

Probate and Mental Health Advisory Committee
Annual Agenda¹—2023
Approved by Rules Committee: November 1, 2022

I. COMMITTEE INFORMATION

Chair:	Hon. Jayne Chong-Soon Lee, Judge, Superior Court of San Joaquin County
Lead Staff:	Mr. Corby Sturges, Attorney, Center for Families, Children & the Courts
<p>Committee’s Charge/Membership:</p> <p>Rule 10.44(a) of the California Rules of Court states the charge of the Probate and Mental Health Advisory Committee, which is to make recommendations to the council for improving the administration of justice in proceedings involving decedents’ estates, trusts, conservatorships, guardianships, and other probate matters, as well as in proceedings involving mental health and developmental disability issues. Rule 10.44(b) also directs the committee to coordinate activities and work with the Family and Juvenile Law Advisory Committee in areas of common concern and interest.</p> <p>Rule 10.44(c) sets forth the membership positions of the committee. The Probate and Mental Health Advisory Committee currently has 17 members. The current committee roster is available on the committee’s web page.</p>	
<p>Subcommittees/Working Groups²:</p> <ol style="list-style-type: none"> 1. Legislation Subcommittee 2. Conservatorship and Legal Capacity Subcommittee 3. Guardianship Subcommittee 4. Trusts and Estates Subcommittee 	
<p>Meetings Planned for September 2022 to August 2023³ (Advisory body and all subcommittees and working groups)</p> <p>Monthly meetings by videoconference; possible in-person meeting TBD; Legislation Subcommittee meetings every three weeks when Legislature is in session.</p> <p><input type="checkbox"/> Check here if exception to policy is granted by Executive Office or rule of court.</p>	

¹ The annual agenda outlines the work a committee will focus on in the coming year and identifies areas of collaboration with other advisory bodies and the Judicial Council staff resources.

² California Rules of Court, rule 10.30(c) allows an advisory body to form subgroups, composed entirely of current members of the advisory body, to carry out the body’s duties, subject to available resources, with the approval of its oversight committee.

³ Refer to [Operating Standards for Judicial Council Advisory Bodies](#) for governance on in-person meetings.

II. COMMITTEE PROJECTS

#	New or One-Time Projects ⁴
1.	<p data-bbox="176 204 1451 277"><i>Develop and recommend rules of court and Judicial Council forms to implement the Community Assistance, Recovery, and Empowerment (CARE) Act (SB 1338; Stats. 2022, ch. 319).</i></p> <p data-bbox="1619 204 1797 240"><i>Priority 1(b)⁵</i></p> <p data-bbox="1619 261 1938 297"><i>Strategic Plan Goal⁶ IV</i></p>
	<p data-bbox="170 326 1955 537">Project Summary⁷: The committee will develop and recommend adoption of a mandatory form for use to file a CARE process petition, as required by Welfare and Institutions Code section 5975. The committee will develop and recommend adoption of rules of court to “implement the policies and provisions” in sections 5977–5977.4 “to promote statewide consistency, including, but not limited to, what “is included in the petition form packet”; the “clerk’s review of the petition”; and the “process by which counsel will be appointed,” as required by Welfare and Institutions Code section 5977.4(c). The committee will consider developing additional forms to the extent they would be useful to courts and self-represented petitioners in the CARE process.</p> <p data-bbox="176 578 1787 613">Status/Timeline: Rules and forms anticipated to circulate for comment in the winter cycle and take effect by October 1, 2023.</p> <p data-bbox="176 654 1877 716">Fiscal Impact/Resources: Significant but uncertain impact from legislation. Proposed rules and forms unlikely to increase impact on courts.</p> <p data-bbox="176 732 1902 802"><input type="checkbox"/> <i>This project may result in an allocation or distribution of funds to the courts. We will coordinate with Budget Services to ensure their review of relevant materials.</i></p> <p data-bbox="176 846 1100 881">Internal/External Stakeholders: Legal Services, Governmental Affairs.</p> <p data-bbox="176 919 1818 980">AC Collaboration: Appellate Advisory Committee, Court Executives Advisory Committee, Criminal Law Advisory Committee, Collaborative Justice Courts Advisory Committee, Trial Court Presiding Judges Advisory Committee</p>

⁴ All proposed projects for the year must be included on the Annual Agenda. If a project implements policy or is a program, identify it as *implementation* or a *program* in the project description and attach the Judicial Council authorization/assignment or prior approved Annual Agenda to this Annual Agenda.

