



JUDICIAL COUNCIL OF CALIFORNIA

GOVERNMENTAL AFFAIRS

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TANI G. CANTIL-SAKAUYE
Chief Justice of California
Chair of the Judicial Council

MARTIN HOSHINO
Administrative Director

CORY T. JASPERSON
Director, Governmental Affairs

August 19, 2022

Hon. Thomas Umberg
Senator, 34th District
1021 O Street, Ste 6730
Sacramento, California 95814

Subject: Senate Bill 848 (Umberg), as amended August 18, 2022 – Support if amended

Dear Senator Umberg:

The Judicial Council has altered its position on SB 848 because while the council supports the extension of the sunset of Code of Civil Procedure (CCP) section 367.75 to January 1, 2026, it can only continue to support the bill if the August 15, 2022 amendments prohibiting the use of remote technology in juvenile delinquency and civil commitment proceedings are removed.

The August 15 amendments prohibit, until January 1, 2024, the use of remote technology in the following juvenile delinquency and civil commitment proceedings: (See full list in attachment.)

- Juvenile court proceedings under sections 601 and 602 of the Welfare and Institutions Code;
- Extensions of juvenile commitment under section 1800 of the Welfare and Institutions Code;
- Proceedings involving a commitment type identified pursuant to section 4355 of Title 9 of the California Code of Regulations or any successor regulation; and
- Proceedings related to an intellectually disabled and dangerous commitment authorized pursuant to Welfare and Institutions Code section 6500 et seq.

It is important to note that under current law, a court cannot compel a person to participate remotely in any proceeding (CCP 367.75(f)), including juvenile delinquency and civil commitment proceedings. Instead, a party desiring to participate remotely must affirmatively

choose to do so (CCP 367.75(a)). Further, individuals subject to juvenile delinquency and civil commitment proceedings are represented by counsel, and are therefore receiving legal advocacy on their behalf and advice on whether a remote appearance is advisable.

The council's longstanding view is remote technology should be an option available as widely as possible in as many proceeding types as possible in order to maximize court access and efficiency. The August 15 amendments to SB 848 unnecessarily restrict access to justice and should be removed.

Placing a blanket prohibition on the use of remote technology in juvenile delinquency and civil commitment proceedings also impacts court processes that courts and mental health justice partners (especially justice partners responsible for individuals who are determined to be incompetent to stand trial (IST)) have used for decades prior to the pandemic, effectively denying access to justice for two of our state's most vulnerable populations: youth and individuals facing serious mental illness issues.

Civil Commitment Proceedings

Prohibiting the use of remote technology in civil commitment proceedings will have significant adverse consequences for individuals with serious mental illness issues, the courts, the counties, the state, justice partners, and facilities involved in civil commitment proceedings. For individuals with the most serious mental health conditions who are unable to leave their care facilities due to their conditions, this prohibition jeopardizes treatment, care, and restoration opportunities. Many courts have offered individuals who have serious mental health conditions the option to appear remotely for years and even decades prior to the pandemic. Prohibiting that option now will have a significant negative impact on the fair and just disposition on individuals subject to civil commitment proceedings.

Among other advantages, appearing remotely allows patients to stay in their care facility rather than undertake the journey to the courthouse, which may involve transportation to and from California's five state hospitals,¹ extended waits in courthouse hallways, and often being held in local jails prior and subsequent to court proceedings. For individuals in state hospitals or community treatment facilities, facility staff can bring a tablet or laptop to that person, allowing them to participate in proceedings without having to travel out of the treatment environment, which could otherwise lead to decompensation and other treatment setbacks. Many of these housing facilities are too far for same-day transportation, so individuals often need to be "housed" (booked into county jail) so they are closer to the courthouse in advance of their hearing. These stays in jail can last for days, particularly if there is the need for quarantine. Not inconsequentially, individuals often lose their place in the state hospital or treatment facility by

¹ Atascadero, Coalinga, Metropolitan (Los Angeles County), Napa, and Patton.

leaving for extended court appearances, resulting in much longer jail stays as they await new placements. It cannot be overstated that such an experience is detrimental to persons undergoing treatment for serious mental health conditions and can set them back significantly. Requiring in-person presence also places a significant burden on state hospitals, residential treatments facilities, and sheriffs' departments that must manage the transportation and jail stays.

The August 15 amendments will put an end to all of the positive improvements made during the pandemic as well as longstanding court processes in which courts have been utilizing remote technology years and even decades prior to the pandemic.

