



## JUDICIAL COUNCIL OF CALIFORNIA

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April 18, 2017

Hon. Mark Stone, Chair  
Assembly Judiciary Committee  
State Capitol, Room 2029  
Sacramento, California 95814

Subject: Assembly Bill 745 (Reyes), as amended March 30, 2017 – Support/Sponsor  
Hearing: Assembly Judiciary Committee – April 25, 2017

Dear Assembly Member Stone:

The Judicial Council is pleased to support and sponsor AB 745, which authorizes a presiding judge to assign specified magistrate duties to court commissioners, a type of subordinate judicial officer, to increase access to justice while equitably addressing judicial workload concerns.

California continues to suffer from a critical shortage in the number of trial court judges. The ramifications are serious and far-reaching, and include a significant decrease in Californians' access to the courts, compromised public safety, and backlogs in some courts that inhibit fair, timely, and equitable justice. At the same time recent rulings, legislation, and initiative measures approved by the voters have all increased the workload of criminal courts. The purpose of court commissioners is "to assist an overburdened judiciary with the performance of 'subordinate judicial duties.'" (Branson v. Martin (1997) 56 Cal.App.4th 300, 305.) In criminal cases, court commissioners are authorized to perform a variety of duties, if directed to perform those duties by the presiding judge (Gov. Code, §§ 72190.1, 72190.2). However, commissioners do not currently have authority to issue search warrants (see 61 Ops.Cal.Atty.Gen. 487 (1978)) or to take and enter a guilty plea at arraignment (see 67 Ops.Cal.Atty.Gen. 162, 167 (1984)).

AB 745 would help address the burdens on courts by allowing court commissioners to exercise magistrate powers and perform magistrate duties. The role of a magistrate is unique in the criminal justice system and differs from the role of a judge. The principal functions of magistrates include issuing search warrants, bench warrants, arrest warrants, and warrants of commitment (Pen. Code, §§ 807, 881(a), 1488, 1523); fixing and granting bail (Pen. Code, § 815a); conducting preliminary examinations of persons charged with a felony and binding defendants over for trial or release (Pen. Code, § 858); and acting as the designated on-call magistrate when court is not in session (Pen. Code, § 810).

Since the duties of magistrates are easily distinguishable from the duties of judges, commissioner responsibilities could be expanded to include magistrate duties without causing undue confusion. In this manner, AB 745 provides greater flexibility in the use of existing judicial and commissioner resources to increase access to justice while equitably addressing judicial workload concerns. Of note, commissioners are required to receive the same level and rigor of training as trial court judges (Cal. Rules of Ct. 10.452 & 10.462.) Moreover, commissioners are subject to the California Code of Judicial Ethics (Cal. Rules of Ct. 10.703) and within the jurisdiction of the Commission on Judicial Performance (Cal Const. Art. VI. § 18). Finally, courts report that they use rigorous selection processes when employing commissioners.

By expanding the authorized duties of commissioners to include duties currently performed by magistrates, AB 745 will help address the critical shortage of judges and provide courts with more flexibility to equitably address judicial workloads. As a result, AB 745 will promote court efficiency and enhance access to justice.

For these reasons, the Judicial Council is pleased to support and sponsor AB 745.

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

Sincerely,

*Mailed on April 18, 2017*

Cory T. Jaspersen  
Director, Governmental Affairs

CTJ/SR/yc-s

cc: Members, Assembly Judiciary Committee  
Hon. Eloise Gómez Reyes, Member of the Assembly  
Mr. Eric Dang, Counsel, Assembly Judiciary Committee  
Mr. Paul Dress, Consultant, Assembly Republican Office of Policy  
Mr. Daniel Seeman, Deputy Legislative Affairs Secretary, Office of the Governor  
Mr. Martin Hoshino, Administrative Director, Judicial Council of California