

Small court methodology and allocation

Recommendation 7 (from April 15, 2016 Judicial Council report):

That a program be established for providing emergency funding to small courts experiencing unexpected short-term caseload increases.

Alternative recommendations proposed

That the Judicial Council consider any or all of the following recommendations related to funding for dependency counsel in small courts:

1. That base funding be established for small courts that ensures funding of a minimum required service of providing qualified attorneys in the small courts.
2. That the attorney workload model be modified to reflect additional costs incurred in small courts: lack of access to qualified attorneys, attorneys travelling long distances from out of county, large numbers of conflicts, lack of economies of scale for attorneys in employing support staff or investigators, lack of access to expert witnesses.
3. That the funding reallocation process be suspended for small courts until a more accurate model for calculating workload is developed.
4. That small courts pursue pilot projects to decrease attorney costs, including: coordinating calendars in courts that share attorneys, developing conflict attorney panels that could serve several courts, developing expert witness panels that could serve several courts, expanding remote appearances by attorneys.

Discussion

Definitions. Superior court judges joining the calls and discussion related to small court funding ranged from Mono County, with an average of 4 original dependency filings and 9 dependency cases, to Mendocino County, with an average of 156 original dependency filings and 324 dependency cases. This report divides small courts into four groups, based on both the number of judgeships in a court and the average number of filings and child welfare cases (table 1, map). The smallest courts are Alpine and Sierra, which frequently have no cases in a year. There are 9 courts with a 2 judgeships and a caseload of under 100 children. This report calls these two groups the “very small courts”. There are also 9 courts with caseloads between 100 and 150 children. Judgeships in these courts range from 2 to 6, with one larger court in this group. There are four courts in the third group with 150 to 300 cases. One of these is a 2 judge court. Finally there are 5 courts with 300 to 400 cases.

Alternate Recommendation 1.

1. That base funding be established for small courts that ensures funding of a minimum required service of providing qualified attorneys in the smallest courts.

Judges and attorneys from the 11 very small courts frequently made that point that attorneys are required to be present in court on a weekly or twice-weekly basis. These courts will commonly have a dependency calendar one-half day per week, and then hear contested matters one-half day per week. A detention calendar requires the presence of three attorneys in the courtroom: for minors, primary parent and secondary parent.

A very general estimate of the cost to the court of having three attorneys in court for two calendars per week would range from .2 to .4 FTE per attorney or .6 to 1.2 FTE overall. Using the workload model, the total attorney cost ranges from \$102,450 to \$204,904 in each court using the statewide median salary. Using the median salary for the very small courts, the cost ranges from \$77,130 to \$154,253 per court.

The total budgeted cost for the very small courts (excluding Alpine and Sierra) in 2015-2016 is \$648,876. The total workload model cost is \$682,874. The total cost of implementing the range is approximately \$694,179 to \$1,388,277.

Alternate recommendation 2.

2. That the attorney workload model be examined and potentially modified to reflect additional costs incurred in small courts: lack of access to qualified attorneys, attorneys travelling long distances from out of county, large numbers of conflicts, lack of economies of scale for attorneys in employing support staff or investigators, lack of access to expert witnesses.

In the discussions held by the subcommittee, attorneys, judges and court executive officers, representing 18 of the very small and small courts, raised several issues about the application of the new workload model to small courts:

- i. Small courts are required to have attorneys available for calendars every week.
- ii. The pool of available qualified attorneys in most small courts is very small, often no more than 3-4 attorneys. Courts are required to use contracts or retainers to ensure that enough attorneys to staff the courtroom are available.
- iii. Because the county population is small and almost all attorneys work in other case types as well as dependency, qualified attorneys often have conflicts on cases requiring the court to seek additional counsel.
- iv. There are so few qualified attorneys and they charge rates higher than those calculated in the workload model for small counties – in these case the Bureau of Labor Statistics index significantly underestimates salary costs.
- v. Counties are large and attorneys frequently travel long distances to appear on cases. This travel time and expense is part of the attorney's overhead and often a court cost.
- vi. Mandatory detention hearings, which must take place within 72 hours, frequently require that attorneys travel long distances to court to appear in one hearing.

- vii. Attorneys do not have a dependency caseload that justifies hiring support staff or investigators, so the overhead costs of office support, travel and meeting with clients are higher than estimated in the workload model.

