

Bench-Bar Coalition Fall Meeting

at the Annual Meeting of
the California **Lawyers**
Association

FRIDAY, SEPTEMBER 22, 2023

HILTON SAN DIEGO BAYFRONT HOTEL



JUDICIAL COUNCIL
OF CALIFORNIA

GOVERNMENTAL AFFAIRS



BENCH-BAR COALITION ANNUAL FALL MEETING

Friday, September 22, 2023

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BENCH-BAR COALITION 2023 FALL MEETING AGENDA

| | |
|--|-------------------------|
| Welcome and Introduction <i>Mr. Michael Johnson & Ms. Jennifer Kim</i> <i>Cochairs, Bench-Bar Coalition</i> | 10:00–10:05 a.m. |
| Opening Remarks <i>Hon. Patricia Guerrero, Chief Justice, California Supreme Court and</i> <i>Chair of the Judicial Council of California</i> | 10:05–10:15 a.m. |
| Recognition of Outgoing and Installation of Incoming BBC Executive Committee Members <i>Chief Justice Patricia Guerrero and BBC Leadership</i> | 10:15–10:30 a.m. |
| Update from the California Judges Association <i>Hon. David Rosenberg, President</i> <i>Hon. Erica Yew, President-Elect</i> <i>Ms. Nicole Virga Bautista, Executive Director</i> <i>Mr. Mike Belote, Legislative Advocate</i> <i>Mr. Cliff Costa, Legislative Advocate</i> | 10:30–10:40 a.m. |
| Update from the Conference of California Bar Associations <i>Ms. Shaun Dabby Jacobs, Chair</i> <i>Ms. Michele Anderson, Chair-Elect</i> | 10:40–10:50 a.m. |
| Update from the State Bar of California <i>Ms. Leah Wilson, Executive Director</i> | 10:50–11:00 a.m. |
| Update from the California Lawyers Association <i>Mr. Jeremy Evans, President</i> <i>Ms. Betty Williams, President-Elect</i> <i>Mr. Oyango Snell, CEO and Executive Director</i> <i>Mr. Saul Bercovitch, Director of Governmental Affairs</i> | 11:00–11:10 a.m. |
| Update from the California Commission on Access to Justice <i>Ms. Catherine Blakemore, Chair</i> | 11:10–11:20 a.m. |
| Update from the America Bar Association <i>Ms. Ruthe Ashley, California representative on the ABA Board of Governors</i> | 11:20–11:30 a.m. |
| Update from the Judicial Council of California <i>Ms. Millicent Tidwell, Acting Administrative Director</i> <i>Ms. Shelley Curran, Chief Policy & Research Officer</i> <i>Mr. Cory Jasperson, Director of Governmental Affairs</i> | 11:30–11:45 a.m. |
| BBC Activities and Announcements <i>Ms. Jennifer Kim & Hon. Audra Ibarra, Cochairs, Bench-Bar Coalition</i> | 11:45–11:55 a.m. |
| Closing Remarks and Adjournment <i>Ms. Jennifer Kim & Hon. Audra Ibarra, Cochairs, Bench-Bar Coalition</i> | 11:55–12:00 p.m. |

Chief Justice Patricia Guerrero



Chief Justice Patricia Guerrero is the 29th Chief Justice of California. She was sworn into office on January 2, 2023, making history as the first Latina to serve as California's Chief Justice.

Chief Justice Guerrero was nominated to office by Governor Gavin Newsom in August 2022. When she first joined the California Supreme Court as an associate justice in March 2022, Chief Justice Guerrero was also the first Latina to serve on the state's high court.

In her first [State of the Judiciary address](#), Chief Justice Guerrero highlighted her commitment to a more diverse and inclusive judicial branch, as well as technology that helped preserve access to justice for Californians during the pandemic.

Chief Justice Guerrero also adopted the Power of Democracy Civic Learning Initiative and has been active in the "Judges in the Classroom" civics program, which engages schools and encourages students to learn about the role of the judiciary.

Prior to being elevated to the California Supreme Court, Chief Justice Guerrero served as an associate justice at the Fourth District Court of Appeal, Division One since December 2017. Before her appellate appointment, she served as a judge at the Superior Court of San Diego County from 2013 to 2017, and was the supervising judge of its Family Law Division in 2017.

Chief Justice Guerrero is the daughter of Mexican immigrants and was born and raised in California's Imperial Valley. She attended the University of California, Berkeley as an undergraduate and earned a Juris Doctor degree from Stanford Law School.

Millicent Tidwell
Acting Administrative Director
Judicial Council of California



Millicent Tidwell was appointed as Acting Administrative Director of the Judicial Council of California in January 2023.

Ms. Tidwell leads the council's staff organization in supporting the Chief Justice and governing body in advancing the policymaking agenda and initiatives for the judicial branch, including pretrial reform, expansion of self-help services, and the use of remote technology to enhance court services.

She served as the council's Chief Deputy Director from 2017 to 2022, and Chief Operating Officer from 2015.

Before that she was in public service with the executive branch of government for 16 years. Beginning as a public safety policy analyst in the Office of Governor Gray Davis, she then served as Chief of Mentally Ill Offender Services at the California Department of Corrections and Rehabilitation, and, later, as Deputy Director of the Office of Criminal Justice Collaboration at the California Department of Alcohol and Drug Programs. She was appointed as Director for the Division of Rehabilitative Programs at the California Department of Corrections and Rehabilitation, where she served until joining the Judicial Council.

Ms. Tidwell holds a Bachelor of Science degree from Sacramento State University, with a major in criminal law. She earned her juris doctorate from Lincoln Law School of Sacramento, and was admitted to the State Bar of California.

Shelley Curran
Chief Policy and Research Officer
Judicial Council of California



Shelley Curran is the Judicial Council's Chief Policy and Research Officer, directing the Policy and Research Division.

Ms. Curran is responsible for coordinating the council's research and policy agendas, centralizing efforts to identify judicial branch priorities in emerging policy areas and advancing these priorities with the Executive and Legislative branches and overseeing operations of the Judicial Council's Governmental Affairs Office.

Ms. Curran joined the Judicial Council's staff in 2009 to establish its Criminal Justice Services Office. As director of that office, she has played an integral role in implementing key criminal justice reforms affecting the courts and the public.

With more than 20 years of experience working on public policy matters in California, Ms. Curran previously served as principal consultant to the President pro Tempore of the California State Senate on budget and legislative matters related to adult and juvenile criminal justice, civil law, civil rights, and the judiciary. She was also a policy analyst with the Consumers Union, where she advocated on behalf of low-income Californians on matters related to credit and finance.

Ms. Curran earned a Bachelor of Arts degree from Indiana University, Bloomington, and Master's degree in Policy Analysis from the University of Wisconsin, Madison.

Cory T. Jasperson
Director of Governmental Affairs
Judicial Council of California



Cory T. Jasperson, was chosen to lead the Judicial Council’s legislative and executive advocacy efforts in December 2012. Mr. Jasperson worked in the State Capitol for the last twelve years, serving in senior staff positions in both the Assembly and Senate with a key policy focus on education, budget, insurance, pensions, and privacy. He was instrumental in the drafting and passage of well-known legislation to increase California’s minimum wage; make human trafficking a felony; limit the use of “gay panic” strategies by criminal defendants; equalize revenue limit funding for school districts; change the kindergarten entry-age and create California’s first new grade-level since 1891; and establish the San

Francisco Bay Restoration Authority.

Former chief of staff to California State Senator Joe Simitian (Palo Alto), Cory’s key policy focus was education, budget, and privacy. He also served as the principal consultant to the Senate Select Committee on Privacy. As former chief of staff to Assembly Speaker pro Tempore Sally Lieber (Mountain View), he was responsible for managing and coordinating all aspects of the Speaker pro Tem’s legislative agenda.

Prior to his legislative service, he worked at the Santa Clara County Board of Supervisors, Office of the Dean of Graduate Policy & Research at Stanford University, Federal Bureau of Investigation (Hmong linguistic consultant), and at the Greenlining Institute—a statewide multi-ethnic public policy and advocacy center in Berkeley, where he was the recipient of the Greenlining Institute’s *2007 Big Foot Award* for exceptional leadership in stepping forward to pioneer new trails to empower California’s underserved communities.

Born in Afton, Wyoming, he has lived in California since 1989. Cory received his bachelor’s degree in international relations with an emphasis in world politics and China/Asia/Pacific Rim, and a minor in linguistics from the University of California, Davis.

Jennifer Kim
Cochair, Bench-Bar Coalition Executive Committee
Southern Region



Jennifer Kim is a Supervising Deputy Attorney General in the California Department of Justice. Ms. Kim litigates healthcare, education, and welfare cases in both state and federal court. She has received three Attorney General Awards recognizing her excellent work, one of which was for a matter before the U.S. Supreme Court. Ms. Kim was the 2019 Chairperson for the Conference of California Bar Associations. She also serves as faculty for the National Association of Attorneys General – Training & Research Institute (NAGTRI). As part of the NAGTRI faculty, she has taught litigation skills courses at Attorney General’s Offices throughout the country and U.S. territories. Ms. Kim received her Bachelor of Arts degree from the University of California at Berkeley and her J.D. from Golden Gate

University School of Law.

Judge Audra Ibarra
Cochair-Elect, Bench-Bar Coalition Executive Committee
Northern/Central Region



Judge Audra Ibarra was appointed to the Santa Clara County Superior Court in December 2018 and served as a pro tem justice on the Second District Court of Appeal, Division 7, from June 2021 to January 2022. She has been appointed to the Judicial Council's criminal law advisory committee and strategic plan for technology workstream. She serves on the executive committee of the Bench-Bar Coalition and the advisory board of California Education of the Bar (CEB). She teaches evidence and criminal law primary assignment orientation for the California Center for Judicial Education and Research. She is guest faculty for Stanford Law School's trial advocacy workshop and moot court competition. She co-writes the book *California Objections*

Civil and Criminal, distributed by James Publishing and currently in its 19th edition, with Judge Gregory H. Ward (ret.). She is the immediate-past-president of the California Asian Pacific American Judges Association.

Before her appointment, Judge Ibarra was counsel at the firm California Appellate Law Group (now Complex Appellate Litigation Group) in San Francisco. She was a supervising Assistant U.S. Attorney and Deputy Chief of the Organized Crime Drug Enforcement Task Force at the U.S. Attorney's Office in the Northern District of California and an Assistant U.S. Attorney in the Southern District of California. She was a litigator at Pillsbury Madison & Sutro in San Francisco and a Deputy District Attorney at the Solano County District Attorney's Office. She served as a member of the Judicial Council and the committee on appellate courts for both the State Bar of California and the California Lawyers Association. She was on the board of directors of the California Minority Counsel Program, on the executive committee of the board of governors of California Women Lawyers and the chair of its amicus committee. She was certified as an appellate specialist by the State Bar of California Board of Legal Specialization. She earned a J.D. from the New York University School of Law and a B.A. from the University of California at Berkeley.

