



## JUDICIAL COUNCIL OF CALIFORNIA

### GOVERNMENTAL AFFAIRS

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*Director, Governmental Affairs*

September 12, 2022

Hon. Gavin Newsom  
Governor of California  
State Capitol, First Floor  
Sacramento, California 95814

Subject: Assembly Bill 2799 (Jones-Sawyer)—Neutral

Dear Governor Newsom:

The Judicial Council has adopted a neutral position on AB 2799, which requires a court, in a criminal proceeding where a party seeks to admit as evidence a form of creative expression, to consider specified factors when balancing the probative value of that evidence against the substantial danger of undue prejudice, the council is now neutral on the bill. The council was opposed to AB 2799, as amended March 10, 2022, which would have required a jury instruction on creative expression, in light of the longstanding position of the council to oppose legislation that seeks to require jury instructions by statute.

The council very much appreciates the discussions that our staff had with the author's office, which resulted in the amendments eliminating the jury instruction to address the council's opposition to the March 10 version of the bill. The council was pleased to provide technical drafting assistance on amendments to the Evidence Code that address the author's policy concerns about the use of evidence involving creative expression in criminal trials.

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

Sincerely,

Cory T. Jasperson  
Director, Governmental Affairs

CTJ/SR/lmm

cc: Hon. Reginald Jones-Sawyer, Member of the Assembly, 59<sup>th</sup> District  
Ms. Jessica Devencenzi, Deputy Legislative Secretary, Office of the Governor  
Mr. Martin Hoshino, Administrative Director, Judicial Council of California  
Ms. Shelley Curran, Chief Policy & Research Officer, Judicial Council of California