



JUDICIAL COUNCIL OF CALIFORNIA

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MR. MARTIN HOSHINO
*Administrative Director,
Judicial Council*

November 1, 2018

Ms. Diane F. Boyer-Vine
Legislative Counsel
State Capitol, Room 3021
Sacramento, California 95814

Mr. Daniel Alvarez
Secretary of the Senate
State Capitol, Room 400
Sacramento, California 95814

Mr. E. Dotson Wilson
Chief Clerk of the Assembly
State Capitol, Room 3196
Sacramento, California 95814

Re: *The Need for New Judgeships in the Superior Courts: Preliminary 2018 Update of the Judicial Needs Assessment*, as required under Government Code section 69614(c)(1) & (3)

Dear Ms. Boyer-Vine, Mr. Alvarez, and Mr. Wilson:

Attached is the Judicial Council report required under Government Code section 69614(c)(1) and (3), which requires the council to provide an update every two years on the need for new judgeships in the California superior courts and to report on the conversion of certain subordinate judicial officer (SJO) positions to judgeships.

The judicial branch has adopted a weighted caseload model based on filings type and volume to estimate the need for new judgeships—a methodology that is used by many other states and is codified in Government Code section 69614. Based on this methodology, California needs 127 new judicial officers, as shown in Table 2 of the report. It should be noted that an update to the judicial workload study is currently in progress and will result in new caseweights and other model

Ms. Diane F. Boyer-Vine
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parameters that will reflect current case processing practices. An interim update to this 2018 report will be issued once the model has been updated.

The public's right to timely access to justice is contingent on having adequate judicial resources in every jurisdiction. The number of judgeships authorized and funded by the Legislature has not kept pace with workload in all California trial courts, leaving some with serious shortfalls—as high as over 45 percent—between the number of judgeships needed and the number that have been authorized and filled.

As directed by Government Code section 69614(c)(3), this year's report also addresses the implementation of conversions of additional SJO positions (above the 16 authorized each year) that result in judges being posted to family or juvenile assignments previously held by SJOs (as authorized by Gov. Code, § 69615(c)(1)(C)). No additional conversions took place in this reporting period.

If you have any questions related to this report, please contact Zlatko Theodorovic, Director, Budget Services, at 916-263-1397 or Zlatko.Theodorovic@jud.ca.gov.

Sincerely,



Martin Hoshino
Administrative Director
Judicial Council

MH/ke

Attachment

cc: Eric Dang, Policy Consultant, Office of Senate President pro Tempore Toni G. Atkins
Alf Brandt, Senior Counsel, Office of Assembly Speaker Anthony Rendon
Misty Feusahrens, Special Assistant, Office of Assembly Speaker Anthony Rendon
Anita Lee, Principal Fiscal and Policy Analyst, Legislative Analyst's Office
Tina McGee, Executive Secretary, Legislative Analyst's Office
Margie Estrada, Chief Counsel, Senate Judiciary Committee
Mike Petersen, Consultant, Senate Republican Policy Office
Alison Merrilees, Chief Counsel, Assembly Judiciary Committee
Paul Dress, Consultant, Assembly Republican Office of Policy & Budget
Amy Leach, Minute Clerk, Office of Assembly Chief Clerk
Cory T. Jasperson, Director, Governmental Affairs, Judicial Council

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Peter Allen, Director, Public Affairs, Judicial Council

Yvette Casillas-Sarcos, Administrative Coordinator, Governmental Affairs, Judicial
Council



JUDICIAL COUNCIL OF CALIFORNIA

Report Summary

Report title: *The Need for New Judgeships in the Superior Courts: Preliminary 2018 Update of the Judicial Needs Assessment*

Statutory citation: Government Code section 69614(c)(1) & (3)

Date of report: November 1, 2018

The Judicial Council has submitted a report to the Legislature in accordance with Government Code section 69614(c)(1) and (3), which requires the council to provide an update every two years on the need for new judgeships in the California superior courts and to report on the conversion of certain subordinate judicial officer (SJO) positions to judgeships.

The following summary of the report is provided under Government Code section 9795.