Judge Patricia Garcia
Member at Large, Bench-Bar Coalition Executive Committee
Southern Region



Judge Patricia Garcia is the daughter of Mexican immigrants who grew up in East Los Angeles and earned a Bachelor of Arts degree from UCSD, a law degree from the University of San Diego School of Law and then worked in civil law firms for a decade, developing an expertise in family law, to become one of the most experienced family judges on the San Diego Superior Court.

In private practice, Judge Garcia was Of Counsel and head of the Family Law department at Seltzer Caplan McMahon Vitek, earning Martindale Hubbell's AV lawyer rating. In 2000, she was selected by the San Diego Superior Court as a child support commissioner and served in that capacity until she was appointed by Governor Gray Davis in 2003. Judge Garcia continued to hone her skills and expertise in family law and supervised the family divisions in the branch courts until she took a criminal assignment in 2010, and just last year, in the fall of 2021, Judge Garcia volunteered to return to a family assignment, presiding over complex long cause matters and trials.

Judge Garcia currently serves on the Bench-Bar Coalition Executive Committee and has served on the San Diego Superior Court Executive Committee, on the California Judges Association Executive Board (Secretary-Treasurer 2021-2022), and on CJER's Family Law Education Committee. She is a member of the National Association of Women Judges, the California Judges Association, and the California Latino Judges Association. She was a founding member of the UCSD Hispanic Scholarship Council, Latinas in the Law, and the San Diego Latino Judges Association and currently serves as president.

Philip Nulud
Member at Large, Bench-Bar Coalition Executive Committee
Southern Region



Philip Nulud is a shareholder at Buchalter, a full-service business law firm, where he practices intellectual property law. A seasoned intellectual property attorney, Mr. Nulud has assisted clients in developing, protecting, and licensing their valuable ideas by providing critical freedom to use clearance and infringement opinions for patents and trademarks, while also preparing, prosecuting, and enforcing their patents, trademarks and copyrights.

Mr. Nulud has extensive experience serving clients in the apparel and textile industry. He has represented global fashion companies in brand protection, trademark clearance, international expansion, enforcement, and licensing transactions, including risk assessment of advertising campaigns and social media posts.

Community is important for Mr. Nulud and he has served as a Director of the National Asian Pacific American Bar Association, President of the Philippine American Bar Association, Founding Board Member of the California Asian Pacific American Bar Association, President of the Loyola Law School Alumni Association, Board of Governors, amongst other organizations. The *Los Angeles Business Journal* has recognized Mr. Nulud as one of the 2019 “Most Influential Minority Attorneys” and a nominee for “Service Provider of the Year” at the 2018 Fashion & Beauty Awards. He was awarded Best Under 40 by the National Asian Pacific American Bar Association. He was also selected as a 2020 and 2021 “Rising Star” by *Super Lawyers*.

Judge Russell S. Roeca
Member at Large-Elect, Bench-Bar Coalition Executive Committee
Northern/Central Region



The Hon. Russell S. Roeca was appointed to the San Francisco Superior Court in 2020 by Governor Gavin Newsom. Since his appointment he has presided over civil jury trials and spent two years at the Hall of Justice handling the Mental Health and Parole Courts. Judge Russ Roeca is a member of the Executive Committee of the Statewide Judicial Mentorship Program and chairs the San Francisco Superior Judicial Mentorship Program. He also serves on the court's Settlement Conference Committee.

Prior to his appointment, Judge Roeca was the founding partner of boutique AV rated Roeca Haas Montes De Oca LLP, an active trial lawyer and certified mediator. He tried dozens of cases to jury verdict, court trials, and arbitrations, binding and non-binding. His professional liability practice included representing attorneys, in various capacities, including efforts to recover rightfully owed attorney fees or in defense of professional liability litigation and disciplinary investigations and trials before the State Bar of California. Judge Roeca also represented former clients of attorneys. He was certified by the State Bar of California as a specialist in Legal Malpractice Law. He was also a certified mediator and successfully mediated many matters to resolution. He served the Superior Court for many years as a Settlement Conference Officer. Judge Roeca was named a "Super Lawyer" by his colleagues in the profession since 2006 and was rated AV Preeminent by Martindale Hubbell.

Judge Roeca has always been active in the community. He served from 1996 through 2005 as a Commissioner on the San Francisco Fire Commission, appointed by Mayor Willie Brown. He served many years on multiple committees and on the Board of Directors and then as President of the Bar Association of San Francisco in 2009. He previously served as a member of the Board of Governors of the State Bar of California from 2001 to 2004. Judge Roeca was also a member of the State Bar Committee on Professional Liability Insurance and served as co-chair from 2010 through 2012. He served on the State Bar Insurance Disclosure Task Force and on the State Bar's Council on Access & Fairness as a founding member chairing its Judicial Committee. He served as BASF's liaison to the Bench Bar Coalition and in 2011 the Bench Bar Coalition named him Bar Leader of the Year. He also was honored to receive the 2010 Myer J. Sankary Lawyer of the Year, Small & Solo Firms, by the State Bar of California.

Judge Roeca received his B.A. degree from the University of California, Los Angeles, in 1976 and his law degree from the University of California College of the Law, San Francisco in 1980. He was admitted to practice in California state and federal courts, and the United States Supreme Court.

Catherine Ongiri
Member at Large-Elect, Bench-Bar Coalition Executive Committee
Northern/Central Region



Catherine Ongiri is an experienced attorney, policy advocate, and passionate leader in the legal community. Ms. Ongiri is the Managing Attorney in the State Bar of California's Office of Professional Competence. In this role, she manages the Ethics hotline and the support side of the Lawyer Assistance Program. Additionally, she has lead responsibility for devising and developing the State Bar's preventative education curriculum.

She previously worked at the Judicial Council of California as counsel for its Advisory Committee on Providing Access and Fairness and created a preventative curriculum for judicial officers statewide. Ms. Ongiri has a strong background in adult-centered learning and developing curricula that engage the learner. Prior to joining the Judicial Council, she practiced appellate law as a Deputy Attorney General in the Health, Education and Welfare Section of the Office of the Attorney General, California Department of Justice and at the Family Violence Appellate Project.

Ms. Ongiri has trained statewide on Recognizing and Disrupting Bias, Judicial Diversity, Appellate Practice, Child Support, and other topics at numerous conferences, including for the Justices of the California Supreme Court, the State Bar of California Annual Meeting, Child Support Directors Association of California Annual Conference, and the California Family Law and Self-Help Conference.

Ms. Ongiri's awards include being recognized by the National Bar Association and IMPACT as one of the 40 Lawyers under 40: Nation's Best Advocates; she also received individual distinction for Excellence in Service. She has received the President's Award from the California Association of Black Lawyers and the Charles Houston Bar Association. Ms. Ongiri currently serves as the President of the Earl Warren American Inn of Court and is the Past President of the Charles Houston Bar Association.

Ms. Ongiri received her Bachelor of Science from Drexel University and her Juris Doctorate from the University of California Hastings College of the Law.

Michael Johnson
Outgoing Cochair, Bench-Bar Coalition Executive Committee
Northern/Central Region



Mr. Johnson is currently a Co-Chair of the BBC and will serve again in that capacity for the 2022-2023 term.

In 2021, Mr. Johnson joined the Warner Bros. Discovery, Inc. Legal Department where he serves as Senior Counsel in the Direct to Consumer, Technology Legal Group. In that capacity, Mr. Johnson provides legal support, advice and counsel to the Chief Technology Officer, and is responsible for spearheading the drafting, negotiation and closing of complex technology agreements for cloud, SaaS and partnership agreements.

Prior to joining the Warner Bros. Legal Department Mr. Johnson served as Assistant Vice President, Senior Legal Counsel for AT&T's Enterprise business and medical business customer segments. In that capacity, Mr. Johnson was responsible for providing advice and counsel, litigation strategy recommendations and evaluation of legal risk to AT&T's corporate officers and senior business leadership regarding compliance with applicable federal and state commercial sales regulations; HIPAA; COPRA; GDPR; CCPA; FCPA; CPNI; advertising; privacy; data protection; intellectual property and licensing as well as supervision and hands-on management of outside litigation counsel.

Mr. Johnson's professional and community organization memberships are extensive and include the following:

- Charles Houston Bar Association, **General Counsel** (2019 – present)
- Alameda County Bar Association, **Past President** (2018)
- Alameda County Bar Association, Access Legal, **Past President** (2016)
- American Bar Association, **Member**
- Association of Corporate Counsel, **Member**
- Review Committee, Judicial Nominees Eval. Comm., State Bar of California, **Chairman** (2104-2015)
- Judicial Nominees Evaluation Committee, State Bar of California, **Commissioner** (Beginning, 2009 to 2012)
- Subcommittee for Moral Character Determinations, Committee of Bar Examiners, State Bar of California, **Chairman**, (2001-2002)
- Committee of Bar Examiners, State Bar of California, **Committee Member**, (1999-2003)
- Big Brothers/Big Sisters of the East Bay, **Board of Directors**, (1999-2002)
- DeAnza Law Project, **Student Coach**
- Ethnic Minority Relations Committee, State Bar of California, **Chairman** (1998-1999)
- International Association of Privacy Professionals, **Member**

Oliver Dunlap
Outgoing Member at Large, Bench-Bar Coalition Executive Committee
Northern/Central Region



Oliver Dunlap is a Principal at Bartko Zankel Bunzel & Miller. He is a civil litigator and trial attorney with extensive experience in a broad range of complex matters, including work with clients in the life sciences, healthcare, technology, financial services, and energy and resources industries. He has successfully litigated matters involving class actions, antitrust, mass torts, complex commercial disputes, franchisor liability, products liability, business litigation, intellectual property, toxic torts and environmental defense, securities and internal investigations, international human and civil rights, and wine law. Oliver regularly represents Fortune 500 and 1000 companies and industry leaders, as well as mid-sized corporations and start-ups, always with an eye to both his clients' litigation and business goals.

Prior to joining Bartko, Oliver worked at King & Spalding and Morrison & Foerster, and served with the Office of the Prosecutor at the Yugoslavia and Rwanda War Crimes Tribunal. He has significant state and federal experience, and has led multi-firm and office teams in international complex litigation and in responding to major state and federal government investigations. He actively participates in community organizations, state bar and pro bono work, and professional diversity and training initiatives, serving on the Board of Directors for various youth services not-for-profits, the Conference of California Bar Associations, the Bench Bar Coalition, various CJA committees, and the Leadership Council's Legal Diversity initiative.