Juvenile Delinquency Proceedings

The August 15 amendments also prohibit the use of remote technology in juvenile delinquency proceedings. Courts have regularly utilized remote technology in these proceedings, and elimination of that choice will hinder access to justice for a very vulnerable population, our youth. Remote appearances are commonly used when a youth lives a great distance away, or is in school and traveling would take time and expense and make them miss class. Choosing to appear remotely also has great benefits for youth who are sensitive to a change in environment or who struggle with health issues (including serious mental health conditions), by allowing them to appear without having to travel to a courtroom. Some youth in treatment programs would not otherwise be able to attend their proceedings due to individual facility restrictions or the location of their facility. Additionally, the families of youth and local justice partners have greatly benefited from the option to use remote technology. It is difficult for family members to take time off of work to attend, and often their in-person presence is not necessary. This has also been useful when a youth or their family member has COVID or another illness and cannot come to court but can participate remotely.

The August 15 amendments also negatively impact the ongoing juvenile justice realignment implementation, which was designed to function with the option for remote technology as a key component. SB 823 (Stats. 2020, ch. 337) transferred the Division of Juvenile Justice (DJJ) to the newly created Office of Youth and Community Restoration (OYCR) within the Health and Human Services Agency (HHSA) on July 1, 2020. This realignment was intended to position the rehabilitative mission of the state's juvenile justice system squarely within and accessible to trauma-informed and developmentally appropriate services supported by programs overseen by the state's Health and Human Services Agency. Prohibiting the use of remote technology in juvenile delinquency proceedings will adversely impact this effort.

Attached to this letter are examples of specific impacts the August 15 amendments will have on courts and court users. There are countless more like this, and these are illustrative of the impacts the amendments will have throughout the state.

Hon. Thomas Umberg
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The Judicial Council greatly appreciates your advocacy on behalf of the courts and access to justice, particularly in the area of remote technology. However, the council can only continue to support SB 848 if the August 15 amendments are removed.

For these reasons, the Judicial Council supports if amended, SB 848.

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

Sincerely,

Sent August 19, 2022

Kate Nitta
Attorney

KN/jh

cc: 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



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MARTIN HOSHINO
Administrative Director

CORY T. JASPERSON
Director, Governmental Affairs

June 10, 2022

Hon. Mark Stone, Chair
Assembly Judiciary Committee
1021 O Street, Ste 5740
Sacramento, California 95814

Subject: Senate Bill 848 (Umberg), as amended May 17, 2022 – Support

Dear Assembly Member Stone:

The Judicial Council is pleased to support SB 848, which extends the July 1, 2023, sunset to January 1, 2026 in Code of Civil Procedure (CCP) section 367.75 that authorizes parties to appear remotely in civil cases and the court to conduct civil conferences, hearings, and proceedings, in whole or in part, through the use of remote technology.

The bill also eliminates the sunset for CCP section 599, which provides that during the COVID-19 state of emergency and for 180 days after the end of the state of emergency, a continuance or postponement of a trial or arbitration date extends any deadlines applicable to discovery, including the exchange of expert witness information, mandatory settlement conferences, and summary judgment motions, which have not already passed as of March 19, 2020, for the same length of time as the continuance or postponement of the trial date.

Last year, the council supported SB 241 (ch. 214, stats. of 2021), which, among other things, enacted CCP 367.75 to allow courts to continue providing increased access to court users via remote technology that courts across the state implemented as a result of the COVID-19 pandemic.

While we do not have totals from all of the courts, preliminary data from 17 of the 58¹ courts show that more than 1.2 million remote proceedings, including at least 651,000 civil proceedings and 315,000 criminal proceedings have been conducted over the past 18 months.

SB 848 will allow the courts to continue offering this full menu of remote access options in civil until January 1, 2026.

These options include:

- ***Option to participate remotely in civil proceedings:*** Gives parties the option to appear remotely and courts the option to conduct civil proceedings, in whole or in part, through the use of remote technology. Existing language also specifies that a court can never require a party to appear remotely.
- ***In-person appearances as necessary:*** Allows the court to require an in-person appearance due to technology or audibility issues, as well as when an in-person appearance would materially assist in the determination of the proceeding or resolution of the case.
- ***Consideration for needs of court reporters, court interpreters, and attorneys:*** Allows the court to require an in-person appearance when the quality of the technology or audibility at the proceeding inhibits the court reporter's ability to accurately prepare a transcript, inhibits a court interpreter's ability to provide language access to a court user, or prevents an attorney from being able to provide effective representation to their client.
- ***Remote civil trials:*** Allows civil trials to be conducted, in whole or in part, through the use of remote technology while also requiring the court reporter to be physically present in the courtroom and the court interpreter, upon request, to be physically present in the courtroom.