The Judicial Council finds that, consistent with previous reports, a significant, critical need for new judgeships remains. A total of 127 new judgeships are needed to meet the workload-based need in the trial courts, with some courts having shortfalls as high as over 45 percent between judicial positions needed and the number of filled and authorized positions. An update to the judicial workload study is currently in progress and will result in new caseweights and other model parameters that will reflect current case processing practices. An interim update to this 2018 report will be issued once the model has been updated.

The Judicial Council must also report on the conversion of SJO positions, in excess of the maximum 16 per year, that result in judges being assigned to family or juvenile assignments previously held by SJOs. No additional conversions took place in this reporting period.

The full report can be accessed at www.courts.ca.gov/12922.htm.

A printed copy of the report may be obtained by calling 415-865-7693.

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Administrative Director,
Judicial Council



The Need for New Judgeships in the Superior Courts: Preliminary 2018 Update of the Judicial Needs

REPORT TO THE LEGISLATURE UNDER
GOVERNMENT CODE SECTION
69614(C)(1) & (3)

NOVEMBER 2018



JUDICIAL COUNCIL
OF CALIFORNIA

WORKLOAD ASSESSMENT
ADVISORY COMMITTEE

JUDICIAL COUNCIL OF CALIFORNIA

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Access to Justice Requires Having Sufficient Judicial Resources

Government Code section 69614(c)(1) requires the Judicial Council to report to the Legislature and the Governor on or before November 1 of every even-numbered year on the need for new judgeships in each superior court, using the uniform criteria for the allocation of judgeships described in Government Code section 69614(b). Government Code section 69614(c)(3) requires the Judicial Council to report on the status of the conversion of additional subordinate judicial officer (SJO) positions to family or juvenile assignments.

The public's right to timely access to justice is contingent on having adequate judicial resources in every jurisdiction. The number of judgeships authorized and funded by the Legislature has not kept pace with workload in all California trial courts, leaving some with serious shortfalls—as high as 45 percent—between the number of judgeships needed and the number that have been authorized and filled.

Securing resources to meet the workload-based need for new judgeships has been a top priority for the Judicial Council for many years.

It should be noted that this report is based on data collected for the 2011 judicial workload study. An update to the judicial workload study is currently in progress and will result in new caseweights and other model parameters that will reflect current case processing practices. Because of this, an interim update to this preliminary 2018 report will be issued in fall 2019 once the study has been completed, the case weights have been approved, and the workload need for judges can be computed on the basis of the updated weights and other model parameters.

Quantifying the Need for New Judgeships in the Superior Courts

California is a pioneer in the measurement of judicial workload-based need, having been the first state to use a weighted caseload methodology to assess the need for judicial officers, beginning in 1963.¹ Since then, weighted caseload has become a nationally accepted methodology for measuring judicial workload. The current methodology used to assess the need for judicial officers in the superior courts is based on a time study conducted in 2010, in which over 500 judicial officers in 15 courts participated. The time study findings resulted in the development of a set of caseweights that quantify the amount of case processing time needed for different case types, taking into account the full range of possible case processing outcomes and their relative probability of occurrence. The caseweights that resulted from the 2010 time study were approved by the Judicial Council in December 2011.

The caseweights are used to estimate judicial officer need by multiplying each caseweight by a three-year rolling average of filings for that case type and dividing by the available time in minutes that judicial officers have to hear cases. The result is expressed in full-time equivalent (FTE) judicial positions.

¹ Harry O. Lawson and Barbara J. Gletne, *Workload Measures in the Court* (National Center for State Courts, 1980).

Judicial Workload Measures Must be Updated to Reflect Current Case Processing Need

California continues to have a critical need for judges, particularly in the Inland Empire which has shown a need for new judgeships for a sustained period of time. However, as previously noted, the figures in this report may not accurately represent the current degree of judicial need because the caseweights used in the current iteration of the judicial needs assessment are based on data collected in 2010. Therefore, the caseweights may not reflect new judicial workload resulting from legislative and other policy changes that have occurred since then. Some of the issues identified by judicial officers that have affected judicial workload since 2010 include, but are not limited to, the following:

- AB 109: criminal justice realignment (effective October 2011): judicial officers now have probation oversight of certain offenders, resulting in increased hearings and supervision;
- Proposition 47 (effective November 2014): changes the weights of the felony and misdemeanor workload; many jurisdictions have reported that changes in the law have eliminated incentives to complete misdemeanor drug treatment programs. With fewer people getting treatment, more are cycling rapidly through the system. A companion issue reported is that more defendants have trailing cases or multiple cases.
- Increase in the number of identified mentally-ill offenders, use of diversion programs and collaborative-type courts. While these measures improve outcomes, they require more judicial supervision and court monitoring.
- Increased use of juvenile diversion programs which have resulted in lower filings, but leave behind in the system the juveniles hardest to reach and who have committed the most serious crimes.
- New protections for non-minor dependents, which have increased the number of juveniles in the social services and court system (AB 12 and AB 212- effective 2012), as well as more juveniles receiving court supervision under special immigrant juvenile status (effective 2014, expanded 2015).
- Expanded use of court interpreters covering more casetypes, resulting in better outcomes for litigants, but more time required in the courtroom.

Such changes may also impact the practices of the court's justice partners, which can, in turn, have unintended consequences for court workload. Although filings have been declining, the workload associated with some types of filings has increased—due to, for example, the need to hold more hearings, more complex cases coming before the court (e.g., increasing mental health and substance abuse issues, larger numbers of defendants with multiple cases), or staff shortages causing some workload to fall on judicial officers. On the other hand, judicial workload in other areas not affected by such law and policy changes may have declined since 2010. The net impact of workload increases vs. decreases is unknown and may vary by jurisdiction depending on each court's unique mix of cases.

2018 Statewide Judicial Need Shows a Critical Need for New Judgeships

Consistent with reports submitted in previous years, the 2018 Judicial Needs Assessment shows a shortage of judges relative to the workload needs in California’s trial courts. Table 1, which summarizes the statewide judicial need compared to available resources based on a three-year average of filings from fiscal years 2014–15 through 2016–17, shows that 1,929.9 FTE judicial officers are needed statewide. Although the statewide assessed judicial need has been declining in recent years, many courts, particularly in the Inland Empire, continue to experience chronic judicial officer shortage (see Appendix A). In 2018, two highly impacted courts, San Bernardino and Riverside Counties, received two judgeships each, which were reallocated from the superior courts of Alameda and Santa Clara Counties.² In addition, the Budget Act of 2018 gave the Superior Court of the County of Riverside two newly funded judgeships.³ Despite these changes, Riverside and San Bernardino courts continue to have a large unmet need for new judgeships.

Table 1 shows the total assessed statewide need for judicial officers has declined by 118.7, or 6 percent, since the 2016 Judicial Needs Assessment.

Table 1. Statewide Need for Judicial Officers, 2016 and 2018 Judicial Needs Assessments

Year	Authorized Judicial Positions (AJP) ^a	Authorized and Funded Judgeships and Authorized SJO Positions	Assessed Judicial Need (AJN)
2016	2,010.1	1,960.1	2,048.6
2018 ^b	2,004.1	1,956.1	1,929.9
Change (2016 to 2018)	-6.0	-4.0	-118.7

^a Includes the 48 judgeships that were authorized by AB 159 (Stats. 2007, ch. 722) but never funded or filled. AB 159 originally authorized 50 judgeships, but 2 were funded in 2018 and allocated to the Superior Court of Riverside County. See Stats. 2018, ch. 45, § 6.

^b AJP changed since the last assessment because, in 2016–17, the Superior Court of Santa Clara County had 5 FTE SJO reductions. In addition, the 2018 assessment includes a correction in the number of authorized positions; the 2016 AJN assessment had reported only 3 of the 4 SJO reductions at the Superior Court of Contra Costa County.

² Assem. Bill 103; Stats. 2017, ch. 17, § 22.

³ Stats. 2018, ch. 45, § 6. These two judgeships are part of the 50 unfunded judgeships authorized by AB 159 (Stats. 2007, ch. 722).

