & the Courts

Discussion/Council Action (10 minutes)

Circulating Orders since the last business meeting.

[Circulating Orders Tab]

Judicial Council Appointment Orders Since the Last Business Meeting

[Appointment Orders Tab]