

The Capitol Connection

A publication of the Judicial Council of California's Office of Governmental Affairs
770 L Street, Suite 700 ♦ Sacramento CA 95814 ♦ 916-323-3121

Volume 2, Issue 5

July 20, 2000

Chief Justice George Applauds New California Court Budget

First Pay Raise for Jurors in 43 Years; New Funds For Court Interpreters, Technology, and Judicial Salaries

California jurors will get their first pay raise since 1957 under the state budget approved on June 30, 2000 by Governor Gray Davis. The fiscal year 2000–2001 spending plan provides funds to boost juror pay from \$5 a day, the lowest rate in the nation, to \$15 a day, starting with the second day of service. The new program eliminates payment for the first day of service. Funds to support continuing implementation of the one-day-or-one-trial rule are also included.

The budget also provides much-needed funding to modernize court technology, increase the pay of court interpreters, and improve court-based programs for families and children. In addition, the budget contains funding for an 8.5 percent salary increase for judges, effective January 1, 2001.

"I thank the Governor and Legislature for their support of this far-reaching budget for the California courts," said Chief Justice Ronald M. George. "The budget responds to many of the immediate needs of the courts and provides support for long-term priorities set by the judicial branch of government. All Californians will benefit from the funding to increase the pay of jurors, to modernize the courts, and to help the state continue to attract and retain the finest jurists," the Chief Justice continued.

The juror pay increase, starting with the second day of service, is one of many ways the council has sought to improve jury service to encourage more citizens to participate in this important civic duty. The Judicial Council's ultimate goal is to increase the daily pay for jurors to \$40 a day, the current federal rate.

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Legislation Addresses Jury System

Bills addressing various components of the jury system are making their way through the legislative process. AB 2866 (Migden), which was signed by the Governor on July 8, 2000, increases juror per diem to \$15 per day beginning with the second day and eliminates pay for the first day. This change takes effect July 1, 2000.

Attorneys will be allowed to conduct limited voir dire of potential jurors in criminal cases if AB 2406 (Migden) becomes law. This bill provides that, after an initial examination by the court, each party in a criminal case would have the right to examine any or all prospective jurors. The bill permits the court, in the exercise of its discretion, to limit the duration of the questioning.

Also affecting the voir dire process, AB 2418 (Migden) specifies that no party may use a peremptory challenge to remove a prospective juror on the basis of an assumption that the prospective juror is biased merely because of his or her race, color, religion, sex, national origin, sexual orientation, or similar grounds. AB 2418 was signed by the Governor on June 27, 2000.

Consistent with past actions, two bills seeking to exempt certain categories of citizens from jury service did not pass. AB 2819 (Cardoza) and SB 1864 (Mountjoy), both opposed by the Judicial Council, failed to pass out of their first legislative committees. AB 2819 would have excused, on the basis of undue hardship to the public, every physician, surgeon, and registered nurse during any period in which the Governor has declared a state of emergency because of an epidemic. SB 1864 would have excused, on the basis of hardship, any person who is self-employed full time in a licensed business that is that person's primary source of income.

Finally, legislation addressing the special needs of breastfeeding mothers requires the Judicial Council to adopt a rule of court to allow a mother who is breastfeeding her child to postpone jury duty until the child is no longer breastfeeding. AB 1814 (Lempert) also requires the Judicial Council to take all steps necessary to eliminate the need for the mother to physically appear in court. The bill also requires the Judicial Council to adopt a standardized jury summons form that is understandable and has consumer appeal, that specifically includes reference to the rule for breastfeeding mothers. Use of the jury summons standardized form would be optional. AB 1814 is currently awaiting a hearing date in the Senate Appropriations Committee.

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Other recent improvements in jury service have been the implementation of a one-day-or-one-trial rule, a new Web site for California jurors (www.courtinfo.ca.gov/jury), and draft jury instructions that will accurately state the law in understandable, laypersons' language.

SUMMARY OF KEY BUDGET ACTIONS

The following summarizes key provisions in the 2000-2001 judicial branch budget:

Court Interpreters: Funding was provided to support a statewide increase in the compensation rate for certified and registered court interpreters to \$265 per day and to accommodate growth in interpreters' workloads.

Families and Children: \$10 million was provided to ensure that trial court systems can carry out current laws, court rules, and standards for family and children services. The budget also includes \$5.72 million for both increased costs and newly identified allowable charges associated with the appointment of counsel in juvenile dependency and family law proceedings.

Judicial Salary Increase: The budget provides funding for an 8.5 percent salary increase for state judges, as requested by the Judicial Council. The pay increase is intended to enable the state to continue to attract and retain highly qualified judges. The increase takes effect January 1, 2001.