127 Judicial Officers Needed Statewide to Meet Workload Demand

Judicial need is calculated by taking the difference between the assessed judicial need in each court and the number of authorized/funded positions in each court. The assessed judicial need in each court compared to the number of authorized and filled positions is shown in Appendix B. Calculating the *statewide* need for judgeships is not as simple as subtracting the statewide number of authorized and funded positions from the statewide assessed judicial need. This is because the net statewide calculations of judicial need do not accurately identify the court's need for new judgeships because judgeships are not allocated at the statewide level but are allocated to individual trial courts. By way of illustration, the branch's smallest courts are statutorily provided with a minimum of two judgeships and are authorized to have at least 0.3 FTE of a federally funded child support commissioner, for a total of 2.3 FTE judicial officers. This statutory minimum applies even though the workload need in those courts may translate to a much smaller number of judge FTEs. As Appendix A shows, under a pure workload analysis, two of California's two-judge courts—Alpine and Sierra Counties—would need only 0.2 FTE judicial officers but have 2.3 FTE authorized positions. These courts thus show a negative number in the need for new judicial officers. This negative number does not and should not offset the 36 judicial officers that Riverside County needs to meet its workload-based need.

In other words, the fact that some courts may have more authorized positions than assessed judicial need under a pure application of the weighted caseload methodology does not take away from the needs in other courts. As a result, a net calculation of need, adding these positives and negatives, would provide an artificially low estimate of judicial need in California courts.

Therefore, the actual statewide need for new judgeships is calculated by adding the judicial need among only the courts that have fewer judgeships than their workload demands. Judicial officer FTE need—the difference between the assessed judicial need and the authorized judicial positions—is rounded down to the nearest whole number to arrive at the number of judgeships needed for each court.⁴ For example, Tulare County has a judicial officer FTE need of 2.6, which rounds down to 2 new judgeships needed based on workload.

Based on the 2018 Judicial Needs Assessment, 17 courts need new judgeships, for a total need of 127 judges (Table 2). The need estimate does not include judicial vacancies resulting from retirements, elevations, or other changes that have not yet been filled.⁵

⁴ Per the Judicial Council policy adopted in 2014, an exception is made for courts with judicial FTE need of more than 0.8, but less than 1. For such courts, their actual judicial officer FTE need is reported without any rounding down. In 2018, there were no courts with judicial officer FTEs in the range of 0.8 and 1. See Judicial Council of Cal., Advisory Com. Rep., *Judicial Workload Assessment: 2014 Update of Judicial Needs Assessment and Proposed Revision to Methodology Used to Prioritize New Judgeships* (Nov. 7, 2014), www.courts.ca.gov/documents/jc-20141212-itemT.pdf.

⁵ Judicial vacancies are reported monthly at www.courts.ca.gov/15893.htm.

Table 2. Need for New Judgeships, by Court

	A	B	C	D
Court	Authorized and Funded Judicial Positions	2018 Assessed Judicial Need	Number of Judgeships Needed* AJN – AJP (B – A)	% Judicial Need over AJP (C / A)
Imperial	11.3	12.3	1.0	9
Tehama	4.3	5.4	1.0	23
Merced	12.0	13.2	1.0	8
Sutter	5.3	6.6	1.0	19
Humboldt	8.0	9.4	1.0	13
Shasta	12.0	14.4	2.0	17
Kings	8.6	11.0	2.0	23
Tulare	23.0	25.6	2.0	9
Placer	14.5	17.4	2.0	14
Ventura	33.0	36.3	3.0	9
Stanislaus	24.0	28.2	4.0	17
San Joaquin	33.5	38.6	5.0	15
Fresno	49.0	56.9	7.0	14
Kern	43.0	53.5	10.0	23
Sacramento	72.5	84.3	11.0	15
Riverside	80.0	116.2	36.0	45
San Bernardino	88.0	126.2	38.0	43
			127.0	

* Rounded down to the nearest whole number.

Status of Conversion of Additional SJO Positions to Family and Juvenile Assignments

As directed by Government Code section 69614(c)(3), this report also addresses the implementation of conversions of additional SJO positions (above the 16 authorized per year) that result in judges being posted to family or juvenile assignments previously held by SJOs.⁶

Conversions of additional positions were authorized for fiscal year 2011–12 (Gov. Code, § 69616), and under this authority four SJO positions were converted to judgeships—one each in the superior courts of Alameda (June 2012), Los Angeles (January 2012), Orange (January 2012), and Sacramento (March 2012) Counties. The courts that converted those positions have confirmed that those family and juvenile calendars are now presided over by judges.