This recommendation calls for a more in-depth study of dependency court practice and representation in the small courts. The goal of this study would be to identify the core set of tasks and costs required to support a basic level of dependency counsel in small courts. It is related to recommendation 10 of the Judicial Council report on workload methodology, which asks the Family and Juvenile Law Advisory Committee to “consider a comprehensive update of the attorney workload data and time standards in the current workload model.” A study of small court needs could also seek to identify efficiencies being used and identified in the discussions for this report, such as coordinating calendars across county lines, allowing video appearances by attorneys in certain circumstances, creating panels of conflict attorneys that could be used by several courts and creating similar panels of expert witnesses.

Alternate recommendation 3

- 3. That the funding reallocation process be suspended for small courts until a more accurate model for calculating workload is developed.

This recommendation was raised in every discussion, including the Judicial Council’s discussion of the workload methodology report on April 15, 2016. Table 2 shows the net cost of freezing the reallocation in 2016-2017, and also the net cost of funding small courts at the full workload standard.

Net cost of freezing reallocation in 2016-2017:

Groups 1 -2:	\$107,269
Group 3:	\$278,660
Group 4:	\$0
Group 5:	\$496,280
Total:	\$882,209

Alternate recommendation 4

- 4. That small courts pursue pilot projects to decrease court and attorney costs, including: coordinating calendars in courts that share attorneys, developing conflict attorney panels that could serve several courts, developing expert witness panels that could serve several courts, expanding remote appearances by attorneys, adopting the Dependency Representation, Administration, Funding and Training (DRAFT) program in more small courts, or adopting a set reimbursement per case policy.

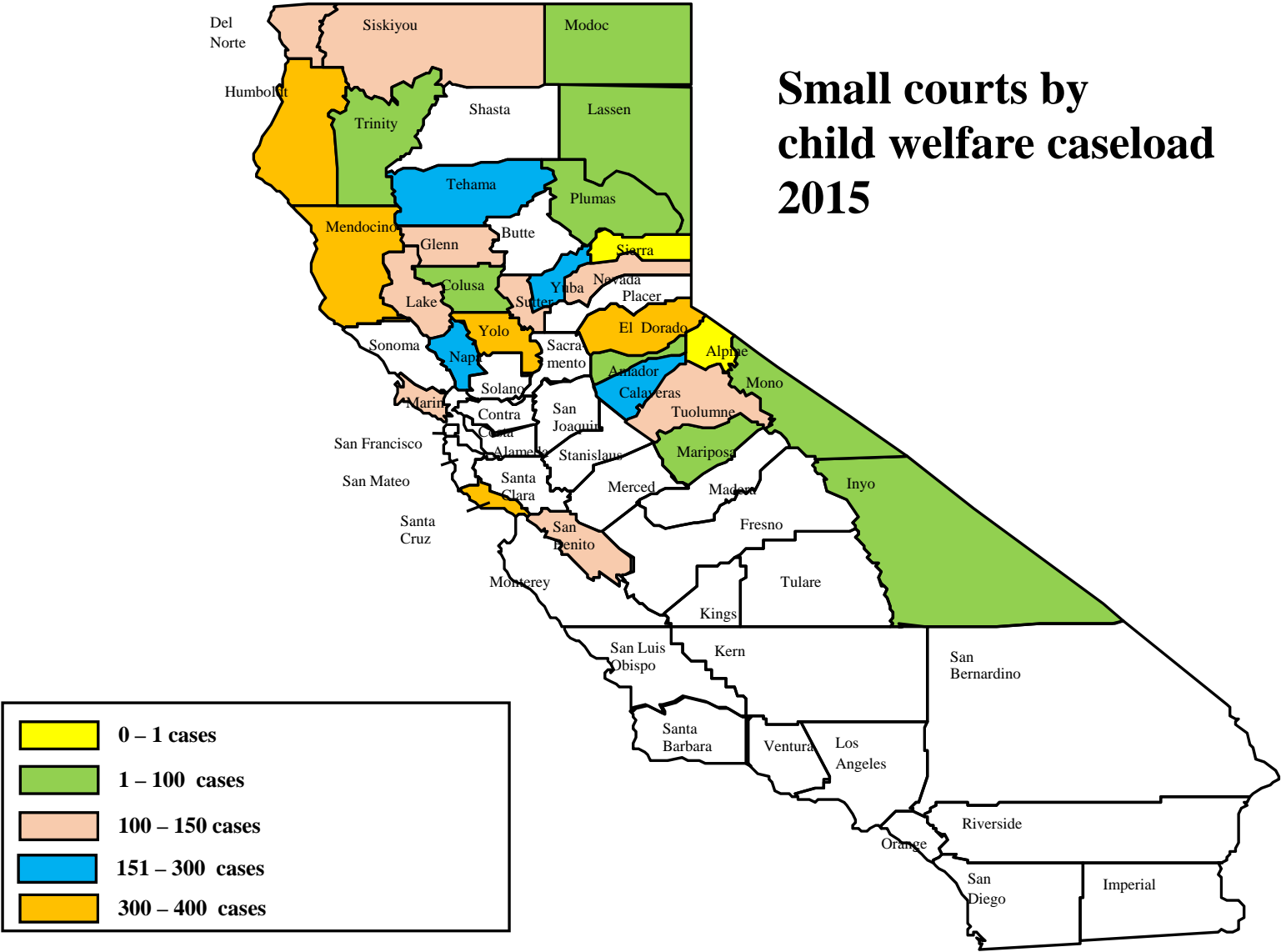
Discussion participants raised possibilities for easing the court and attorney workload in small courts. Piloting and evaluating these projects could identify savings that could both assist the small courts and be used to update the workload model.