⁵ For non-rules and forms projects, select priority level 1 (must be done) or 2 (should be done). For rules and forms proposals, select one of the following priority levels: 1(a) Urgently needed to conform to the law; 1(b) Urgently needed to respond to a recent change in the law; 1(c) Adoption or amendment of rules or forms by a specified date required by statute or council decision; 1(d) Provides significant cost savings and efficiencies, generates significant revenue, or avoids a significant loss of revenue; 1(e) Urgently needed to remedy a problem that is causing significant cost or inconvenience to the courts or the public; 1(f) Otherwise urgent and necessary, such as a proposal that would mitigate exposure to immediate or severe financial or legal risk; 2(a) Useful, but not necessary, to implement statutory changes; 2(b) Helpful in otherwise advancing Judicial Council goals and objectives.

⁶ Indicate which goal number of The Strategic Plan for California’s Judicial Branch the project most closely aligns.

⁷ A key objective is a strategic aim, purpose, or “end of action” to be achieved for the coming year.

#	New or One-Time Projects⁴	
2.	<i>Recommend revisions to Judicial Council forms and amendments to rules of court to implement the requirements of Assembly Bill 1663 in probate conservatorships and other protective proceedings.</i>	<i>Priority 1(b)⁵</i> <i>Strategic Plan Goal⁶ IV</i>
<p><i>Project Summary⁷</i>: Assembly Bill 1663 (Stats. 2022, ch. 894) modified the probate conservatorship process to clarify the standards for appointment of a conservator, increase court oversight of a conservator after appointment, to add to the information that the conservator and the court must provide to a conservatee, and to enact a framework for supported decisionmaking. The bill’s provisions require revision of multiple conservatorship forms to bring them into conformity with its requirements. Amendments to rules of court, including those relating to education and training of appointed counsel, judicial officers, and court staff are also required.</p> <p><i>Status/Timeline</i>: Rules and forms anticipated to circulate for comment in the spring cycle and take effect January 1, 2024.</p> <p><i>Fiscal Impact/Resources</i>: N/A</p> <p><input type="checkbox"/> <i>This project may result in an allocation or distribution of funds to the courts. We will coordinate with Budget Services to ensure their review of relevant materials.</i></p> <p><i>Internal/External Stakeholders</i>: Governmental Affairs, Legal Services, CFCC</p> <p><i>AC Collaboration</i>: CJER Advisory Committee</p>		
3.	<i>Review the report to the Legislature on court effectiveness in conservatorship cases mandated by Probate Code section 1458 and recommend Judicial Council approval of the final report.</i>	<i>Priority 1⁵</i> <i>Strategic Plan Goal⁶ IV</i>
<p><i>Project Summary⁷</i>: Probate Code section 1458 (added by Assembly Bill 1194; Stats. 2021, ch. 417, § 4) requires the Judicial Council to “report to the Legislature the findings of a study measuring court effectiveness in conservatorship cases, including the effectiveness of protecting the legal rights and best interests of a conservatee.” The statute requires the report to include specific caseload statistics and to recommend “statewide performance measures to be collected, best practices to protect the legal rights of conservatees, and staffing needs to meet case processing requirements.” Council staff will develop the study, contract with a consultant to collect the required data, analyze it, and draft the report. The committee will advise staff on the recommendations to be included in the report, review the final report, and recommend council approval and submission to the Legislature.</p> <p><i>Status/Timeline</i>: Preliminary staff work on framing the study and issuing a Request for Proposals has begun. The report to the Legislature is due on or before January 1, 2024.</p> <p><i>Fiscal Impact/Resources</i>: \$1.25 million included in FY2022–2023 Budget Act to fund the study and report.</p>		