BENCH-BAR COALITION

2023-2024 Calendar

| | | |
|---|--|---|
| Monday October 30, 2023 | | BBC Quarterly Membership Meeting |
| January 3, 2024 | | 2023-2024 Legislative Session begins |
| Monday January 29, 2024 | | BBC Quarterly Membership Meeting |
| February / March 2024 (Tentative) | | 2024 Day in Sacramento |
| Monday April 29, 2024 | | BBC Quarterly Membership Meeting |
| Monday July 29, 2024 | | BBC Quarterly Membership Meeting |
| September/October 2024 (Tentative) | | 2024 BBC Annual Fall Meeting |
| Monday October 28, 2024 | | BBC Quarterly Membership Meeting |



Judicial Council of California

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M E M O R A N D U M

Date

June 28, 2023

Action Requested

For Your Information

To

Judicial Officers, Court Administrators, and
Employees of the California Judicial Branch

Deadline

N/A

From

Millicent Tidwell
Acting Administrative Director
Judicial Council

Contact

Zlatko Theodorovic, Director
Budget Services
916-263-1397 phone
zlatko.theodorovic@jud.ca.gov

Subject

2023–24 Judicial Branch Budget

The Budget Act of 2023, for the new fiscal year beginning July 1, 2023, was signed into law by Governor Newsom on June 27. Back in January, the Governor projected a \$22.5 billion budget shortfall for fiscal year 2023–24 due to declining state revenues. The May Revision to the budget subsequently projected a larger shortfall of \$31.5 billion. The enacted budget addresses the projected shortfall through a combination of trigger cuts, delays, and withdrawals or reductions of planned one-time spending. It is anticipated that the Governor and Legislature will continue to finalize the 2023–24 budget over the next several months through additional budget-related bills.

For California’s judicial branch, the total budget of \$5.2 billion includes a net increase of \$426.9 million, with no cuts to court operational funding. Appropriations are included for the following key priorities for the judicial branch:

- 1) An inflationary adjustment to account for trial court operational cost increases;
- 2) Backfill for declining fine, fee, and penalty revenue;
- 3) Resources to implement new laws that support court access;
- 4) An increase in funding to support implementation of the Community Assistance, Recovery, and Empowerment Act; and
- 5) Funding for judicial branch facilities’ needs.

Because of the Internal Revenue Service’s decision to extend 2023 tax filing deadlines to October due to winter storms, and California’s subsequent conformity, the budget assumes approximately \$42 billion in scheduled tax receipts will be delayed until October 2023. Should these tax receipts not materialize as forecasted, the Governor and Legislature may need to consider additional budget solutions.

To assist the state in bridging the budget gap, the judicial branch returned past year unspent funds to the General Fund (see Budget Solutions and Adjustments below).

The breakdown of the 2023–24 enacted budget for all judicial branch entities is detailed in the chart below.

Judicial Branch Funding for Fiscal Year 2023–24

| Judicial Branch Entity | Total Funding (\$ in millions) |
|---|-----------------------------------|
| Supreme Court | \$56.9 m |
| Courts of Appeal | \$283.7 m |
| Trial Courts | \$3,982.0 m |
| Judicial Council | \$360.8 m |
| Judicial Branch Facility Program | \$563.7 m |
| Habeas Corpus Resource Center | \$19.6 m |
| Subtotal, Operational Budget | \$5,266.9 m |
| Offset from Local Property Tax Revenue | -\$247.6 m |
| Adjusted Operational Budget | \$5,019.3 m |
| Less Nonstate Funds ¹ | -\$186.5 m |
| Adjusted Operational Budget, State Funds | \$4,832.1 m |
| Court Construction Projects² | \$172.2 m |
| Total Funding (Sum of Adjusted Operational Budget and Court Construction Projects)³ | \$5,191.6 m |

Some totals will not be exact because of rounding.

¹ Includes federal funds and reimbursements.

² Includes additional funding for current projects.

³ Includes General Fund; special, bond, federal, and non-governmental cost funds; and reimbursements.

Trial Courts and Judicial Entities at the State Level

Inflationary Adjustment for Trial Court Operations: \$74.1 million ongoing General Fund to provide a 3.0 percent increase in recognition of trial court operational cost pressures due to rising inflation. This funding is intended to benefit all trial courts.

Trial Court Trust Fund Backfill: \$105.1 million General Fund backfill for the Trial Court Trust Fund related to the continued decline in civil fee and criminal fine and penalty revenues. This amount reflects the updated estimate of need in fiscal year 2023–24, after including the adjustments in the backfill calculation described in the Budget Solutions and Adjustments below.

Community Assistance, Recovery, and Empowerment (CARE) Act Support: \$55.5 million General Fund in 2023–24, \$106.9 million in 2024–25, and \$133 million ongoing for CARE Act implementation. This funding reflects updated program costs, including legal representation, and the addition of the Superior Court of Los Angeles County in Cohort One¹. The budget includes budget bill language that allows the carry-over of unexpended trial court and Judicial Council funding from 2022–23 into 2023–24 to support program activities.

Court Interpreters Workforce Pilot Program: Reappropriation of up to \$6.8 million one-time General Fund from unspent funding in the Budget Act of 2021 for the Court Interpreter Employee Incentive Grant program for implementation of the Workforce Pilot Program to expand the pool of court interpreters.

Language Access Efforts: An annual increase of \$200,000 in expenditure authority from the Court Interpreters' Fund beginning in 2023–24 for five fiscal years to address the shortage of qualified interpreters by providing trainings for near passers of the bilingual interpreting examination. The budget includes budget bill language that allows yearly adjustments to the expenditure authority as needed to help expand the court interpreter pool.

Trial Court Employee Costs: An ongoing reduction of \$1.8 million General Fund for trial court employee health benefit and retirement costs due to updated rates.

State-Level Judiciary Employee and Judicial Officer Costs: \$32.5 million to adjust retirement, salary, and benefit costs previously approved in the Budget Act of 2022 for employees of the Supreme Court (\$1.4 million), Courts of Appeal (\$7.3 million), Judicial Council (\$7.7 million), and Habeas Corpus Resource Center (\$605,000), and for compensation of superior court judges (\$14.9 million) and temporary assigned judges (\$587,000).

¹ Cohort One: Superior Courts of Glenn, Los Angeles, Orange, Riverside, San Diego, San Francisco, Stanislaus, and Tuolumne Counties.

California Racial Justice Act: \$2.9 million one-time General Fund available until June 30, 2026 for implementation of the California Racial Justice Act (Ch. 317, Stats. of 2020). This includes \$2.7 million for the Supreme Court for legal representation in capital cases (\$2.2 million) and contracting with the California Appellate Project (\$500,000), and \$250,000 for the Habeas Corpus Resource Center to provide assistance in capital cases regarding potential or actual claims pursuant to Penal Code sections 745 or 1473(f).

Infrastructure Process Reforms: \$1.0 million one-time General Fund available until June 30, 2025 for the Judicial Council to increase judicial officer training related to California Environmental Quality Act cases. This funding is intended to help the judicial branch respond to the state's efforts to accelerate clean infrastructure projects.

Appellate Court Security: \$1.4 million from the Appellate Court Trust Fund, beginning in 2023–24 for three fiscal years, to support four additional California Highway Patrol Judicial Protection Section officers to improve the safety of court employees, court users, and the public. The budget includes trailer bill language to allow the Judicial Council to spend resources from the Appellate Court Trust Fund to continue to manage this security contract on behalf of the Courts of Appeal.

Courts of Appeal Workload: \$2.7 million in 2023–24 and \$2.3 million in 2024–25 and 2025–26 from the Appellate Court Trust Fund to address existing workload, reduce backlogs, and prevent case delays in appellate districts.

Extended Availability of Pretrial Funding: Budget bill language to extend the availability of pretrial funding appropriated in the Budget Acts of 2021 and 2022 until June 30, 2024.

Firearm Relinquishment Grant Reimbursement Authority: \$5.8 million in 2023–24 and \$5.6 million in 2024–25 and 2025–26 for a three-year grant agreement (total of \$17 million) with the Board of State and Community Corrections for the Byrne State Crisis Intervention Program. This funding will support a statewide project to improve execution of firearm relinquishment orders and expand collaborative courts.

Expand Firearm Relinquishment Program from the Budget Act of 2022: The budget includes budget bill language to expand the use of \$40 million one-time General Fund included in the Budget Act of 2022 to support both civil and criminal court-ordered firearm relinquishment pilot programs.

Legal Support for Court Rules and User-Friendly Forms: \$838,000 General Fund in 2023–24 and \$1.6 million ongoing to implement new laws through rules of court and forms. This funding will provide user-friendly forms and tools that advance the judicial branch's commitment to removing barriers to court access and case resolution.

Extension of Remote Civil Proceedings: Trailer bill language to extend the sunset date for remote civil proceedings from July 1, 2023 to January 1, 2026. This includes additional procedural protections for civil commitments and juvenile justice cases.

Elimination of Sunset for Various Fees: Trailer bill language to eliminate the sunset date of June 30, 2023, for various fees that support trial court base allocations. These fees have generated revenue averaging \$36.7 million over the last five years. Absent this elimination, there would be a reduced allocation to trial courts that would affect court operations and access to justice.

Criminal Fee Elimination: \$1.2 million ongoing General Fund in 2023–24 and trailer bill language for additional criminal fee relief. Of this amount, \$826,000 will be allocated to the trial courts and \$374,000 will be for the counties.

Legal Aid Loan Repayment Assistance Program: \$250,000 ongoing General Fund in 2023–24 and trailer bill language for the California Access to Justice Commission to administer a loan repayment program to help recruit and retain legal aid attorneys. Trailer bill language will also establish the commission in statute.

Rent Costs: \$6.1 million General Fund reduction to account for lower rent costs in buildings occupied by the Supreme Court, Courts of Appeal, Judicial Council, and Habeas Corpus Resource Center.

Court Appointed Special Advocate (CASA) Funding: Retention of \$20 million General Fund in 2023–24 and 2024–25, \$40 million in total, to support CASA programs throughout the state.

Budget Solutions and Adjustments

Deferred Maintenance: \$49.5 million General Fund reduction from the \$188 million for deferred maintenance approved in the Budget Act of 2021. This reflects the unspent amount that is available to return to the General Fund to help offset the decline in state revenues.

Return of Unspent Funding: Return of \$40.7 million in unspent funding from prior years in 2022–23 related to cannabis convictions resentencing, increased court reporters and transcript fees, and pretrial services. This funding is no longer needed for these purposes.