Los Angeles Mediation Pilot Program: \$506,000 was approved to establish a three-year pilot program in which 10 civil departments in the L.A. Superior Court downtown location would be authorized to make mandatory referrals of civil cases to mediation.

Jury Reform: The budget provides funding for the council's statewide jury system improvement program, including an increase in juror per diem rates from \$5 per day to \$15 per day starting with the second day of service. Jurors who are released after one day will receive no pay. The funding also covers the costs associated with one-day-or-one-trial system implementation. The pay raise for jurors took effect July 1, 2000.

Negotiated Salary Increases: Funding was provided to address negotiated salary increases (NSIs) for trial court and court security personnel. This includes \$37.3 million for implementing year costs of fiscal year 2000-1 NSIs, \$12.5 million for the unfunded balance of the implementing year costs of fiscal year 1999-2000 NSIs, and \$7.21 million for the remaining unfunded balance of the annualized costs of fiscal year 1999-2000 NSIs.

Technology Initiatives: A total of \$56.4 million was approved for various technology initiatives, including \$22 million in one-time funding for trial court case

processing needs. \$34.4 million was approved for the Judicial Council's Tactical Plan for Court Technology, to allow the judicial branch to begin its transition to the coordinated use of technology statewide.

The approved fiscal year 2000-2001 budget will be reviewed by the Judicial Council at its August 25 meeting in San Francisco. At the meeting, the council will make final decisions on the allocation of funds to individual courts.

OTHER BUDGET HIGHLIGHTS:

Judicial Administration Fellowship Program Expanded

The state budget also includes funding to expand the Judicial Administration Fellowship Program. Increased funding will enable the Judicial Administration Fellowship Program, jointly administered by the Center for California Studies at CSU Sacramento and the Judicial Council, to double in size from five to ten participants. The program places outstanding college, graduate, or professional school graduates interested in pursuing careers in judicial administration in various offices of the judicial branch. The ten 2000-2001 fellows will work in diverse placements—the Supreme Court, trial and appellate courts, and the AOC.

Drug Courts

An additional \$10 million was approved to fund expansion of drug court programs around the state. This funding is appropriated to the Department of Alcohol and Drug Programs (DADP) to implement the Comprehensive Drug Court Implementation Act (Health and Safety Code Secs. 11970.1 et seq.). The program is administered jointly by the DADP and the Judicial Council. The funding may be used for juvenile delinquency, family, dependency, and pre- and post-plea adult drug courts. Funding will be allocated based on population to all courts that submit an approved plan for use of the funds.

LEGISLATIVE UPDATE

During the legislative session, *The Capitol Connection* regularly profiles a selection of bills that affect the judiciary.

TRIAL COURT OPERATIONS

SB 1533 (Costa) – Trial Court Funding

Makes necessary technical changes to bring existing statutes into conformity with Trial Court Funding Act of 1997.

JC Position: Co-sponsor

Status: Assembly Appropriations Committee

SB 2140 (Burton) – Court Employees

Enacts the Trial Court Employment Protection and Governance Act. Co-sponsored with labor organizations and the California State Association of Counties.

JC Position: Co-sponsor

Status: Assembly Appropriations Committee

JURIES

AB 2406 (Migden) – Jurors: attorney examination

Provides that after completion of an initial examination by the court of prospective jurors in criminal cases, each party shall have the right to examine any or all prospective jurors. Provides that the court may, in the exercise of its discretion, limit the oral and direct questioning by counsel, and may specify the maximum amount of time that each party may question an individual juror, or may specify an aggregate amount of time for each party, which can then be allocated among the prospective jurors by counsel.

JC Position: Support

Status: Awaiting Governor's Action

AB 2418 (Migden) – Jurors: eligibility

Adds sexual orientation to the list of bases for which no eligible juror shall be excused from jury service. Prohibits parties from using a peremptory challenge to remove a prospective juror on the basis of an assumption that the juror is biased because he or she is a member of a group distinguished by sexual orientation.

JC Position: Support

Status: Signed by Governor

JUDGES RETIREMENT

AB 2911 (Judiciary Committee) – Judges' Retirement

Allows judges to participate in the supplemental savings program offered to other state employees; extends the reciprocity provision to eligible JRS II judges, which allows a JRS II judge to have retirement benefits computed based on the judge's final salary if he or she retires concurrently from JRS and any other California public retirement system.