#	New or One-Time Projects⁴	
	<input type="checkbox"/> <i>This project may result in an allocation or distribution of funds to the courts. We will coordinate with Budget Services to ensure their review of relevant materials.</i> Internal/External Stakeholders: CFCC, Office of Court Research, consultant AC Collaboration: N/A	
4.	Recommend revisions to forms for appointment of guardian ad litem in proceedings under the Probate Code to conform to statutory amendments.	Priority 1(b)⁵ Strategic Plan Goal⁶ IV
	Project Summary⁷: Senate Bill 1279 (Stats. 2022, ch. 843) amended Probate Code section 1003 to update the description of persons for whom the court may appoint a guardian ad litem and to require disclosure of conflicts of interest. The petition and order forms for appointment of a guardian ad litem in proceedings under the Probate Code must be revised to conform to these amendments. Status/Timeline: Form revisions anticipated to circulate for comment in the spring cycle and take effect January 1, 2024. Fiscal Impact/Resources: N/A <input type="checkbox"/> <i>This project may result in an allocation or distribution of funds to the courts. We will coordinate with Budget Services to ensure their review of relevant materials.</i> Internal/External Stakeholders: Legal Services, CFCC AC Collaboration: Civil and Small Claims Advisory Committee	
5.	Recommend adoption of rules of court and forms to implement Elections Code section 2211.5 relating to notification of judicial determinations regarding capacity to vote.	Priority 1(b)⁵ Strategic Plan Goal⁶ IV
	Project Summary⁷: Assembly Bill 2841 (Stats. 2022, ch. 807; operative January 1, 2024) added section 2211.5 to the Elections Code to require that each court notify the Secretary of State once a month of all findings regarding capacity to vote under Elections Code sections 2208–2211 and the total number of specified proceedings in which the court could have made such findings. The statute requires the Judicial Council, in consultation with the Secretary of State, to adopt rules of court to implement the new requirements and adopt forms to be used by the courts for the required notification. Status/Timeline: Rules and forms anticipated to circulate for comment in the spring cycle and take effect January 1, 2024. Fiscal Impact/Resources: N/A	

#	New or One-Time Projects⁴	
	<p><input type="checkbox"/> <i>This project may result in an allocation or distribution of funds to the courts. We will coordinate with Budget Services to ensure their review of relevant materials.</i></p> <p>Internal/External Stakeholders: Governmental Affairs, Criminal Justice Services, Legal Services, CFCC; Secretary of State</p> <p>AC Collaboration: Criminal Law Advisory Committee</p>	
6.	<p>Recommend legal updates and technical revisions to the Judicial Council’s Handbook for Conservators.</p>	<p>Priority 1⁵</p> <hr/> <p>Strategic Plan Goal⁶ IV</p>
	<p>Project Summary⁷: Probate Code section 1835 requires the council to develop an information package, to make that package available to the courts, and periodically to update the package when changes to the law warrant. (Prob. Code, § 1835(c), (e).) The courts may use the information package to fulfill their duty, under Probate Code section 1835(a)–(b), to provide conservators with specified information. The Judicial Council approved the first edition of the <i>Handbook</i> in 1991 to implement section 1835 on the recommendation of the Advisory Committee on Conservatorships; it was published in 1992. The second edition was published in 2002. The Rules Committee approved work on the third edition of the <i>Handbook</i> in this committee’s 2015 and 2016 annual agendas. The council approved the third edition, effective October 28, 2016. Several recent statutes, most notably AB 1194 (Stats. 2021, ch. 417) and AB 1663 (Stats. 2022, ch. 894) have made significant changes to the duties of probate conservators and the information that must be provided to conservators and conservatees. Staff will prepare draft revisions to the <i>Handbook for Conservators</i>, as required by Probate Code section 1835(c) and (e), incorporate these statutory requirements. In addition, use of the <i>Handbook</i> has moved almost entirely online. The committee also plans to recommend modifying the format of the <i>Handbook</i> to make it more accessible to online users.</p> <p>Status/Timeline: Revisions anticipated to circulate for comment in the spring cycle and take effect January 1, 2024.</p> <p>Fiscal Impact/Resources: N/A</p> <p><input type="checkbox"/> <i>This project may result in an allocation or distribution of funds to the courts. We will coordinate with Budget Services to ensure their review of relevant materials.</i></p> <p>Internal/External Stakeholders: CFCC, EGG</p> <p>AC Collaboration: N/A</p>	
7.	<p>Consider recommending amendment of Appendix E’s test for determining presumptive eligibility for county payment of the cost of counsel appointed in probate guardianship and conservatorship proceedings.</p>	<p>Priority 2⁵</p> <hr/> <p>Strategic Plan Goals⁶ I, IV</p>