In the [Interim Report](#) released on August 16, 2021 by the Chief Justice's Workgroup on Post-Pandemic Initiatives, an overwhelming majority of the 46 stakeholder entities that presented feedback on their experiences with remote hearings during the pandemic highlighted the value in continuing to provide court users with remote access to the courts.

Allowing the Option to Conduct Civil Proceedings Remotely Will

- Increase equity by using everyday technologies to provide safe and timely access to justice when conducting civil court proceedings remotely where appropriate.

¹ This includes data from the following 17 courts that represent approximately 60 percent of case filings statewide: Fresno, Kern, Lake, Los Angeles, Orange, Placer, Plumas, San Benito, San Diego, San Joaquin, San Mateo, Santa Barbara, Santa Cruz, San Luis Obispo, Solano, Sutter, and Ventura. The total number exceeds the subtotals of civil and criminal remote proceedings as some courts were unable to disaggregate this data. The council is collecting more detailed data going forward to support the January 1, 2023 report to the Legislature and the Governor on the use of remote technology in civil actions by the trial courts as required by AB 177 ([ch. 257, stats. 2021](#)).

- Increase the participation of litigants, attorneys, court personnel, and others while maintaining and expanding efficient and effective courtroom proceedings.
- Reduce time and expense for residents and vulnerable court users who lose time from work and incur travel and parking costs for short hearings and appearances.
- Preserve equal access to justice and court services by continuing to allow courts the flexibility to hold in-person court proceedings when more appropriate for the public.
- Incentivize courts to develop or maintain efficiencies and refine practices developed to increase participation in court functions.

The remote access to the courts as originally authorized² by temporary emergency rules during the pandemic demonstrated its value as the pandemic revealed the need for a variety of options for accessing courts, both in-person and remotely. In order to avoid further delays or outright denials of access to justice, remote access must become a basic service rather than a temporary way to address current statutory restrictions on access to the courts. Continued investment in those services as well as the flexibility to continue expanding remote options will provide increased access to the courts by the public and reduce disruption to the public and prepare courts for future crises—whether caused by pandemics, wildfires, natural disasters, bad weather or other unexpected events.

Courts must be allowed to continue to utilize and develop the tools rolled out during the pandemic and maximize the ability to provide a full menu of equal, safe, and reliable access to justice and court services, and removing the July 1, 2023 sunset of CCP 367.75 is an important step to ensuring that this is possible.

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

Sincerely,

Sent June 10, 2022

Cory T. Jaspersen
Director, Governmental Affairs

CTJ/KN/jh

cc: Members, Assembly Judiciary Committee
Hon. Thomas Umberg, Member of the Senate
Ms. Jessica Devencenzi, Deputy Legislative Affairs 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

² As of January 1, 2022, emergency rule 3 no longer applies to civil proceedings. It continues to apply to criminal proceedings, as there has been no more recent legislative enactment that applies in criminal proceedings.



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MARTIN HOSHINO
Administrative Director

CORY T. JASPERSON
Director, Governmental Affairs

April 20, 2022

Hon. Anthony Portantino, Chair
Senate Appropriations Committee
1021 O Street, Ste 6730
Sacramento, California 95814

Subject: Senate Bill 848 (Umberg), as amended March 7, 2022 – Support
Hearing: Senate Appropriations Committee – April 25, 2022

Dear Senator Portantino:

The Judicial Council is pleased to support SB 848, which removes the July 1, 2023, sunset from Code of Civil Procedure (CCP) section 367.75 that authorizes in civil cases where a party has provided notice they intend to appear remotely, a party to appear remotely and the court to conduct conferences, hearings, and proceedings, in whole or in part, through the use of remote technology.

The bill also eliminates the sunset for CCP section 599, which provides that during the COVID-19 state of emergency and for 180 days after the end of the state of emergency, a continuance or postponement of a trial or arbitration date extends any deadlines applicable to discovery, including the exchange of expert witness information, mandatory settlement conferences, and summary judgment motions, which have not already passed as of March 19, 2020, for the same length of time as the continuance or postponement of the trial date.

Last year, the council supported SB 241 (ch. 214, stats. of 2021), which, among other things, enacted CCP 367.75 to allow courts to continue providing increased access to court users via remote technology that courts across the state implemented as a result of the COVID-19 pandemic.

SB 848 will allow the courts to continue offering this full menu of remote access options beyond the July 1, 2023 sunset.