Reduced Backfill Need: A total reduction in backfill of \$92.9 million in 2022–23 and \$75.3 million in 2023–24 due to updated estimates of need. These amounts include the following backfill adjustments:

- Trial Court Trust Fund – A reduction of \$66.5 million in 2022–23 and \$4.2 million in 2023–24, which results in a backfill amount of \$105.1 million in 2023–24.
- State Court Facilities Construction Fund – A reduction of \$34 million in 2023–24.

- Income Threshold Fee Waivers – An ongoing reduction of \$16.4 million beginning in 2022–23.
- Ability to Pay Program – A reduction of \$10 million in 2022–23 and \$20.7 million in 2023–24.

Superior Court of Monterey County – New Fort Ord Courthouse Acquisition Reversion:

\$25 million was returned to the General Fund in 2022–23 from the existing acquisition phase authority provided in the Budget Act of 2021. The property selected for the project will be donated to the state, resulting in a reduced need for the land purchase price.

Enacted Legislation

Jury Duty Pilot and Juror Reimbursement Increase (Assembly Bill [AB] 1981): \$19 million General Fund in 2023–24 and \$17.5 million General Fund in 2024–25 to conduct a two-year pilot program in at least six courts to study whether increases in juror compensation and mileage reimbursement rates increase juror diversity and participation as required by AB 1981 (Ch. 326, Stats. of 2022). The budget also includes \$4.2 million ongoing General Fund for increases in juror mileage and public transit reimbursements as required by this legislation.

Community Mental Health Services Data Collection (Senate Bill [SB] 929): \$3.8 million General Fund in 2023–24, \$3.3 million in 2024–25, and \$2 million ongoing beginning in 2025–26 to comply with data collection requirements pursuant to SB 929 (Ch. 539, Stats. of 2022) related to community mental health services.

Signage for Charles James Ogletree, Jr. Courthouse (AB 2268): \$440,000 one-time General Fund in 2023–24 to fund the design, fabrication, and installation of new signage to rename the Superior Court of Merced County’s main courthouse as the Charles James Ogletree, Jr. Courthouse pursuant to AB 2268 (Ch. 410, Stats. of 2022).

Courthouse Lactation Facilities (AB 1576): Trailer bill language to delay the implementation of AB 1576 (Ch. 200, Stats. of 2022) to July 1, 2026. AB 1576 requires the Judicial Council to expand access to courthouse lactation facilities for court users. Funding will be provided to the branch in 2024–25 to comply with these requirements.

Judicial Branch Facilities

State Court Facilities Construction Fund Solvency: \$55.5 million General Fund in 2023–24, increasing to \$174.5 million in 2025–26 and ongoing to address the structural deficit in the construction fund and maintain existing service levels. The \$55.5 million ongoing General Fund

is to backfill trial court operations costs currently supported by the construction fund. In 2025–26, in addition to the \$55.5 million, the backfill will increase by \$119 million ongoing to cover existing obligations and ensure an adequate fund balance.

Facility Operations and Maintenance: \$6 million ongoing General Fund for increased trial court facilities operations and maintenance costs in seven newly constructed courthouses projected to open in 2023–24.

Court Construction: \$19.2 million General Fund and \$153 million Public Buildings Construction Fund in 2023–24 to fund two new projects and continue the next phase of previously approved projects:

New Projects:

- Nevada County – New Nevada City Courthouse – \$8.1 million for acquisition
- Santa Clara County – Court of Appeal, New Sixth Appellate District Courthouse – \$2.8 million for performance criteria

Additional Funding for Previously Approved Projects:

- Monterey County – New Fort Ord Courthouse – \$153 million for design-build
- San Bernardino County – Juvenile Dependency Courthouse Addition and Renovation – \$8.3 million for construction

The 2023–24 Budget may be reviewed in its entirety at: <https://ebudget.ca.gov/>.

MT/ZT



JUDICIAL COUNCIL OF CALIFORNIA

GOVERNMENTAL AFFAIRS

BBC LEGISLATIVE UPDATE

September 22, 2023

Civil

[SB 71 \(Umberg\) Jurisdiction: small claims and limited civil cases](#)

Increases the small claims court jurisdiction over actions brought by a natural person, if the amount does not exceed \$12,500, except as specified, and would also increase the amount in controversy permitted in other specified actions within the jurisdiction of the small claims court. Increases the limit on the amount in controversy for an action or special proceeding to be treated as a limited civil case to \$35,000. Makes technical, nonsubstantive changes to these provisions and makes conforming changes.

Status of SB 71: Amended in the Assembly on July 11, 2023. Approved by the Legislature. Enrolled and presented to the Governor on September 18, 2023.

[SB 662 \(Rubio\) Courts: court reporters](#)

Among other things, permits a court to electronically record any civil case if approved electronic recording (ER) equipment is available. Requires that the court make every effort to hire a court reporter before electing to electronically record the action or proceedings, as specified. Requires a court to provide a certified shorthand reporter the right of first refusal to transcribe an electronically reported proceeding. Requires the Judicial Council to adopt rules and standards regarding the use of electronic recordings to ensure recordings can be easily transcribed.

Requires the Court Reporters Board of California, in consultation with the Office of Professional Examination Services of the Department of Consumer Affairs, to evaluate the necessity of requiring applicants who have passed either the National Court Reporters Association's or the National Verbatim Reporters Association's certification examination to demonstrate competency as a certified shorthand reporter. Further requires the board to submit its findings to the Legislature on or before June 1, 2024. Authorizes the board to replace the state-specific examination requirements with the National Court Reporters Association's or the National Verbatim Reporters Association's certification examination if the board concludes that the current state-specific examination is not necessary to establish a minimum level of competency of shorthand reporters and that the examination poses a barrier to licensure as a shorthand reporter.

Finally, requires the Judicial Council to collect information from courts regarding how they are utilizing funds appropriated to recruit and hire court reporters. Requires, beginning January 1,

2025, and annually thereafter until all such funds are expended, the Judicial Council to report to the Legislature the efforts courts have taken to hire and retain court reporters and how the funds appropriated for this purpose have been spent.

Status of SB 662: Amended in the Senate on April 27, 2023. Approved by Senate Judiciary Committee. Approved by Senate Business, Professions, and Economic Development Committee and rereferred to Appropriations Committee. Two-year bill pending in Senate Appropriations Committee.

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| Criminal |
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SB 94 (Cortese) Recall and resentencing: special circumstances

Authorizes an individual serving a sentence of life imprisonment without the possibility of parole for a conviction in which one or more special circumstances were found to be true to petition for recall and resentencing if the offense occurred before June 5, 1990, and the individual has served at least 25 years in custody. Would exempt individuals from relief under these provisions under certain circumstances, including if the individual was convicted of first-degree murder of a peace officer, as specified. Authorizes the court to modify the petitioner’s sentence to impose a lesser sentence and apply any changes in law that reduce sentences or provide for judicial discretion, or to vacate the petitioner’s conviction and impose judgment on a lesser included offense, as specified.

Status of SB 94: Amended in the Assembly on September 7, 2023. Approved by the Senate. Approved by Public Safety Committee. Approved by Assembly Appropriations Committee. Pending on the Assembly Floor, ordered to the Inactive File.

AB 567 (Ting) Criminal records: relief

Removes the language making the following requirement subject to an appropriation: the Department of Justice, must monthly, review the records in the statewide criminal justice databases and identify persons who are eligible for automatic conviction record relief and to notify courts. Under existing law, a person is eligible for automatic conviction record relief if, on or after January 1, 1973, they were sentenced to probation, and completed it without revocation, or if they were convicted of an infraction or a misdemeanor, and other criteria are met, and commencing July 1, 2023, certain felonies. This bill extends that commencement date to July 1, 2024.

Also prohibits subsequent events, including new criminal records related to the subject of the record, from affecting relief already granted.

Status of AB 567: Amended in the Senate on September 1, 2023. Approved by the Legislature. Enrolled and presented to the Governor on September 13, 2023.

AB 600 (Ting) Criminal procedure: resentencing

Authorizes a court to recall a sentence, on its own motion, at any time if the applicable sentencing laws at the time of original sentencing are subsequently changed due to new statutory or case law authority. Eliminates the requirement that the district attorney or Attorney General concur with the resentencing court's decision to vacate the defendant's conviction and resentence the defendant to a reduced term of imprisonment except where the conviction was the result of a plea bargain.

Status of AB 600: Amended in the Senate on September 7, 2023. Approved by the Legislature. Ordered to engrossing and enrolling.

AB 791 (Ramos) Postconviction bail

Prohibits a person convicted of an offense punishable by life without the possibility of parole from being released on bail. By requiring county jails to hold additional defendants, this bill would impose a state-mandated local program.

Status of AB 791: Amended in the Assembly on April 26, 2023. Approved by the Legislature. Enrolled and presented to the Governor on September 13, 2023.

SB 441 (Bradford) Criminal procedure: discovery

Amends Proposition 115 by additionally requiring the prosecuting attorney, in a felony case, to disclose that information to the defendant or their attorney before or at the preliminary hearing, as specified. Authorizes a party in a felony case in which the defendant has not waived the right to a preliminary hearing within 10 court days to seek a court order of disclosures if opposing counsel does not provide materials within 3 days. Authorizes a court, except as specified, to issue an order compelling discovery directed to prosecuting attorneys, law enforcement agencies that investigated or prepared the case against the defendant, or any other persons or agencies which the prosecuting attorney or investigating agency may have employed to assist them in performing their duties. Requires the court, when the court has issued an order compelling discovery, to, upon motion of the defendant, continue the preliminary hearing until all of the court-ordered discovery has been produced to the defendant.

Status of SB 441: Amended in the Assembly on September 5, 2023. Approved by the Senate. Approved by Assembly Public Safety Committee. Approved by Senate Appropriations Committee. Pending on the Assembly Floor, ordered to the Inactive File.

AB 1310 (McKinnor) Sentencing: recall and resentencing

Authorizes a person who, on or before January 1 2018, suffered a conviction of firearm enhancements to petition the court for resentencing. Requires the court during that resentencing to have a presumption for resentencing, which may only be overcome if a court finds the defendant is an unreasonable risk of danger to public safety and requires the court to dismiss those enhancements if it is in the furtherance of justice to do so, except as specified. Requires the court to appoint counsel for a hearing under these provisions.

Status of AB 1310: Amended in the Senate on July 13, 2023. Approved by the Assembly. Approved by Senate Public Safety Committee. Held on the suspense file in Senate Appropriations Committee.

SB 749 (Smallwood-Cuevas) Criminal procedure: sentencing

Amends Proposition 47 to remove the November 4, 2022 filing deadline and the showing of good cause requirement for a petition to be filed at a later date.

Status of SB 749: Introduced on February 17, 2023. Approved by the Legislature. Ordered to engrossing and enrolling.