New or One-Time Projects⁴

Project Summary⁷: Effective January 1, 2013, the council adopted *Guidelines for Determining Financial Eligibility for County Payment of the Cost of Counsel Appointed by the Court in Proceedings Under the Guardianship-Conservatorship Law* as Appendix E to the California Rules of Court to implement the mandate in Probate Code section 1470(c)(3). The *Guidelines* serve the function described in their title. The *Guidelines* set forth a three-part test for determining a responsible person’s presumptive eligibility for county payment. The test is patterned after, but not directly tied to, the standard for an initial court fee waiver under Government Code section 68632 and was intended to be consistent with the standard for determination of presumptive inability to pay the cost of appointed counsel in juvenile dependency proceedings in Appendix F of the California Rules of Court. In response to amendments to the standard in Government Code section 68632 (Assem. Bill 199; Stats. 2022, ch. 57, § 6) that added receipt of WIC Program benefits and unemployment compensation to the list of benefit programs and increased the maximum monthly income level for automatic eligibility from 125 percent of the federal poverty guidelines to 200 percent of those guidelines, the Family and Juvenile Law Advisory Committee is considering proposing conforming amendments to Appendix F. The committee will consider whether to recommend amending Appendix E at the same time to continue to pattern its test for presumptive eligibility after the standard in Government Code section 68632 and to maintain consistency with the standard in Appendix F.

Status/Timeline: Amended standard would circulate for comment in the spring cycle and take effect January 1, 2024.

Fiscal Impact/Resources: No impact, because the county, not the court, is required to compensate appointed counsel if, and to the extent, the statutorily designated responsible person or estate is found unable to do so.

This project may result in an allocation or distribution of funds to the courts. We will coordinate with Budget Services to ensure their review of relevant materials.

Internal/External Stakeholders: Legal Services, CFCC

AC Collaboration: Family and Juvenile Law Advisory Committee

#	Ongoing Projects and Activities ⁴	
1.	<i>Review pending legislation</i>	<i>Priority 1⁵</i>
		<i>Strategic Plan Goal⁶ IV</i>
<p>Project Summary⁷: Review pending legislation affecting judicial administration, practice, or procedure in proceedings under the Probate Code, the Lanterman-Petris-Short Act, and other statutes protecting persons with mental health disorders or developmental disabilities; provide technical assistance to Governmental Affairs office, legislative staff, sponsors, and stakeholders, as appropriate; and recommend positions to the council’s Legislation Committee, as required by rule 10.34(a)(3).</p>		
<p>Status/Timeline: Ongoing.</p>		
<p>Fiscal Impact/Resources: N/A</p>		
<p><input type="checkbox"/> <i>This project may result in an allocation or distribution of funds to the courts. We will coordinate with Budget Services to ensure their review of relevant materials.</i></p>		
<p>Internal/External Stakeholders: Governmental Affairs, Legal Services, CFCC</p>		
<p>AC Collaboration: TBD depending on subject of legislation. In the past, the committee has collaborated with the Civil and Small Claims Advisory Committee, the Collaborative Justice Courts Advisory Committee, the Criminal Law Advisory Committee, and the Family and Juvenile Law Advisory Committee, and the Tribal Court–State Court Forum.</p>		
2.	<i>Review enacted legislation</i>	<i>Priority 1⁵</i>
		<i>Strategic Plan Goal⁶ IV</i>
<p>Project Summary⁷: Review all enacted legislation referred to the committee by the Judicial Council’s Governmental Affairs staff to determine whether it raises issues within the advisory committee’s purview and, when appropriate, develop recommendations for amendment to the rules of court or revisions to Judicial Council forms to implement the legislation or to bring rules and forms into conformity with it.</p>		
<p>Status/Timeline: Ongoing</p>		
<p>Fiscal Impact/Resources: TBD</p>		
<p><input type="checkbox"/> <i>This project may result in an allocation or distribution of funds to the courts. We will coordinate with Budget Services to ensure their review of relevant materials.</i></p>		
<p>Internal/External Stakeholders: Governmental Affairs, Legal Services, CFCC</p>		