These options include:

- ***Option to participate remotely in civil proceedings:*** Gives parties the option to appear remotely and courts the option to conduct civil proceedings, in whole or in part, through the use of remote technology. Existing language also specifies that a court can never require a party to appear remotely.
- ***In-person appearances as necessary:*** Allows the court to require an in-person appearance due to technology or audibility issues, as well as when an in-person appearance would materially assist in the determination of the proceeding or resolution of the case.
- ***Consideration for needs of court reporters, court interpreters, and attorneys:*** Allows the court to require an in-person appearance when the quality of the technology or audibility at the proceeding inhibits the court reporter's ability to accurately prepare a transcript, inhibits a court interpreter's ability to provide language access to a court user, or prevents an attorney from being able to provide effective representation to their client.
- ***Remote civil trials:*** Allows civil trials to be conducted, in whole or in part, through the use of remote technology while also requiring the court reporter to be physically present in the courtroom and the court interpreter, upon request, to be physically present in the courtroom.

In the [Interim Report](#) released on August 16, 2021 by the Chief Justice's Workgroup on Post-Pandemic Initiatives, an overwhelming majority of the 46 stakeholder entities that presented feedback on their experiences with remote hearings during the pandemic highlighted the value in continuing to provide court users with remote access to the courts.

Allowing the Option to Conduct Civil Proceedings Remotely Will

- Increase equity by using everyday technologies to provide safe and timely access to justice when conducting civil court proceedings remotely where appropriate.
- Increase the participation of litigants, attorneys, court personnel, and others while maintaining and expanding efficient and effective courtroom proceedings.
- Reduce time and expense for residents and vulnerable court users who lose time from work and incur travel and parking costs for short hearings and appearances.
- Preserve equal access to justice and court services by continuing to allow courts the flexibility to hold in-person court proceedings when more appropriate for the public.
- Incentivize courts to develop or maintain efficiencies and refine practices developed to increase participation in court functions.

The remote access to the courts as originally authorized¹ by temporary emergency rules during the pandemic demonstrated its value as the pandemic revealed the need for a variety of options for accessing courts, both in-person and remotely. In order to avoid further delays or outright denials of access to justice, remote access must become a basic service rather than a temporary way to address current statutory restrictions on access to the courts. Continued investment in

¹ As of January 1, 2022, emergency rule 3 no longer applies to civil proceedings. It continues to apply to criminal proceedings, as there has been no more recent legislative enactment that applies in criminal proceedings.

Hon. Anthony Portantino

April 20, 2022

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those services as well as the flexibility to continue expanding remote options will provide increased access to the courts by the public and reduce disruption to the public and prepare courts for future crises—whether caused by pandemics, wildfires, natural disasters, bad weather or other unexpected events.

Courts must be allowed to continue to utilize and develop the tools rolled out during the pandemic and maximize the ability to provide a full menu of equal, safe, and reliable access to justice and court services, and removing the July 1, 2023 sunset of CCP 367.75 is an important step to ensuring that this is possible. Further, this bill will have no fiscal impacts on the courts as it allows them to continue to operate as they began to under the pandemic and are currently operating with the passage of SB 241 last year.

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

Sincerely,

Sent April 20, 2022

Cory T. Jasperson
Director, Governmental Affairs

CTJ/KN/jh

cc: Members, Senate Appropriations Committee
Hon. Thomas Umberg, Member of the Senate
Mr. Matthew Fleming, Consultant, Senate Appropriations Committee
Ms. Jessica Devencenzi, Legislative Affairs 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



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CORY T. JASPERSON
Director, Governmental Affairs

March 29, 2022

Hon. Thomas Umberg, Chair
Senate Judiciary Committee
1021 O Street, Ste 6730
Sacramento, California 95814

Subject: Senate Bill 848 (Umberg), as amended March 7, 2022 – Support
Hearing: Senate Judiciary Committee – April 5, 2022

Dear Senator Umberg:

The Judicial Council is pleased to support SB 848, which removes the July 1, 2023, sunset from Code of Civil Procedure (CCP) section 367.75 that authorizes in civil cases where a party has provided notice they intend to appear remotely, a party to appear remotely and the court to conduct conferences, hearings, and proceedings, in whole or in part, through the use of remote technology.

The bill also eliminates the sunset for CCP section 599, which provides that during the COVID-19 state of emergency and for 180 days after the end of the state of emergency, a continuance or postponement of a trial or arbitration date extends any deadlines applicable to discovery, including the exchange of expert witness information, mandatory settlement conferences, and summary judgment motions, which have not already passed as of March 19, 2020, for the same length of time as the continuance or postponement of the trial date.

