



Judicial Council of California

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September 20, 2023

Hon. Gavin Newsom
Governor of California
1021 O Street, Suite 9000
Sacramento, California 95814

Subject: Assembly Bill 875 (Gabriel)—Request for Veto

Dear Governor Newsom:

The Judicial Council respectfully requests your veto on Assembly Bill 875, which imposes a costly and impracticable burden on the courts to collect and submit to the council unlawful detainer data without any direct benefit to those Californians facing eviction, and at a time when the council and the courts are keenly focused on collecting data needed for implementation of the new CARE Act program.

The bill requires, by January 1, 2025:

- Each court to report monthly to the Judicial Council on the total number of each of the following data points for unlawful detainer cases, aggregated by ZIP Code:
 - Cases filed each month;
 - Cases in which defendants were represented by counsel at case closing;
 - Cases in which a fee waiver was granted;
 - Cases that were subject to default, stipulated, or other types of pretrial judgments;
 - Cases that went to trial, and of those that went to trial, how many were a bench trial and how many were a jury trial;
 - Cases that were dismissed before trial at the plaintiff's request; and
 - Cases that resulted in judgment for plaintiff or for defendant.

- Each court to report to the Judicial Council the following case summary data on COVID-19 Rental Debt in Small Claims Court (SC-500), aggregated by ZIP Code:
 - The number of cases filed each month; and
 - The number of cases in which a fee waiver was granted.

The bill also requires the Judicial Council, every 4 months, to post this information in a spreadsheet on its website.

The Judicial Council appreciates and recognizes the challenges that many Californians face in obtaining and maintaining affordable housing. In October of 2020, the former Chief Justice Tani Cantil-Sakauye established a Work Group on Homelessness to evaluate how court programs, processes, technology, and communications might be improved to better serve people experiencing or at risk of experiencing homelessness, and to consider how the judicial branch might appropriately work with the executive and legislative branches to reduce homelessness. The final report of that Work Group was presented to the Judicial Council at its November 2021 meeting and included a series of recommendations, many of which concerned improving unlawful detainer proceedings to promote housing stability and reduce homelessness.¹ Those recommendations included funding representation for tenants who could not afford representation based upon the successes of the Sargent Shriver Civil Counsel Act (Shriver Act; AB 590 (Feuer; Stats. 2009, ch. 457)),² as well as increasing the availability of alternative dispute resolution processes before and after an unlawful detainer complaint is filed, and improving self-help services for tenants who are representing themselves.

The council supports the goals of the author in channeling legal resources to help people stay in their homes to those counties where the need is greatest. However, collecting these data points will be an arduous, expensive task given that each of the 58 superior courts administer their own case management systems and different courts collect different information related to unlawful detainers within those systems. In order to collect the data points required by the bill, each court will need to pull information from both the case management system (where available) and *manually from the actual case files*—which may be located in the court or in an off-site storage facility. They will also need to hire additional staff, likely including research attorneys, to review case files and pull out the individual data points, where they may be available within case notes or filing information. With a historical average of approximately 140,000 unlawful detainer cases being filed statewide each year, the courts anticipate needing to hire and dedicate 20 full-time staff to review, collect, and enter the data into a system for reporting. Once all 58 courts are connected to a centralized data center where some of the information can be pulled automatically, the council estimates a reduced, but ongoing, need of 10 full-time staff to conduct the review, collection, and data entry into the system. While the bill does include a one-year

¹ Work Group on Homelessness: Report to the Chief Justice, 2021, www.courts.ca.gov/documents/hwg_work-group-report.pdf

² The Shriver Act is a grant program that provides legal representation to low-income parties on critical legal issues affecting basic human needs, including unlawful detainer cases. Court partners apply to the Judicial Council on three-year cycles and are selected for funding by a committee that includes judicial officers, legal service providers, and other appropriate stakeholders. The committee assesses the applicants' capacity for success, innovation, and efficiency, including, but not limited to, the likelihood that the project would deliver quality representation in an effective manner that would meet critical needs in the community and address the needs of the court regarding access to justice and calendar management, and the unique local unmet needs for representation in the community.

delayed implementation, it will take at least two years for the system to be fully implemented and integrated into the existing court systems.