#	Ongoing Projects and Activities⁴	
	<i>AC Collaboration:</i> TBD	
3.	<i>Review and recommend changes to the probate conservatorship process</i>	<i>Priority 1, 1(e)⁵</i> <i>Strategic Plan Goal⁶ IV</i>
<p>Project Summary⁷: In addition to implementing AB 1663 as discussed above, the Conservatorship and Legal Capacity Subcommittee will continue to examine the Judicial Council rules and forms adopted for use in probate conservatorship proceedings to identify amendments and revisions needed to improve notice and an opportunity to be heard for a proposed conservator; to promote provision of more detailed, relevant information to the court by petitioners, objectors, interested persons, and court-connected professionals, and to promote judicial consideration whether to grant specific requested powers to an appointed conservator.</p> <p>Status/Timeline: Ongoing</p> <p>Fiscal Impact/Resources: TBD</p> <p><input type="checkbox"/> <i>This project may result in an allocation or distribution of funds to the courts. We will coordinate with Budget Services to ensure their review of relevant materials.</i></p> <p>Internal/External Stakeholders: Legal Services, Governmental Affairs; consultants. Any proposal for new or amended rules of court of new or revised forms would circulate for public comment.</p> <p><i>AC Collaboration:</i> TBD</p>		
4.	<i>Review and recommend changes to the probate guardianship process</i>	<i>Priority 1, 1(e)⁵</i> <i>Strategic Plan Goal⁶ IV</i>
<p>Project Summary⁷ The Guardianship Subcommittee will continue to examine the Judicial Council rules and forms adopted for use in guardianship proceedings to identify amendments and revisions needed to provide notice and an opportunity to be heard to parents whose children are the subject of a guardianship petition, to implement changes to California law, and to simplify the processes to petition for appointment of a guardian and to object to the petition. Consider separating guardianship forms and conservatorship forms into two discrete form sets.</p> <p>Status/Timeline: Ongoing</p>		

#	Ongoing Projects and Activities⁴	
	<p>Fiscal Impact/Resources: TBD</p> <p><input type="checkbox"/> <i>This project may result in an allocation or distribution of funds to the courts. We will coordinate with Budget Services to ensure their review of relevant materials.</i></p> <p>Internal/External Stakeholders: Governmental Affairs, Legal Services, Language Access Program staff; Superior Court Self-Help Centers, translation services, plain language consultation. Any proposal for new or revised forms would circulate for public comment.</p> <p>AC Collaboration: Family and Juvenile Law Advisory Committee</p>	
5.	Promote gender neutrality in forms	Priority 1(a)⁵
	Strategic Plan Goal⁶ IV	
	<p>Project Summary⁷: As forms are revised for independent reasons, continue to review and, when possible, replace gendered terms or gender identity questions to conform to legislation providing for gender neutrality and nonbinary gender identity.</p> <p>Status/Timeline: Ongoing</p> <p>Fiscal Impact/Resources: N/A</p> <p><input type="checkbox"/> <i>This project may result in an allocation or distribution of funds to the courts. We will coordinate with Budget Services to ensure their review of relevant materials.</i></p> <p>Internal/External Stakeholders: Legal Services staff</p> <p>AC Collaboration: N/A</p>	
6.	Review suggestions	Priority 1⁵
	Strategic Plan Goal⁶ IV	
	<p>Project Summary⁷: As mandated by rule 10.21(c), review suggestions from members of the judicial branch and the public for improving judicial administration, practice, and procedure in decedents' estate, trust, guardianship, conservatorship, and other proceedings under the Probate Code, as well as civil mental health proceedings under the Lanterman-Petris-Short Act, and recommend action by the council or one of its committees.</p>	