DRAFT

Small Courts: Filings and Caseloads

COUNTY	Judges	Original Filings				Child Welfare Case Counts			
		FY12	FY13	FY14	Average (12, 13, 14)	Total July 2013	Total July 2014	Total July 2015	Average (2013, 2014, 2015)
Alpine	2	0	0	0	0	0	1	1	1
Sierra	2	1	3	5	3	1			1
Mono	2	3	2	6	4	8	10	9	9
Modoc	2	17	14	16	16	17	17	17	17
Inyo	2	7	7	13	9	22	15	15	17
Mariposa	2	30	13	3	15	31	22	22	25
Colusa	2	39	24	22	28	43	39	39	40
Plumas	2	28	24	52	35	48	51	51	50
Amador	2	37	44	75	52	49	69	69	62
Lassen	2	39	54	45	46	69	68	69	69
Trinity	2	40	65	40	48	73	76	76	75
San Benito	2	47	62	40	50	104	102	102	103
Glenn	2	43	67	37	49	92	109	110	104
Marin	12	69	65	81	72	108	104	102	105
Del Norte	2	61	47	78	62	120	107	108	112
Nevada	6	59	53	38	50	111	115	116	114
Siskiyou	4	73	78	72	74	107	131	131	123
Tuolumne	4	49	88	64	67	103	133	133	123
Lake	4	72	43	67	61	138	138	136	137
Sutter	5	86	69	114	90	164	129	128	140
Calaveras	2	93	140	74	102	117	193	192	167
Napa	6	83	106	80	90	141	184	184	170
Yuba	5	216	212	281	236	157	190	192	180
Tehama	4	130	161	113	135	195	232	232	220
Humboldt	8	137	168	244	183	298	334	330	321
Mendocino	8	157	180	132	156	302	334	335	324
Santa Cruz		157	198	135	163	347	335	336	339
Yolo		196	240	209	215	322	361	362	348
El Dorado		211	172	157	180	366	359	361	362
Total		2,180	2,399	2,293	2,291	3,653	3,958	3,958	3,857