In addition to being costly, this data collection effort will not help direct Shriver Act funding to the counties with the greatest need. First, Shriver Act funds are distributed through competitive grants, not on a formula basis. Second, under the Shriver Act's requirements, programs are not required to provide representation in all types of legal issues. Unless programs that specifically provide help with unlawful detainer cases in counties identified with the greatest need apply for the program, they will not receive additional funding based solely on the data included in AB 875. Additional legislation would be necessary to both fund and channel services to these counties.

Our proposed amendments would have accomplished the following:

- Aligned with existing data reporting requirements associated with the Shriver Act, thereby mitigating the costs and workload burden on the courts, at least in the courts where Shriver Act programs are operating.
- Removed the requirement to aggregate the data by ZIP code, and instead have the data aggregated by court or by county, thereby (1) eliminating the need for manual collection of this data point and (2) reducing the risk of sensitive identifying information being accessed by the public.
- Required clarification on, or removal of, the inclusion of COVID-19 specific data. If this is meant to be an ongoing data collection requirement, the inclusion of COVID-19 related data creates confusion as the numbers of COVID-related unlawful detainer cases are steadily declining.
- Further delayed implementation beyond 2025 to allow time to set up a statewide system that can interact with the various case management systems.
- Made implementation of the new requirements subject to an appropriation.

AB 875 is a costly measure to collect and report a data set that has no direct ties to an increase in funding or services for the parties impacted by unlawful detainers. The judicial branch will need one-time funding of \$6.1 million and ongoing funding of \$5.4 million to implement and produce the data requirements of AB 875.

While the Judicial Council is supportive of conversations on how to strengthen the Shriver Act, AB 875 creates a significant fiscal and workload impact on the courts without a direct benefit to court users, unlawful detainer parties, or the Shriver Act's program participants. It also creates a significant competing priority for courts engaged in data collection to successfully implement the new CARE Act program.

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For these reasons, the Judicial Council respectfully requests your veto on Assembly Bill 875 and welcomes an opportunity for meaningful conversations on how to strengthen the Shriver Act.

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

Sincerely,



Cory T. Jaspersen
Director
Governmental Affairs

CTJ/AS/jh

cc: Hon. Jesse Gabriel, Member of the Assembly, 46th District
Ms. Jessica Devencenzi, Deputy Legislative Affairs Secretary, Office of the Governor
Ms. Millicent Tidwell, Acting Administrative Director, Judicial Council of California
Ms. Shelley Curran, Chief Policy & Research Officer, Judicial Council of California



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PATRICIA GUERRERO

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MILLICENT TIDWELL

Acting Administrative Director

June 20, 2023

Hon. Thomas J. Umberg, Chair
Senate Judiciary Committee
1021 O Street, Suite 3240
Sacramento, California 95814

Subject: Assembly Bill 875 (Gabriel), as introduced—Oppose, unless amended and funded.
Hearing: Senate Judiciary Committee—June 27, 2023

Dear Senator Umberg:

The Judicial Council regrettably must oppose AB 875, unless amended and funded. The bill requires courts to collect and submit specified information related to unlawful detainer cases to the Judicial Council for posting on the council's website for public download. Due to the nature of the data points included in the bill, the council must request amendments and funding to offset the workload imposed on the courts.

We understand the author and sponsor's desire to obtain more information around unlawful detainers in order to better align resources to those counties where there is the largest need. However, there are logistical and workload issues for the courts to pull the data points included in the bill. Each of the 58 superior courts administer their own case management systems and different courts collect different information related to unlawful detainers within those systems. In order to collect the data points required by the bill, each individual court would need to pull the information from both the case management system (where available) and manually from the actual case records, which may be located in the court or in an off-site storage facility. The data points will then need to be entered into a system for aggregation and submission to the Judicial Council.