#	Ongoing Projects and Activities⁴	
	<p>Status/Timeline: Ongoing</p> <p>Fiscal Impact/Resources: N/A</p> <p><input type="checkbox"/> <i>This project may result in an allocation or distribution of funds to the courts. We will coordinate with Budget Services to ensure their review of relevant materials.</i></p> <p>Internal/External Stakeholders: <i>Include any specific JCC staff resources needed, such as Information Technology, Fiscal, Legal, Education, Security, etc. Also include external stakeholders and partners.</i></p> <p>AC Collaboration: TBD</p>	
7.	<p>Monitor developments in California guardianship law related to immigrant children</p>	<p>Priority 1⁵</p> <p>Strategic Plan Goals⁶ IV</p>
	<p>Project Summary⁷: Monitor the implementation, in probate guardianship proceedings, of section 155 of the Code of Civil Procedure (added by Stats. 2014, ch. 685, § 1), section 1510.1 of the Probate Code (added by Stats. 2015, ch. 694), and other statutes concerning state judicial findings to support (proposed) wards’ petitions for Special Immigrant Juvenile (SIJ) classification in federal immigration proceedings. If necessary, recommend amended rules of court or revised forms.</p> <p>Status/Timeline: Ongoing</p> <p>Fiscal Impact/Resources: N/A</p> <p><input type="checkbox"/> <i>This project may result in an allocation or distribution of funds to the courts. We will coordinate with Budget Services to ensure their review of relevant materials.</i></p> <p>Internal/External Stakeholders: <i>Include any specific JCC staff resources needed, such as Information Technology, Fiscal, Legal, Education, Security, etc. Also include external stakeholders and partners.</i></p> <p>AC Collaboration: Family and Juvenile Law Advisory Committee</p>	
8.	<p>Provide subject-matter expertise</p>	<p>Priority 1⁵</p> <p>Strategic Plan Goals⁶ IV</p>

#	Ongoing Projects and Activities ⁴
	<p>Project Summary⁷: Serve as subject-matter resource for the Judicial Council, its internal committees, other advisory bodies, and Judicial Council staff to support legal work, avoid duplication of efforts, and contribute to the development of recommendations for council action. These efforts may include providing probate and mental health procedural expertise and review to working groups, advisory committees, subcommittees, and Judicial Council staff, as needed.</p> <p>Status/Timeline: Ongoing</p> <p>Fiscal Impact/Resources: N/A</p> <p><input type="checkbox"/> <i>This project may result in an allocation or distribution of funds to the courts. We will coordinate with Budget Services to ensure their review of relevant materials.</i></p> <p>Internal/External Stakeholders: Judicial Council, internal committees, advisory bodies, Judicial Council staff</p> <p>AC Collaboration: TBD</p>

III. LIST OF 2022 PROJECT ACCOMPLISHMENTS

#	Project Highlights and Achievements
1.	Contributed to developing rules of court, effective January 1, 2022, to implement Code of Civil Procedure section 367.75 (added by SB 241; Stats. 2021, ch. 214, § 5), which authorized remote appearances and proceedings in civil cases, including proceedings under the Probate Code.
2.	Collaborated with the Family and Juvenile Law Advisory Committee to implement the requirements of AB 260 by recommending, effective January 1, 2023, new and revised forms to provide information probate guardianships, juvenile dependency proceedings, and the relationship of those proceedings to one another, as well as recommending one new and one revised form to implement processes for a probate court to refer a child to a county child welfare agency for investigation and commencement of dependency proceedings and requesting juvenile court review of the agency’s decision not to commence such proceedings.
3.	Implemented mandates and changes to conservatorship law in AB 1194 by recommending revisions to the form orders for appointment of court investigators in conservatorship proceedings and amendments to the rules of court regarding compensation of conservators, filing of accounts, termination of conservatorships, and conservatorship investigations, effective January 1, 2023.
4.	Recommended approval of guardianship objection form, effective January 1, 2023.
5.	Recommended adoption of one form and revision of three other forms, effective April 1, 2022, to implement the mandate of Probate Code section 890 (added by AB 473; Stats. 2019, ch. 122, § 1) that the Judicial Council adjust the dollar amounts used to determine eligibility for small estate administration and publish those amounts.
6.	Recommended further revision of two forms to clarify the requirements for implementing the requirements of AB 473 in small estate proceedings that took effect upon the aforementioned adjustments, effective January 1, 2023.