AB 61 (Bryan) Criminal procedure: arraignments

Removes the weekends and holidays exemption, thereby requiring a person to be taken before the court within 48 hours of their arrest, or to be released, except that if the 48-hour period expires at a time that the court is in session, the arraignment can occur anytime that day.

Requires that this initial appearance be an arraignment and include the consideration of conditions of release or bail. Requires the court to make an initial determination of probable cause, as specified. Requires that if the court makes an initial finding of no probable cause, the court order the person be released immediately. Further prohibits any juvenile from being held more than 48 hours if they did not receive an initial judicial determination of probable cause.

Note: Estimated fiscal impact ranging from \$28.5 million to \$50 million for facility and staffing costs based on courthouses (that handle arraignments) being open either for one or both days per weekend and all holidays. Since AB 61 failed to advance by the June 2nd house of origin deadline, it will not be eligible to move forward until January 2024.

Status of AB 61: Amended in the Assembly on March 8, 2023. Ordered to the Assembly inactive file at request of the author.

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| Remote Proceedings |
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SB 21 (Umberg) Civil actions: remote proceedings: continuances and postponements

Authorizes, until January 1, 2026, a party to appear remotely and a court to conduct conferences, hearings, proceedings, and trials in civil cases, in whole or in part, through the use of remote technology, and excludes juvenile delinquency and civil commitment proceeding from these provisions.

Authorizes, until January 1, 2026, a court to conduct an adoption finalization hearing, in whole or in part, through the use of remote technology, without the court making specific findings and prohibits a court from requiring a party to appear through the use of remote technology. Further requires each superior court to report to the Judicial Council on or before October 1, 2023, and annually thereafter, and requires the Judicial Council to report to the Legislature on or before December 31, 2023, and annually thereafter, to assess the impact of technology issues or

problems affecting civil remote proceedings and purchases and leases of technology and equipment to facilitate civil remote conferences, hearings, or proceedings.

Status of SB 21: Amended in the Senate on February 23, 2023. Approved by the Senate. Approved by Assembly Judiciary Committee and rereferred to Appropriations Committee with recommendation to consent calendar. Hearing canceled at the request of author.

The contents of both SB 21 and SB 22 were amended into budget trailer bill language and signed by the Governor ([AB 133](#)) on June 30, 2023.

[SB 22](#) (Umberg) Courts: remote proceedings

Authorizes, until January 1, 2026, a party to appear remotely and a court to conduct conferences, hearings, proceedings, and trials in specific types of proceedings, including, among others, a juvenile court proceeding and an extension of a juvenile commitment, in whole or in part, through the use of remote technology. Authorizes the court to require a party or witness to appear in person at a conference, hearing, or proceeding, if any specified condition is present. Requires the court to have a process for a party, court reporter, court interpreter, or other court personnel to alert the judicial officer of technology or audibility issues. Prohibits a court from requiring a party to appear remotely. Allows self-represented parties to appear remotely only if they agree to do so. Requires the Judicial Council to adopt rules to implement these provisions. Further requires each superior court to report to the Judicial Council on or before October 1, 2023, and annually thereafter, and requires the Judicial Council to report to the Legislature on or before December 31, 2023, and annually thereafter, to assess the impact of technology issues or problems affecting civil remote proceedings and purchases and leases of technology and equipment to facilitate civil remote conferences, hearings, or proceedings.

Status of SB 22: Amended in the Senate on March 30, 2023. Approved by the Senate. Referred to Judiciary Committee and Public Safety Committee.

The contents of both SB 21 and SB 22 were amended into budget trailer bill language and signed by the Governor ([AB 133](#)) on June 30, 2023.

[SB 99](#) (Umberg) Courts: remote proceedings

Extends the sunset on remote criminal proceedings that expire on January 1, 2024, until January 1, 2028.

Note: Leadership staff and the Governor's office agreed to park both SB 99 and AB 1214 for now and convene folks to work on language over Summer Recess.

Status of SB 99: Amended in the Senate on April 10, 2023. Approved by the Senate. Referred to Public Safety Committee. Hearing canceled at request of author.

[AB 1214](#) (Maeinschein) criminal remote proceedings

This bill would, until January 1, 2026, instead allow, if the defendant agrees and the court consents, a defendant in a misdemeanor matter to appear through remote technology, as defined,

for any noncritical portion of a proceeding when no sworn testimony is taken. Allows a defendant in a felony matter to participate, upon their request and with leave of the court, in the initial court appearance, arraignment, entry of plea, bail hearings, resentencing hearings, and motion hearings and conferences when no sworn testimony is taken, through remote technology, as specified. Specifies that these provisions do not authorize the use of remote technology for a jury or court trial. Requires the waiver of a defendant's personal appearance in a felony matter to include that the defendant knowingly, intelligently, and voluntarily waives the right to be present at the hearing or other proceeding. Authorizes a court to permit a witness in misdemeanor or felony proceedings to testify through the use of remote technology, except as specified. Authorizes the defendant to consent to appear remotely for noncritical portions of criminal proceedings when no sworn testimony is taken. Requires defense counsel, the prosecution, and the judicial officer to be present in the courtroom if the defendant is physically present in the courtroom.

Note: The council is opposed to AB 1214. The June 13, 2023 amendments do not address the council's concerns and the council submitted an [updated opposition letter](#). For example, AB 1214 would:

- Prohibit remote sworn testimony in misdemeanor and felony proceedings and limits the remote option to "noncritical portions of the proceeding. Due to the fluid nature of criminal proceedings and the variety of practices across the 58 county courts, there is potential for any hearing to involve the taking of sworn testimony.
- Continue to exclude witness testimony, with a few exceptions relating to victims of certain sex crimes from remote proceedings which will disadvantage defendants and impact their access to justice.
- Limit the option of prisoners to appear remotely in proceedings, including trials, to resentencing hearings.
- Still does not revise GC 71651.5 relating to retaliation.

The June 29 amendments strike the general anti-retaliation language:

~~71651.1. A trial court shall not retaliate or threaten to retaliate against an official reporter or official reporter pro tempore who notifies the judicial officer that technology or audibility issues are impeding the creation of the verbatim records of a proceeding that includes participation through remote technology.~~

Status of AB 1214: Amended in the Senate on June 29, 2023. Approved by the Assembly. Approved by Senate Public Safety Committee and rereferred to Judiciary Committee. Hearing canceled at request of author.

Negotiations were unable to resolve all of the outstanding issues on criminal remote ... a one-year extension of the sunset to January 1, 2025 was included in [SB 135](#) (public safety budget trailer bill). Signed by the Governor (Stats. 2023, ch. 190).

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| Traffic |
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SB 50 (Bradford) Vehicles: enforcement

Prohibits a peace officer from stopping or detaining the operator of a motor vehicle or bicycle for a low-level infraction, as defined, unless a separate, independent basis for a stop exists or more than one low-level infraction is observed. States that a violation of these provisions is not grounds for a defendant to move for return of property or to suppress evidence. Authorizes a peace officer who does not have grounds to stop a vehicle or bicycle, but can determine the identity of the owner, to send a citation or warning letter to the owner.

Status of SB 50: Amended in the Assembly on September 7, 2023. Approved by the Senate. Pending on the Assembly Floor, ordered to the Inactive File.

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| Child Welfare |
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SB 9 (Cortese) Raising the Age for Extended Foster Care Act of 2023

Expands the dependency and transitional jurisdiction of the juvenile court to a nonminor who has not attained 26 years of age, among other requirements, and would expand the eligibility of foster care benefits by revising the definition of nonminor dependent to include a foster child who meets the above-described requirements and is not older than 26 years of age.

Status of SB 9: Amended in the Senate on May 18, 2023. Approved by the Senate. Approved by Assembly Human Services Committee and Judiciary Committee. Rereferred to Appropriations Committee. In possession of the appropriations committee since 6/27 with no hearing date.

AB 273 (Ramos) Foster care: missing children and nonminor dependents

The Luke Madrigal Act, would, among other things, additionally require the social worker or probation officer, when they receive information that a child receiving child welfare services is absent from foster care to, among other things, engage in ongoing and intensive due diligence efforts, as defined, to locate, place, and stabilize the child, request that the juvenile court schedule a hearing to review the placement and the ongoing and intensive due diligence efforts to locate and return the child, notify specified individuals whose whereabouts are known about the hearing, and prepare, submit, and serve a report at the hearing and any subsequent hearings describing their ongoing and intensive due diligence efforts to locate, place, and stabilize the child. Requires the court to consider the safety of the child receiving child welfare services who is absent from foster care to determine the extent of the activities and compliance of the county with the case plan in making ongoing and intensive due diligence efforts to locate and return the child to a safe placement, and to continue to periodically review their case at least every 30 calendar days, as specified. Defines “absent from foster care” to mean when the whereabouts of a child receiving child welfare services is unknown to the county child welfare agency or probation department or when the county child welfare agency or probation department has located the child receiving child welfare services in a location not approved by the court that may pose a risk to the child.

Status of AB 273: Amended in the Senate on September 1, 2023. Approved by the Legislature. Ordered to engrossing and enrolling.

[SB 578 \(Ashby\) Juvenile court: dependents: removal](#)

Requires the court to, in determining whether continuance in the parent’s or guardian’s home is contrary to the child’s welfare, consider the report of the social worker that must address the short-term and long-term harms to the child, and in the case of an Indian child, the child’s connection to their tribal community, that may result from the continued removal by reviewing the social worker’s report and any other evidence in considering the previously mentioned factors of the harms of removal. If the court finds that removal is necessary, the bill requires the court to set forth, in a written order or on the record, the child’s placement and the basis for its findings and any other measures to be taken to alleviate disruption and minimize the harms of removal for the child, among other things. By imposing additional duties on counties, the bill imposes a state-mandated local program.

Status of SB 578: Amended in the Assembly on September 7, 2023. Approved by the Legislature. Ordered to engrossing and enrolling.

[AB 937 \(McKinnor\) Dependency: family reunification services](#)

Clarifies that the court shall also specify its factual basis for its conclusion that reasonable services have not been provided to the parent or guardian if the court extends the services on that basis. Requires the court to extend reunification services for an additional 6 months if the court determines at the 18-month permanency hearing those reasonable services have not been provided. By imposing additional duties on counties, this bill would impose a state-mandated local program.

Status of AB 937: Amended in the Senate on September 7, 2023. Approved by the Legislature. Ordered to engrossing and enrolling.

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| Family Law |
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[SB 343 \(Skinner\) Child support](#)

Modifies the statewide uniform child support guidelines and low-income adjustment, modifies certain provisions relating to childcare costs and other aspects of calculating support, and makes changes to the procedures for court-ordered child support to bring California into conformity with federal requirements.

Requires the Judicial Council, no later than September 1, 2024, to adopt and approve any forms necessary to implement those provisions. Makes those forms effective January 1, 2026.