JC Position: Sponsor

Status: Senate Appropriations Committee

CIVIL LAW AND PROCEDURE

AB 1669 (Judiciary Committee) – Civil Procedure

- Oaths, Affirmations, and Declarations: Modernizes a statute governing the administration of oaths and affirmations by repealing outdated references and adding provisions that are modeled on the Federal Rules of Evidence.
- Discovery: When Time for Completion Falls on a Weekend or Holiday. Clarifies the deadline for completing discovery or hearing motions concerning discovery when the nominal deadline falls on a weekend or holiday.
- 1999 Mediation Pilot Program: Statement of Nonagreement and Definition of General Civil Case. Clarifies the definition of a general civil case and the legislative intent of the mediation pilot program.
- Complex Litigation: Technical Amendments. Conforms statutory references in the Code of Civil Procedure to the appropriate council definition of "complex litigation."

JC Position: Sponsor

Status: Passed Senate Judiciary Committee

AB 2912 (Judiciary Committee) – Alternative Dispute Resolution: Changes to Court's Reference Authority

Revises the court's authority to appoint referees for discovery and other disputes.

JC Position: Sponsor

Status: Senate Appropriations Committee

CRIMINAL LAW AND PROCEDURE

AB 1897 (Davis) – Identity theft: remedies

Grants a person who reasonably believes he or she is a victim of identity theft the right to seek a court order certifying that they are not the person in the arrest warrant or conviction record.

JC Position: Support

Status: Senate Appropriations Committee

SB 1342 (Burton) – Post-conviction DNA testing

Creates a procedure for the post-conviction testing of DNA evidence for defendants who did not have that technology available at the time of trial and where identity was a significant issue that resulted in the conviction.

JC Position: Support

Status: Assembly Appropriations Committee

DOMESTIC VIOLENCE

AB 2589 (Cardenas) – Domestic violence: interpreters

Requires the appointment of a certified court interpreter in any domestic violence-related court proceeding, including mediation. Includes both interpreters for the deaf and spoken language interpreters. Requires the interpreter services to be

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paid by the state. Requires court interpreters to receive ongoing training in domestic violence issues.

JC Position: Oppose unless amended and funded; support if amended and funded.

Status: Passed Senate Judiciary Committee with no funding.

SB 1340 (Solis) – Domestic violence courts

Establishes a domestic violence task force responsible for drafting model guidelines for the operation of domestic violence courts.

JC Position: Support if amended.

Status: Assembly Appropriations Committee

JUVENILE DEPENDENCY

AB 2464 (Kuehl) – Juvenile courts: custody orders

Specifies that an exit order issued by a juvenile court relating to custody or visitation of a dependent child remains in effect after termination of jurisdiction by the juvenile court. Provides that the family court may not modify the exit order concerning custody and visitation unless the court finds substantial evidence, based on the court's consideration of facts that were not previously presented to the juvenile court, that modification of the order is in the best interest of the child. Requires the Judicial Council to adopt rules of court to implement a process whereby family courts will have access to the findings of the juvenile court to accomplish the goals of this provision.

JC Position: Support if amended

Status: Senate Judiciary Committee

SB 1391 (Schiff) – Juvenile court hearings

Provides that the presiding judge of the juvenile court may provide that all hearings involving a child who has been or may be declared a dependent of the juvenile court be open to the public, unless the court finds on the record that admitting the public would seriously harm the child's best interest.

JC Position: Support

Status: Assembly Appropriations Committee

SB 2160 (Schiff) – Representation of Dependent Children

Requires the court to appoint counsel for children in dependency proceedings unless the court finds that the child would not benefit from the appointment of counsel. Requires the appointment of a court-appointed special advocate if counsel is not appointed.

JC Position: Sponsor

Status: Assembly Appropriations Committee

PROBATE AND MENTAL HEALTH

SB 1769 (Chesbro) – Mental health courts

Requires that the Board of Corrections encourage

counties to submit proposals that establish or implement mental health courts when seeking crime reduction grants. Defines mental health courts as court programs that involve increased cooperation between the criminal justice and mental health systems and improve access for mentally ill offenders to necessary services and support. Mental health courts would provide a single point of contact where a defendant with a mental disability may receive court-ordered treatment and support services in connection with diversion from prosecution, a sentencing alternative, or a term of probation.

JC Position: Support in concept.

Status: Assembly Appropriations Committee

MISCELLANEOUS

AB 2353 (Honda) – California Indian Tribal Justice Act of 2000

Requires the Judicial Council to establish the California Tribal Justice Support Services Unit (CTJSSU) to be administered by the Administrative Office of the Courts to provide technical training and assistance to tribes developing their justice systems. Additionally, the council would be required to appoint an advisory committee to the CTJSSU.

JC Position: Support.

Status: Senate Appropriations Committee

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The Capitol Connection is a publication of the Judicial Council's Office of Governmental Affairs and is designed to inform judges and court personnel of current events in and around the California Legislature.

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