Small courts by child welfare caseload 2015



Budget Projections for Small Courts

Court	Child Welfare Caseload '13-'15	Number of Judges	New Workload Model	Allocation of \$114.7 Million under Recommended Workload Model				Allocation of \$137 Million under Recommended Workload Model		
				2015-16	2016-17	2017-18	2018-19	2016-17	2017-18	2018-19
				A	C	G	H	I	J	K
Alpine	1	2	\$429	\$0	\$139	\$216	\$251	\$238	\$271	\$300
Sierra	1	2	\$5,894	\$13,759	\$10,241	\$5,495	\$3,449	\$10,241	\$5,495	\$4,123
Mono	9	2	\$22,521	\$13,956	\$13,678	\$13,484	\$13,180	\$16,693	\$15,818	\$15,754
Modoc	17	2	\$24,769	\$16,090	\$14,944	\$15,264	\$14,496	\$14,944	\$17,718	\$17,327
Inyo	17	2	\$34,022	\$72,277	\$53,677	\$29,907	\$19,911	\$53,677	\$29,907	\$23,799
Mariposa	25	2	\$60,583	\$38,070	\$36,317	\$36,112	\$35,455	\$44,589	\$42,432	\$42,379
Colusa	40	2	\$62,728	\$38,471	\$40,131	\$38,236	\$36,711	\$47,834	\$44,562	\$43,880
Plumas	50	2	\$88,798	\$154,059	\$117,372	\$70,482	\$51,968	\$117,372	\$70,482	\$62,116
Amador	62	2	\$131,221	\$115,233	\$100,320	\$79,779	\$76,796	\$100,320	\$98,370	\$91,792
Lassen	69	2	\$141,608	\$106,891	\$95,415	\$90,126	\$82,875	\$95,415	\$103,422	\$99,057
Trinity	75	2	\$116,623	\$93,829	\$74,930	\$73,177	\$68,252	\$74,930	\$84,397	\$81,580
San Benito	103	2	\$239,365	\$89,163	\$94,035	\$126,136	\$140,086	\$143,575	\$155,378	\$167,440
Glenn	104	2	\$152,719	\$90,417	\$78,071	\$86,523	\$89,377	\$103,516	\$103,618	\$106,830
Marin	105	12	\$310,818	\$388,488	\$312,366	\$213,883	\$181,903	\$312,366	\$248,914	\$217,423
Del Norte	112	2	\$181,773	\$214,730	\$173,165	\$121,912	\$106,381	\$173,165	\$143,546	\$127,154
Nevada	114	6	\$255,211	\$226,123	\$194,585	\$154,986	\$149,359	\$194,585	\$191,206	\$178,525
Siskiyou	123	4	\$194,013	\$245,373	\$195,955	\$133,832	\$113,544	\$195,955	\$155,581	\$135,716
Tuolumne	123	4	\$238,008	\$110,593	\$110,215	\$131,011	\$139,291	\$153,777	\$158,644	\$166,491
Lake	137	4	\$205,243	\$296,119	\$228,829	\$148,755	\$120,116	\$228,829	\$148,755	\$143,571
Sutter	140	5	\$328,137	\$143,904	\$149,815	\$179,908	\$192,039	\$210,601	\$218,189	\$229,538
Calaveras	167	2	\$302,092	\$123,940	\$137,463	\$165,475	\$176,797	\$193,581	\$200,757	\$211,320
Napa	170	6	\$418,719	\$212,285	\$226,970	\$241,548	\$245,051	\$292,333	\$287,303	\$292,902
Yuba	180	5	\$425,452	\$200,855	\$241,216	\$248,976	\$248,991	\$304,018	\$294,552	\$297,612
Tehama	220	4	\$399,836	\$163,859	\$178,125	\$217,738	\$234,000	\$253,701	\$264,766	\$279,693
Humboldt	321	8	\$502,996	\$543,896	\$446,059	\$326,313	\$294,373	\$446,059	\$390,164	\$351,855
Mendocino	324	8	\$550,914	\$711,060	\$564,591	\$382,745	\$322,417	\$564,591	\$443,520	\$385,375
Santa Cruz	339		\$932,583	\$863,289	\$737,650	\$575,213	\$545,785	\$737,650	\$704,363	\$652,360
Yolo	348		\$797,156	\$404,107	\$430,832	\$459,431	\$466,527	\$555,703	\$546,650	\$557,626
El Dorado	362		\$790,649	\$788,644	\$662,309	\$499,977	\$462,719	\$662,309	\$605,023	\$553,074
Total			\$7,914,878	\$6,479,482	\$5,719,416	\$4,866,640	\$4,632,103	\$6,302,566	\$5,773,803	\$5,536,610

Court	Child Welfare Caseload '13-'15	Number of Judges	New Workload Model	2015-16	Allocation of \$114.7 Million under Recommended Workload Model			Allocation of \$137 Million under Recommended Workload Model		
					2016-17	2017-18	2018-19	2016-17	2017-18	2018-19
			A	C	G	H	I	J	K	L

	Cost of freezing reallocation	Cost of full funding
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Groups 1-2	\$107,269	\$184,608
Group 3	\$278,660	\$595,326
Group 4	\$0	\$762,325
Group 5	\$496,280	\$746,531
Totals:		
Groups 1-3	\$385,929	\$779,934
Groups 1-4	\$385,929	\$1,542,259
Groups 1-5	\$882,209	\$2,288,791