Status of SB 343: Amended in the Assembly on June 28, 2023. Approved by the Legislature. Enrolled and presented to the Governor on September 13, 2023.

[AB 957 \(Wilson\) Family law: gender identity](#)

Existing law governs the determination of child custody and visitation in contested proceedings and requires the court, for purposes of deciding custody, to determine the best interests of the

child based on certain factors, including, among other things, the health, safety, and welfare of the child. This bill, for purposes of this provision, would include a parent’s affirmation of the child’s gender identity as part of the health, safety, and welfare of the child.

Status of AB 957: Amended in the Senate on August 17, 2023. Approved by the Legislature. Enrolled and presented to the Governor on September 14, 2023.

SB 459 (Rubio) Domestic violence: restraining orders

Requires the Judicial Council, on or before January 1, 2025, to create one or more specific forms for the purpose of requesting a modification of an existing restraining order.

Status of SB 459: Amended in the Assembly on August 31, 2023. Approved by the Legislature. Enrolled and presented to the Governor on September 15, 2023.

SB 599 (Caballero) Visitation rights

Requires the court, in determining whether to require limitations on visitation, to consider virtual visitation, as defined. Requires a court, if it finds that a party is staying at a domestic violence shelter or other confidential location, to order in-person visitation only if the court finds that in-person visitation is in the best interest of the child and taking into consideration, among other things, the potential for disclosure of the confidential location.

Status of SB 599: Amended in the Assembly on August 28, 2023. Approved by the Legislature. Enrolled and presented to the Governor on September 13, 2023.

Juvenile Justice

SB 603 (Rubio) Children’s advocacy centers: recordings

Requires the children’s advocacy center custodian or other identified multidisciplinary team member to ensure that all recordings of child forensic interviews be released only in response to a court order. Requires the court to issue a protective order as part of the release, unless the court finds good cause that disclosure of the interview should not be subject to such an order. Notwithstanding that provision, requires the children’s advocacy center or other identified multidisciplinary team member custodian to release a recording, upon request, to specified parties, including, among others, law enforcement agencies authorized to investigate child abuse. Authorizes the child advocacy center to use the recording for training, among other things. Prohibits the recording from becoming a public record in any legal proceeding and would require the court to order the recording be sealed and preserved at the conclusion of a criminal proceeding. Contains other related provisions and other existing laws.

Status of SB 603: Amended in the Assembly on August 28, 2023. Approved by the Legislature. Enrolled and presented to the Governor on September 11, 2023.

Juries

[AB 881](#) (Ting) Jury duty

Expands the existing pilot program in San Francisco to include, upon appropriation, four additional courts selected by the Judicial Council to reflect rural and urban diversity. The bill would require the Judicial Council to administer funding for the pilot program court and would authorize the Judicial Council to accept private or other funds for administration of the pilot program. Provides that the Superior Court of San Francisco may operate the pilot program using local, state, or other funding regardless of whether an appropriation is made for this purpose. Requires the pilot program court to collect data self-reported by jurors who receive the increased fee and would require the Judicial Council to prepare an analysis and report of that data and conclusion about the pilot program. Requires the pilot program court to terminate the pilot program on or before December 31, 2025, or at any time it determines the increased financial reimbursement is causing prejudice to the rights of litigants or the interests of justice. Repeals these provisions on January 1, 2027.

Status of AB 881: Amended in Senate on September 1, 2023. Approved by the Legislature. Enrolled and presented to the Governor on September 14, 2023.

Domestic Violence

[AB 467](#) (Gabriel) Domestic violence: restraining orders

Allows the court to issue a protective order restraining a defendant from any contact with the victim if the defendant has been convicted of a crime of domestic violence, human trafficking, a crime in furtherance of a criminal street gang, or a registerable sex offense. Under existing law, the protective order may be valid for up to 10 years, as determined by the court. This bill clarifies that the order may be modified by the sentencing court in the county in which it was issued throughout the duration of the order.

Status of AB 467: Amended in the Senate on June 7, 2023. Signed by the Governor (Stats. 2023, ch. 14).

Mental Health

[SB 35](#) (Umberg) Community Assistance, Recovery, and Empowerment (CARE) Act

Current law authorizes the department to grant an extension once, and no later than December 1, 2025. Authorizes the department to grant an extension no later than December 15, 2025.

SB 35 Round 2 Amends

1. **Extends hearing time frames for referrals from 1370.01(b)(1)(D)(iv)** from within 14 days to within 30 days. 30 days would allow time to the file petition following referral, the prima facie review by court, the initial appearance, and the hearing on merits. Without this change in the timeline, courts may not use this option. (Requested by Judicial Council)

2. **Clarifies provision on attorney’s duties** in the CARE Act to make it clear that counsel are under all their existing obligations when providing representation. (Requested by State Bar)
3. **Data sharing** amendments allows counties to share information with the courts.
4. Addresses **prima facia inconsistency** when the report does not support the petitions prima facie showing.
5. **Provides additional time to reach a CARE agreement.** Current language of section 5977.1(a) states that if the parties are likely to enter into an agreement, the court must approve that agreement or modify and then approve. This amendment would allow for the parties to come to an agreement.
6. **Court coordination for non-minor dependents.** Language to require coordination between courts when a respondent for whom a CARE petition has been filed is also under jurisdiction of the juvenile court.
7. Adds an **urgency clause** to take effect immediately.

Round 3/4 amends:

1. **Addresses confidentiality** issues in more detail to protect medical privacy, including providing that the respondent may petition the court for an order sealing their records, as specified, and the filing of such petition would create a presumption in favor of sealing and exempting reports made to determine eligibility for the CARE process from the Public Records Act.
2. **Provides the court with additional time** to determine eligibility after a referral of a misdemeanor defendant found incompetent to stand trial to give the court 14 court days from the date the CARE petition is filed by the agency.

Round 5 amends:

1. **Reduces hearing time frames for referrals from WIC Section 5978** from within 30 court days to within 14 court days to determine eligibility for the CARE program.
2. **Further addresses confidentiality** issues raised by the requirement that counties must include protected health information in reports to support conclusions and recommendations.

Status of SB 35: Amended in the Assembly on September 8, 2023. Approved by the Legislature. Ordered to engrossing and enrolling.

[AB 1412 \(Hart\) Pretrial diversion: borderline personality disorder](#)

Removes borderline personality disorder as an exclusion for pretrial diversion for a person suffering from a mental disorder. Delayed implementation to July 1, 2024.

Status of AB 1412: Amended in the Senate on September 6, 2023. Approved by the Legislature. Enrolled and presented to the Governor on September 19, 2023.

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| Probate |
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[SB 280 \(Laird\) Review of conservatorships: care plans](#)

Commencing January 1, 2025, requires a conservator, within 120 calendar days of appointment and not later than 10 days before a hearing to determine the continuation or termination of an existing conservatorship, and to file a care plan regarding the care, custody, and control of the conservatee. Requires care plan to be delivered to specified persons, including the conservatee and their attorney, but makes the care plan confidential, except as specified, thereby limiting public access to the records. Requires the Judicial Council to develop a mandatory form for the care plan, which would be required to include specified information, including descriptions of the conservatee’s living arrangement and level of care and any plans to modify those within the next 12 months. Imposes sanctions for a conservator’s failure to timely file a care plan, including authorizing the court to impose a civil penalty in any amount up to \$500, payable to the estate of the conservatee, and authorizing the court to remove a conservator for failure to file a care plan. Requires an investigator to review the most recent care plan as part of an investigation.

Status of SB 280: Amended in the Assembly on August 14, 2023. Approved by the Legislature. Enrolled and presented to the Governor on September 11, 2023.

Judgeships and Judicial Officers

SB 75 (Roth) Judgeships

Authorizes 26 new judgeships, subject to appropriation. Requires the Judicial Council to determine the allocation of those positions, pursuant to uniform criteria specified in current law.

Status of SB 75: Amended in the Senate on March 20, 2023. Approved by the Legislature. Enrolled and presented to the Governor on September 13, 2023.

SB 331 (Rubio) Child custody: child abuse and safety

Prohibits the court from ordering counseling, programs, or services to remediate the resistance of a child to connect with, or to improve a deficient relationship with, the parent seeking custody or visitation under specified circumstances, as defined. Requires court-ordered counseling, as specified, to comply with various requirements, including that it primarily address the behavior or contribution to the resistance of the child by the parent seeking custody or visitation before ordering the primary custodial parent to take steps to improve the child’s relationship with the parent seeking custody or visitation. Requires the court to state all of its reasons for ordering counseling, and the evidence it relied on, in a written order on the record. Requires the court to make findings that remediation is in the best interest of the child and that the parent seeking custody or visitation has shown they are willing to meaningfully participate in the counseling.

Existing law requires the Judicial Council to establish judicial training programs for individuals who perform duties in domestic violence matters. Existing law requires the training programs to include a domestic violence session in any orientation session for newly appointed or elected judges and an annual training session in domestic violence. Existing law requires the training programs to include instruction in all aspects of domestic violence, including, but not limited to, the detriment to children of residing with a person who perpetrates domestic violence.

This bill would repeal those provisions and instead require the Judicial Council to establish judicial training programs for individuals, including judges and judges pro tem, who perform duties in domestic violence and child custody matters, including, among other topics, child sexual abuse and coercive control, as specified. Require the Judicial Council to report annually on the training provided under this section.

Note: April 27 amendments removed the minimum 25-hour orientation training requirement and on-going 20-hours every three years training requirement from the bill.

Status of SB 331: Amended in the Assembly on September 8, 2023. Approved by the Legislature. Ordered to engrossing and enrolling.

AB 304 (Holden) Domestic violence: probation

Among other things, requires the Judicial Council to establish judicial training programs on all aspects of domestic violence and child custody matters for individuals, judicial officers and referees, guardians ad litem, custody evaluators, and child custody recommending counselors employed by the court. Periodic updates to training programs much include education on child sexual abuse, physical abuse, emotional abuse, and long and short-term impacts of domestic violence on children,

Status of AB 304: Amended in the Senate on September 8, 2023. Approved by the Legislature. Ordered to engrossing and enrolling.

Court Administration and Operations

ACA 4 (Bryan): Elections: Eligibility to vote

Constitutional amendment to remove the prohibition on incarcerated felons who are actively serving a prison term in either a state or federal prison from being eligible to vote.

Status of ACA 4: Introduced on February 6, 2023. Approved by the Assembly. Approved by Senate Elections Committee. Ordered to the Inactive File.