Last year, the council supported SB 241 (ch. 214, stats. of 2021), which, among other things, enacted CCP 367.75 to allow courts to continue providing increased access to court users via remote technology that courts across the state implemented as a result of the COVID-19 pandemic.

SB 848 will allow the courts to continue offering this full menu of remote access options beyond the July 1, 2023 sunset.

These options include:

- ***Option to participate remotely in civil proceedings:*** Gives parties the option to appear remotely and courts the option to conduct civil proceedings, in whole or in part, through the use of remote technology. Existing language also specifies that a court can never require a party to appear remotely.
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The remote access to the courts as originally authorized¹ by temporary emergency rules during the pandemic demonstrated its value as the pandemic revealed the need for a variety of options for accessing courts, both in-person and remotely. In order to avoid further delays or outright denials of access to justice, remote access must become a basic service rather than a temporary way to address current statutory restrictions on access to the courts. Continued investment in

¹ As of January 1, 2022, emergency rule 3 no longer applies to civil proceedings. It continues to apply to criminal proceedings, as there has been no more recent legislative enactment that applies in criminal proceedings.

Hon. Thomas Umberg

March 29, 2022

Page 3

those services as well as the flexibility to continue expanding remote options will provide increased access to the courts by the public and reduce disruption to the public and prepare courts for future crises—whether caused by pandemics, wildfires, natural disasters, bad weather or other unexpected events.

Courts must be allowed to continue to utilize and develop the tools rolled out during the pandemic and maximize the ability to provide a full menu of equal, safe, and reliable access to justice and court services, and removing the July 1, 2023 sunset of CCP 367.75 is an important step to ensuring that this is possible.

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

Sincerely,

Sent March 29, 2022

Cory T. Jaspersen
Director, Governmental Affairs

CTJ/KN/jh

cc: Members, Senate Judiciary Committee
Hon. Thomas Umberg, Member of the Senate
Ms. Allison Meredith, Counsel, Senate Judiciary Committee
Mr. Morgan Branch, Consultant, Senate Republican Office of Policy
Ms. Jessica Devencenzi, Legislative Affairs 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



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Administrative Director

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Director, Governmental Affairs

March 28, 2022

Hon. Thomas Umberg
Senator, 34th District
1021 O Street, Ste 6730
Sacramento, California 95814

Subject: Senate Bill 848 (Umberg), as amended March 7, 2022 – Support

Dear Senator Umberg:

The Judicial Council is pleased to support SB 848, which removes the July 1, 2023, sunset from Code of Civil Procedure (CCP) section 367.75, which authorizes in civil cases where a party has provided notice they intend to appear remotely, a party to appear remotely and the court to conduct conferences, hearings, and proceedings, in whole or in part, through the use of remote technology. The bill also eliminates the sunset for CCP section 599, which provides that during the COVID-19 state of emergency and for 180 days after the end of the state of emergency, a continuance or postponement of a trial or arbitration date extends any deadlines applicable to discovery, including the exchange of expert witness information, mandatory settlement conferences, and summary judgment motions, which have not already passed as of March 19, 2020, for the same length of time as the continuance or postponement of the trial date.

Last year, the council was pleased to support SB 241, which, among other things, enacted CCP 367.75 to allow courts to continue providing the increased access to court users via remote technology that the court implemented as a result of the COVID-19 pandemic.

The remote access to the courts as originally authorized by temporary emergency rules during the pandemic demonstrated its value as the pandemic revealed the need for a variety of options for accessing courts, both in-person and remotely. In order to avoid further delays or outright denials of access to justice, remote access must become a basic service rather than a temporary way to address current statutory restrictions on access to the courts. Investment in those services

Hon. Thomas Umberg

March 28, 2022

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as well as the flexibility to continue expanding remote access under the authority of SB 241 continues to provide increased access to the courts by the public and reduces disruption to the public and prepares courts for future crises—whether caused by pandemics, wildfires, natural disasters, bad weather or other unexpected events. Courts must be allowed to continue to utilize and develop the tools rolled out during the pandemic and maximize the ability to provide a full menu of equal, safe, and reliable access to justice and court services, and removing the sunset of CCP 367.75 is an important step to ensuring that this is possible.

For these reasons, the Judicial Council supports SB 848.

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

Sincerely,

Sent March 28, 2022

Kate Nitta

Attorney

KN/jh

cc: 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