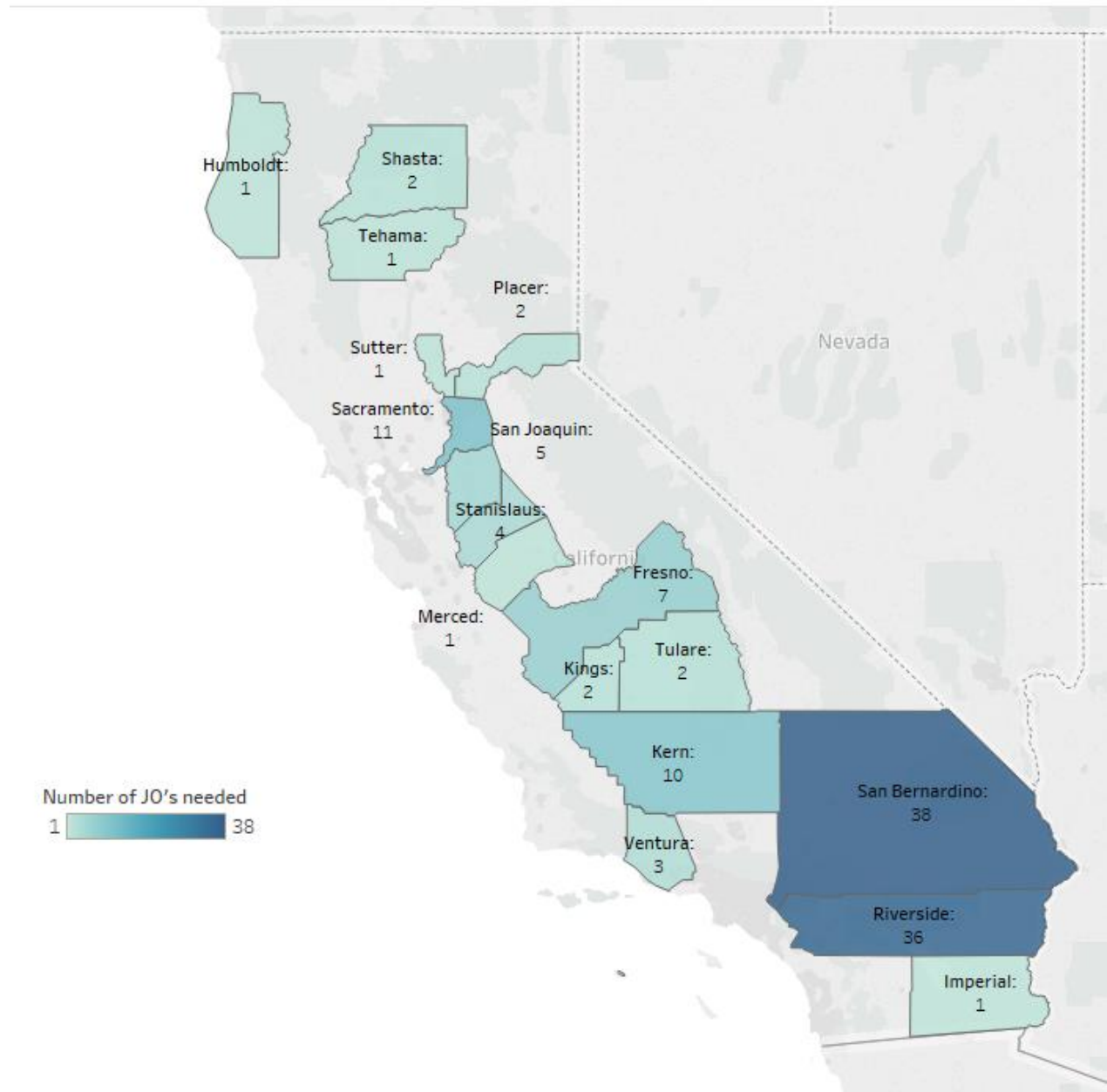
⁶ As authorized by Gov. Code, § 69615(c)(1)(C).

Conversions of 10 additional positions have been authorized since fiscal year 2013–14 (Gov. Code, §§ 69617–69619.6), but no additional SJO positions above the 16 authorized per year have been converted under this authority.