AB 432 (Fong) California Court Interpreter Workforce Pilot Program

Creates, until January 1, 2030, the California Court Interpreter Workforce Pilot Program to be administered by the Judicial Council to pay for training and testing to increase the number of eligible applicants for employment as court interpreters. Requires the Judicial Council, on or before September 1, 2024, to select a minimum of 4 counties, including the County of Los Angeles, to participate in the pilot program, and requires the Judicial Council to select up to 10 applicants per superior court in the program and begin accepting applications to the program beginning December 1, 2025. Requires the Judicial Council, on or before July 1, 2025, in collaboration with participating courts and designated labor organizations representing court interpreters in a county, to develop an employment plan for each participant who completes the program. Requires participants to agree to work for the courts for at least 3 years after successfully passing all required examinations and enrollment with the Judicial Council as a

court interpreter. Authorizes courts to require participants to pay back the costs of training, coursework, and exam fees on a prorated basis based on the length of employment if under 3 years, except as specified.

Note: The Budget Act of 2023 ([SB 101 Skinner, Stats. 2023, ch. 12](#)) contains budget control language to implement and fund the California Court Interpreter Workforce Pilot Program that includes language that addresses Judicial Council concerns.

Status of AB 432: Amended in the Senate on June 26, 2023. Approved by the Assembly. Amended and rereferred to Judiciary Committee.

[AB 875 \(Gabriel\) Courts: data reporting related to the Sargent Shriver Civil Counsel Act](#) Beginning January 1, 2025 requires courts to report monthly specified information to the Judicial Council regarding unlawful detainer cases, aggregated by ZIP Code. Also requires the Judicial Council to post all information received every four months about unlawful detainer cases in a publicly available electronic spreadsheet that may be downloaded from its internet website.

Status of AB 875: Amended in the Senate on September 1, 2023. Approved by the Legislature. Enrolled and presented to the Governor on September 19, 2023.

[AB 945 \(Reyes\) Criminal procedure: expungement of records](#)

Beginning May 1, 2026, and every other year thereafter, requires each superior court to report to the Judicial Council specified data regarding petitions seeking relief pursuant to the above-described provisions. Further requires the Judicial Council to report the statewide data regarding these petitions to the Legislature beginning June 1, 2026, and every other year thereafter. Repeals these provisions on January 1, 2036.

Status of AB 945: Amended in the Senate on September 8, 2023. Approved by the Legislature. Ordered to engrossing and enrolling.

[AB 959 \(McCarty\) Courts](#)

Authorizes the Judicial Council to dispose of surplus court facilities and deposit the net funds received from the sales into the State Court Facilities Construction Fund. The specific properties include the Plumas/Sierra Regional Courthouse, the Gordon D. Schaber Sacramento County Courthouse, the Modesto Main Courthouse, and the Ceres Superior Courthouse.

Status of AB 959: Introduced on February 14, 2023. Approved by the Assembly. Approved by Judiciary Committee. Held on the suspense file in Senate Appropriations Committee.

[AB 1758 \(Committee on Judiciary\) Court records: fees](#)

Requires a court to provide remote access to all public court records about civil cases, including registers of actions, calendars, and indexes, that are maintained by the court in an electronic format, as specified. Prohibits a court that provides the public with remote access to these

records from charging a fee to search for, download, or copy public court records. Authorizes a court to charge a fee to a commercial user for viewing, searching, duplicating, downloading, or printing public court records in an electronic format. Authorizes the Judicial Council to adopt statewide commercial user fees or a process for courts to use in developing commercial user fees.

Status of AB 1758: Amended in the Senate on July 13, 2023. Approved by the Assembly. Approved by Senate Judiciary Committee. Held under submission in Senate Appropriations Committee.

AB 1032 (Pacheco) Courts: court interpreters

Makes substantial changes, most effective January 1, 2025, to the Trial Court Interpreter Employment and Labor Relations Act, the statute governing employer-employee relations between trial courts and court interpreters. Specifically, among other provisions, provides new and updated terminology and definitions to clarify confusing language in the statute and provides discretion for local courts to provide local compensation in the form of one-time retention bonuses or stipends, excluding cost-of-living adjustments, and clarifies the role of the regional committee in bargaining hourly rates of pay. Limits provisionally-qualified Spanish interpreters from assignments exceeding 45 court days and other language interpreters from assignments exceeding 75 court days, unless a judicial officer determines there is a necessity. Requires the Judicial Council, on or before January 1, 2026, to conduct a court interpreter workforce study and make recommendations to the Legislature regarding availability and the future of the court interpreter workforce.

Status of AB 1032: Amended in the Senate on September 8, 2023. Approved by the Legislature. Ordered to engrossing and enrolling.

SB 548 (Niello) Public employees' retirement: joint county and trial court contracts

Authorizes a county and the trial court located within that county to jointly elect to separate their joint CalPERS contract into individual contracts if the county and the trial court both make that election voluntarily. Election to separate the joint contract must be adopted by ordinance or resolution by both parties within 30 days of each other to be effective. The election of both parties to separate the joint contract is irrevocable and the joint contract cannot be reestablished.

Status of SB 548: Amended in the Assembly on September 6, 2023. Approved by the Legislature. Ordered to engrossing and enrolling.



JUDICIAL COUNCIL OF CALIFORNIA

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MEMORANDUM

Date

October 27, 2014

Action Requested

For Your Information Only

To

Cory Jaspersen, Director
Laura Speed, Assistant Director
Governmental Affairs

Deadline

N/A

From

Deborah C. Brown, Chief Counsel
Mark Jacobson, Senior Attorney *MJ*
Legal Services

Contact

Mark Jacobson
415-865-7898 phone
415-865-7664 fax
mark.jacobson@jud.ca.gov

Subject

Ethical Principles Applicable to Judges
Engaged in Legislative Activities

You have asked Legal Services to provide an information sheet setting forth the ethical principles that pertain to judicial officers who participate in legislative activities that can be distributed to judicial officers who engage in Bench-Bar Coalition legislative outreach activities. To assist judicial officers, this memorandum provides the following information: (1) the applicable canons from the California Code of Judicial Ethics; (2) an analysis of a recent formal opinion from the Supreme Court's Committee on Judicial Ethics Opinions; and (3) relevant excerpts from David M. Rothman's *California Judicial Conduct Handbook*.

Relevant Canons¹**Governmental Activities**

The canon most directly on point for judges who wish to participate in legislative activity is canon 4C(1), which prohibits a judge from appearing at a public hearing or consulting with an

¹ The full text of the canons discussed in this section is set forth in the attached appendix.

executive or legislative body or a public official except on matters concerning the law, the legal system, and the administration of justice. In deciding whether to engage in such activities, a judge must also consider whether that conduct would violate any other provision of the Code of Judicial Ethics. For example, the activity must uphold the integrity, impartiality, and independence of the judiciary (canons 1 and 2A), and it must not cause the judge to be disqualified (canon 4A(4)).

Political Activity

Canon 5 provides that judges may not be involved in political activity that is inconsistent with the independence, integrity, or impartiality of the judiciary or that creates the appearance of political bias or impropriety. Canon 5D states that a judge is not permitted to engage in political activity unless it is related to the law, the legal system, or the administration of justice.

Extrajudicial Activities, Appearance of Impropriety, Lending the Prestige of Office

There are several other canons that should be considered when a judge is involved in legislative activity. Canon 4A states that a judge must conduct any extrajudicial activity so that such activity does not (1) interfere with judicial duties, (2) cast doubt on the judge's impartiality, or (3) lead to frequent disqualification. Canon 2 provides that a judge must not engage in conduct that creates the appearance of impropriety. Canon 2A prohibits a judge from making any statement that commits the judge with respect to cases, controversies, or issues that are likely to come before the courts. Finally, canon 2B(2) states that a judge must not lend the prestige of judicial office to advance the pecuniary or personal interests of the judge or others.

CJEO Formal Opinion No. 2014-006

The Supreme Court's Committee on Judicial Ethics Opinions issued a formal opinion on October 2, 2014, entitled "Judicial Comment at Public Hearings and Consultation with Public Officials and Other Branches of Government."² The opinion addressed the circumstances under which a judge may appear at a public hearing or officially consult with executive or legislative bodies on "matters concerning the law, the legal system, or the administration of justice." (See canon 4C(1), Appendix, p. 1.) The committee concluded that canon 4C(1) allows comment and consultation concerning the court system or matters of judicial administration. The canon permits a judge to appear before or consult with representatives of the other two branches of government "when the subject of the appearance or consultation is one with respect to which the judge's experience and perspective *as a judge* gives him or her unique qualifications to assist the other branches of the government in fulfilling their responsibilities to the public." (CJEO Formal Opn. 2014-006, p. 2, emphasis in original.)

² The full opinion can be found on the CJEO website at http://www.judicialethicsopinions.ca.gov/sites/default/files/CJEO_Formal_Opinion_2014-006.pdf.

The committee stated that based on the reference in canon 4C(1) to matters concerning the administration of justice, judges may testify or advocate at public hearings only on behalf of the legal system, i.e., focusing on court users, the courts, or the administration of justice. (CJEO Formal Opn. 2014-006, *supra*, at p. 7.) There are situations in which a judge may comment about substantive legal issues where the purpose is to benefit the law and legal system itself rather than any particular cause or group and when the comment or consultation is made from a judicial perspective. (*Ibid.*) Thus, any comments from a *legal* knowledge/experience perspective should be provided by attorneys, not judges. (*Ibid.*) Where a judge has both judicial and attorney experience to draw from (or only attorney experience) in a particular area of law, the judge's comments or consultation should be presented from a purely judicial perspective. (*Ibid.*)

The committee noted that even if the exception in canon 4C(1) applies, the judge must ensure that the appearance or consultation does not violate any other canons, such as those set forth in the appendix to this memorandum.

The opinion provides the following illustrative examples:

- A judge may comment or consult about the judicial branch's budget, or a bond measure for court construction, or a bill proposing to replace court reporters with electronic recording.
- Regarding a proposed constitutional amendment to replace the death penalty with life without parole, a judge may comment on the dysfunction of the present system from a judicial perspective, but advocacy for or against the death penalty as a policy matter would violate canon 4C(1).
- A judge who was an environmental attorney may express his or her views in support of a new CEQA settlement process, but only from the viewpoint of a judge who is, for example, seeking to unburden the court's docket by resolving CEQA cases earlier in the judicial process.
- A judge who was a prosecutor but has no judicial experience in criminal law may express support for proposed legislation to reduce the number of peremptory challenges in misdemeanor cases, but those views should be expressed in terms of how the law would affect the legal system or the administration of justice by improving juror satisfaction, enhancing jury diversity, and saving court costs, while still providing the full panoply of due process.
- A judge may not appear at a public hearing of a legislative committee to advocate for longer sentences for certain drug offenders because, even though such comments are

about a matter “concerning the law,” advocacy for longer sentences for only a particular type of offender could undermine public confidence in the impartiality of the judiciary, thus violating canons 1 (upholding the integrity and independence of the judiciary), 2A (promoting public confidence in the integrity and impartiality of the judiciary), 3B(9) (commenting publicly on pending cases), and 4A(1) (casting doubt on the judge’s capacity to act impartially). The judge could, however, discuss the impact of such sentences on the courts or the adjudicatory process.