AB 875 requires data to be aggregated by ZIP code. In order to sort information as locally as possible, however, ZIP codes are not a separate field maintained in most court case management systems. During a hand case review, courts may be able to obtain the address of the property of dispute in these cases and report that information. However, in some of the smaller counties or

ZIP codes where there are few unlawful detainer cases, there may also be the legal issue of being unable to de-identify case information. Such sensitive data could not be included in a public-facing data set, as intended with AB 875. The council requests amendments to remove this requirement and have the data instead be aggregated by court or county.

In order to gather the required data points, all 58 superior courts would need to hire additional staff, potentially including research attorneys, to review unlawful detainer cases and pull out the individual data points, where they may be available within case notes or filing information. As AB 875 does not include any timeframes for data collection, it is difficult to determine the full scope of the workload for the courts. If data collection is only required from the bill's operative date of January 1, 2024, there will be significant ongoing workload costs associated with reviewing each unlawful detainer case that is filed. For reference, the courts show historical averages of approximately 140,000 unlawful detainer cases being filed statewide, each year. For a review of each of those cases, the courts anticipate needing 20 full time staff to review, collect, and enter the data into a system for reporting. The Judicial Council will also require significant funding for information technology staff to develop a system to collect and then store the data points for publishing to the council's website. To allow time to set up a statewide system that can interact with the various case management systems in use throughout the state's courts, the council requires an amendment for a delayed implementation date.

The courts also require clarification on, or a potential amendment to remove, the inclusion of COVID-19 specific data. If this is meant to be an ongoing data collection requirement, the inclusion of COVID-19 related data creates confusion as the numbers of COVID-related unlawful detainer cases are steadily declining.

If the bill were to be amended to align with existing data reporting requirements associated with the Sargent Shriver Civil Counsel Act (Shriver Act) (AB 590 (Feuer; Stats. 2009, ch. 457)), the costs and workload burden on the courts would be somewhat mitigated, at least in the courts where the programs are operating.

The Shriver Act provides legal representation to low-income parties on critical legal issues affecting basic human needs, including unlawful detainer cases. Court partners apply to the Judicial Council on three-year cycles and are selected for funding by a committee that includes judicial officers, legal service providers, and other appropriate stakeholders. The committee is charged with assessing the applicants' capacity for success, innovation and efficiency, including, but not limited to, the likelihood that the project would deliver quality representation in an effective manner that would meet critical needs in the community and address the needs of the court with regard to access to justice and calendar management, and the unique local unmet needs for representation in the community. The council occasionally conducts studies of the programs to determine effectiveness.

As the Shriver Act is a grant-based program that awards funds to programs who apply for funding; having data around unlawful detainer cases will not have a direct impact on the allocation of funds to the programs. Because the Shriver Act funding is not awarded on a

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formula basis, it is inaccurate to claim that AB 875 will help direct funding to the counties with greatest need. The bill does not include a funding augmentation for the Shriver Act or require any new selection requirements for program applicants. Under the Shriver Act's requirements, programs are not required to provide representation in all types of legal issues. Unless programs that specifically provide help for unlawful detainer cases in counties identified with the greatest need apply for the program, they will not receive additional funding based solely on the data included in AB 875. Additionally, legislation would be necessary to both fund and channel services to these counties. AB 875 is a costly measure to collect and report a data set that does not have direct ties to an increase in funding or services for the parties impacted by unlawful detainer filings.

While the Judicial Council is supportive of conversations on how to strengthen the Shriver Act, AB 875 creates a significant fiscal and workload impact on the courts without a direct benefit to court users, unlawful detainer parties, or the Shriver Act's program participants.

For the reasons stated above, the Judicial Council must oppose AB 875 unless amended and funded and looks forward to continuing discussions with the author to remove the council's opposition.

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

Sincerely,



Cory T. Jaspersen

Director, Governmental Affairs

CTJ/ML/lmm

cc: Members, Senate Judiciary Committee
Ms. Amanda Mattson, Counsel, Senate Judiciary Committee
Mr. Morgan Branch, Consultant, Senate Republican Office of Policy
Ms. Jessica Devencenzi, Deputy Legislative Affairs Secretary, Office of the Governor
Ms. Millicent Tidwell, Acting Administrative Director, Judicial Council of California
Ms. Shelley Curran, Chief Policy & Research Officer, Judicial Council of California