Lack of Adequate Judicial Resources Is a Barrier to Access to Justice

The public’s right to timely access to justice should not be contingent on the resource levels in the county in which they reside or bring their legal disputes. All Californians deserve to have the proper number of judicial officers for the workload in their jurisdiction. This report highlights the critical and ongoing need for new judgeships in the superior courts.

Appendix A. Judicial Need Map



Appendix B. Assessed Judicial Need Compared to Authorized Positions

Court	A Authorized and Funded Judicial Positions^a	B 2018 Assessed Judicial Need	C AJN – AJP (B – A)	D % Judicial Need over AJP (C / A)^b
Riverside	80	116.2	36.2	45
San Bernardino	88	126.2	38.2	43
Kings	8.6	11.0	2.4	28
Tehama	4.33	5.4	1.1	25
Kern	43	53.5	10.5	24
Sutter	5.3	6.6	1.3	24
Shasta	12	14.4	2.4	20
Placer	14.5	17.4	2.9	20
Stanislaus	24	28.2	4.2	18
Humboldt	8	9.4	1.4	17
Sacramento	72.5	84.3	11.8	16
Fresno	49	56.9	7.9	16
San Joaquin	33.5	38.6	5.1	15
Amador	2.3	2.6	0.3	14
Lake	4.7	5.3	0.6	14
San Benito	2.3	2.6	0.3	13
Tulare	23	25.6	2.6	11
Ventura	33	36.3	3.3	10
Merced	12	13.2	1.2	10
Imperial	11.3	12.3	1.0	9
Calaveras	2.3	2.4	0.1	5
Yuba	5.33	5.4	0.1	2
Madera	9.3	9.4	0.1	1
Butte	13	13.0	0.0	0
San Luis Obispo	15	14.6	-0.4	-2
Sonoma	23	22.4	-0.6	-3
Lassen	2.3	2.2	-0.1	-3
Tuolumne	4.75	4.6	-0.2	-3
Contra Costa	42	39.6	-2.4	-6
Orange	144	135.0	-9.0	-6
Solano	23	21.5	-1.5	-6
Alameda	83	77.1	-5.9	-7
Los Angeles	585.25	533.3	-52.0	-9
Santa Barbara	24	21.8	-2.2	-9
Santa Cruz	13.5	12.2	-1.3	-9
Monterey	21.2	19.1	-2.1	-10
Yolo	12.4	10.9	-1.5	-12
Napa	8	7.0	-1.0	-12
El Dorado	9	7.8	-1.2	-13
San Mateo	33	28.6	-4.4	-13
San Diego	154	132.3	-21.7	-14
Mendocino	8.4	7.0	-1.4	-16
Del Norte	2.8	2.3	-0.5	-18
Marin	12.7	10.1	-2.6	-21
San Francisco	55.9	43.8	-12.1	-22
Glenn	2.3	1.8	-0.5	-22
Santa Clara	82	62.2	-19.8	-24
Colusa	2.3	1.5	-0.8	-34

Court	A Authorized and Funded Judicial Positions^a	B 2018 Assessed Judicial Need	C AJN – AJP (B – A)	D % Judicial Need over AJP (C / A)^b
Siskiyou	5	3.1	-1.9	-37
Trinity	2.3	1.4	-0.9	-39
Nevada	7.6	4.5	-3.1	-40
Inyo	2.3	1.4	-0.9	-41
Plumas	2.3	1.2	-1.1	-50
Mono	2.3	0.9	-1.4	-59
Mariposa	2.3	0.9	-1.4	-61
Modoc	2.3	0.8	-1.5	-66
Sierra	2.3	0.2	-2.1	-90
Alpine	2.3	0.2	-2.1	-93

^a Authorized judicial positions include both judgeships and subordinate judicial officer positions. Authorized judgeships consist of those codified in Government Code sections 69580–69611 plus the 50 judgeships that were authorized and funded with SB 56 (Stats. 2006, ch. 390), but not the 48 judgeships that were authorized with AB 159 but never funded.

^b Percentages shown here slightly differ from the percentages shown in Table 2, Need for New Judgeships. Percentages in Appendix B are calculated based on the actual differences between AJN and AJP, whereas the percentages in Table 2 are based on rounded-down differences between AJN and AJP, as explained on pages 4–5.