- Based on the judge’s expertise, a judge may advocate for improvements in the administration of justice that would seek to reduce recidivism by providing information about collaborative court programs the judge had presided over or administered that employ alternative sentencing or probation periods for drug offenders.
- A judge may advocate for statewide use of alternative programs based on the judge’s experience, but must not comment on the outcome of cases involving particular offenders and must not imply that the judge will be ruling in a particular way in a class of cases.
- Judicial advocacy for specific legislation on proposed death penalty or collective bargaining measures could violate the prohibition in canon 2A against making statements that commit a judge with respect to cases, controversies, or issues that are likely to come before the court or that are inconsistent with the impartial performance of duties. But a judge may appear before a public body to explain, from a judicial perspective, the effects of proposed laws on the judicial process or judicial administration.

Rothman, *California Judicial Conduct Handbook*

In the *California Judicial Conduct Handbook* (3d ed. 2007), Judge Rothman addresses judicial involvement in executive and legislative matters:

[§11.03] Appearances at Public Hearings and Participation in Executive or Legislative Matters

Ethics rules on the subject. A judge . . . must . . . draw the distinction between inappropriate involvement with the legislative and executive branch in what could be called “political” matters as opposed to appropriate involvement in matters that concern the law, legal system, and administration of justice. Thus, for example, a judge may endorse legislation that would provide the court with facilities and services, because such matters deal with the administration of justice.

* * *

Recognition of the separation of powers—urging moderation in advocacy by judges. Judges have frequently been active in advocating positions before the legislative and executive branches on a variety of subjects. The Code of Judicial Ethics does not prohibit this activity so long as the activity is limited to issues related to the law, the legal system, and administration of justice. The boundary, however, of this limitation is often stretched.

I am not alone in the belief that judges should greatly limit advocacy of issues before the legislative and executive branches to only the clearest and most urgent of circumstances. Where judges frequently engage in such advocacy, they may be perceived as encroaching on legislative and executive prerogatives. When judges do so they should not be surprised if the legislative and executive branches feel comfortable in doing the same in the judicial arena.

Examples abound of an increasing comfort on the part of the legislature in tinkering with the judicial branch. This may be the result of a basic lack of understanding and appreciation of basic concepts of our form of government. Separation of powers and preservation of the independence of the judiciary require judges to ration their advocacy.

Special position of juvenile and family court judges. The special demands of juvenile and family court assignments frequently involve judges in proactive efforts to improve the law. The above caution is less urgent for these judges because they are expected to regularly make recommendations concerning civil procedure and the development of programs to help children.

Examples of issues concerning appropriate advocacy. Is it proper for a judge to be involved in writing a statute that increases or reduces child support, or deals with the length of sentences in juvenile or criminal cases? Judges regularly advocate for additional judicial officers, but would it be improper for them to advocate for additional police officers?

Judges do not agree on the answers to these questions. Some believe that such activity is part of the judicial function and is permissible. Others, however, believe that the test is whether such advocacy could “cast reasonable doubt on the judge’s capacity to act impartially.”

It would be proper for a judge to endorse a bond measure that increases county revenues, which would increase funding for judicial-related activities as well as increasing revenues for non-legal system county projects, provided the

endorsement was carefully phrased to focus on judicial needs, while avoiding endorsement of nonjudicial issues. Because of the Trial Court Funding Act, local judicial-related funding advocacy would be very limited, if any, at the local level.

A judge may write a letter to the legislature regarding a bill proposing to replace court reporters with electronic recording as this plainly concerns the administration of justice. A judge, however, who was formerly a member of the legislature, should not be further involved in legislation or consult with legislators or others except on legislation and other matters concerning the law, the legal system or the administration of justice.

(Rothman, *California Judicial Conduct Handbook*, 3d ed. [California Judges Association, 2007] pp. 569–571.)

Judge Rothman also discusses judicial support of or opposition to ballot measures in the context of inappropriate political activity:

[§11.24] Supporting or Opposing Ballot Measures

Measures not related to improvement of the law, legal system or administration of justice. Although one might argue that anything on the ballot relates to the improvement of the law, such is not the case. For example, it would be improper for a judge to draft, promote, or be listed publicly as supporting a school bond ballot proposal as such a proposal would not fit the limited purpose related to improvement of the legal system. A judge may not sign a ballot statement, essentially a public endorsement, for an ordinance advocating criminal penalties for violation of a law/ordinance.

* * *

Appropriate ballot measures for comment by judges. Appropriate judicial activity related to ballot measures would include public support of a tax override measure or other ballot proposition that would provide revenue for court operations or jail construction, since the objects of the funding pertain to the administration of justice. A court and its judges may also take a public position on a ballot proposition that affects judicial funding and the administration of justice. A judge may support or oppose a ballot measure dealing with the unification of the court.

A judge may speak and take a public stance against a ballot measure that would take away the power to appoint and retain the chief probation officer from the courts and place it in the hands of the board of supervisors.

A judge may act in support of political goals that directly relate to improvement of the judicial system such as jail construction or renovation of a juvenile detention facility.

A judge may participate in a newspaper ad concerning a ballot measure that concerns the law, legal system or administration of justice.

(Rothman, *supra*, at pp. 578–579.)

Disqualification and Disclosure

Judges who are involved in legislative activity should be aware of the disqualification and disclosure implications if it appears that the judge cannot be impartial in ruling on a matter concerning the issue with which the judge was involved. Code of Civil Procedure section 170.1(a)(6)(A)(iii) provides that a judge is disqualified if “[a] person aware of the facts might reasonably entertain a doubt that the judge would be able to be impartial.” A judge is *not* disqualified, however, if the judge “[h]as as a lawyer or public official participated in the drafting of laws or in the effort to pass or defeat laws, the meaning, effect or application of which is in issue in the proceeding unless the judge believes that his or her prior involvement was so well known as to raise a reasonable doubt in the public mind as to his or her capacity to be impartial.” (Code Civ. Proc., § 170.2(c).)

Judge Rothman addresses this issue:

[A] judge’s expression of opinions outside of the context of judicial decision may raise disclosure and disqualification issues.

* * *

Drafting or advocating concerning laws. Although there can be an argument that the use of the term “public official” is not intended to encompass a judge, subdivision (c) of section 170.2 above appears to allow a judge (i.e., a “public official”) to participate in the drafting of or advocacy concerning laws that the judge may later have to interpret. Judges have been involved on many occasions in such activities although, as noted in the concluding language of subdivision (c), such involvement has the potential of requiring disqualification.

Cory Jaspersen
Laura Speed
October 27, 2014
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(Rothman, *California Judicial Conduct Handbook*, 3d ed. [California Judges Association, 2007] pp. 368–369.)

Judges should also be aware of canon 4A(4), which states that a judge must conduct all of the judge's extrajudicial activities so that they do not lead to frequent disqualification of the judge.

Contact Information for Questions

If judicial officers have questions about whether their own conduct would violate any provision of the Code of Judicial Ethics, they may contact the Supreme Court's Committee on Judicial Ethics Opinions at judicial.ethics@jud.ca.gov or 855-854-5366, or the California Judges Association's Judicial Ethics Hotline at 866-432-1252. For more general information about ethical constraints discussed in this memorandum, they may contact Senior Attorney Mark Jacobson at 415-865-7898 or mark.jacobson@jud.ca.gov.

DCB/MJ/ms
Attachment
cc: Jody Patel, Chief of Staff

Appendix

Canon 2

A judge shall avoid impropriety and the appearance of impropriety in all of the judge's activities.

Canon 2A

A. Promoting Public Confidence

A judge shall respect and comply with the law and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary. A judge shall not make statements, whether public or nonpublic, that commit the judge with respect to cases, controversies, or issues that are likely to come before the courts or that are inconsistent with the impartial performance of the adjudicative duties of judicial office.

Canon 2B(2) states:

A judge shall not lend the prestige of judicial office or use the judicial title in any manner, including any oral or written communication, to advance the pecuniary or personal interests of the judge or others.

Canon 4A

A. Extrajudicial Activities in General

A judge shall conduct all of the judge's extrajudicial activities so that they do not

- (1) cast reasonable doubt on the judge's capacity to act impartially;
- (2) demean the judicial office;
- (3) interfere with the proper performance of judicial duties; or
- (4) lead to frequent disqualification of the judge.

Canon 4C(1)

A judge shall not appear at a public hearing or officially consult with an executive or legislative body or public official except on matters concerning the law, the legal system, or the administration of justice or in matters involving the judge's private economic or personal interests.

Advisory Committee Commentary to Canon 4C(1) (added January 1, 2013)

When deciding whether to appear at a public hearing or whether to consult with an executive or legislative body or public official on matters concerning the law, the legal system, or the

administration of justice, a judge should consider whether that conduct would violate any other provisions of this code. For a list of factors to consider, see the explanation of “law, the legal system, or the administration of justice” in the Terminology section. See also Canon 2B regarding the obligation to avoid improper influence.

Canon 5

A judge or candidate for judicial office shall not engage in political or campaign activity that is inconsistent with the independence, integrity, or impartiality of the judiciary.

Judges and candidates for judicial office are entitled to entertain their personal views on political questions. They are not required to surrender their rights or opinions as citizens. They shall, however, not engage in political activity that may create the appearance of political bias or impropriety. Judicial independence, impartiality, and integrity shall dictate the conduct of judges and candidates for judicial office.

Canon 5D

A judge or candidate for judicial office may engage in activity in relation to measures concerning the improvement of the law, the legal system, or the administration of justice, only if the conduct is consistent with this code.

Advisory Committee Commentary to Canon 5D (added January 1, 2013)

When deciding whether to engage in activity relating to measures concerning the law, the legal system, or the administration of justice, such as commenting publicly on ballot measures, a judge must consider whether the conduct would violate any other provisions of this code. See explanation of “law, the legal system, or the administration of justice” in the terminology section.

Explanation of “law, the legal system, or the administration of justice” from the Terminology section (added January 1, 2013)

When a judge engages in an activity that relates to the law, the legal system, or the administration of justice, the judge should also consider factors such as whether the activity upholds the integrity, impartiality, and independence of the judiciary (Canons 1 and 2A), whether it impairs public confidence in the judiciary (Canon 2), whether the judge is allowing the activity to take precedence over judicial duties (Canon 3A), and whether engaging in the activity would cause the judge to be disqualified (Canon 4A(4)).