



## Judicial Council of California · Administrative Office of the Courts

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# REPORT TO THE JUDICIAL COUNCIL

For business meeting on: August 23, 2013

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**Title**

Juvenile Dependency: Counsel Collections  
Program Guidelines

**Agenda Item Type**

Action Required

**Effective Date**

September 23, 2013

**Recommended by**

Trial Court Budget Advisory Committee  
Hon. Laurie M. Earl, Co-Chair  
Mr. Zlatko Theodorovic, Co-Chair

**Date of Report**

August 15, 2013

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### Executive Summary

The Trial Court Budget Advisory Committee recommends that the Judicial Council adopt three substantive amendments to the Juvenile Dependency Counsel Collections Program Guidelines. The first of these specifies the timing and procedures under which courts may recover their eligible program implementation costs. The second establishes a transparent, equitable methodology for allocating collected reimbursements to the courts in conformity with statutory requirements. The third incorporates changes to the authority of the financial evaluation officer made by Senate Bill 75 to improve the efficiency of the financial evaluation process. Ancillary amendments clarify that the guidelines are not intended to preclude courts from collaborating on efforts to implement the program, update references, and make grammatical and technical changes.

### Recommendation

The Trial Court Budget Advisory Committee recommends that the Judicial Council, effective September 23, 2013, amend the Juvenile Dependency Counsel Collections Program (JDCCP) Guidelines as follows:

1. Amend sections 11 and 12 to permit each trial court participating in the JDCCP to recover its eligible program costs from the funds it has collected before remitting the remaining revenue to the state under section 903.1(c) of the Welfare and Institutions Code.<sup>1</sup>
2. Add a new section 14 to the guidelines (renumbering current section 14 as 15) to specify criteria that a trial court must meet to be eligible for an allocation from funds remitted through the JDCCP; to establish a methodology for allocating the remitted funds to the eligible courts in a manner that is transparently equitable; and to provide for review of an allocation at the request of a trial court.
3. Amend section 6(e) and delete section 7(d) to conform to amendments to section 903.45(b) enacted by Senate Bill 75, effective June 27, 2013, that unite in the financial evaluation officer the authority to determine the impact of repayment on family reunification at any stage of the reunification process and prohibit the officer from petitioning the court for an order of repayment in certain circumstances.
4. Amend additional sections of the guidelines to update references, improve clarity, and make grammatical, stylistic, and technical changes.

The text of the amended guidelines is attached at pages 10–23.

### **Previous Council Action**

The Judicial Council adopted the initial JDCCP Guidelines on October 26, 2012. The guidelines took effect January 1, 2013, and are published as Appendix F of the California Rules of Court.

### **Rationale for Recommendation**

In Assembly Bill 131 (Stats. 2009, ch. 413), the Legislature required the Judicial Council to establish a program to collect reimbursements from parents and other responsible persons, to the extent they are able to pay, for the court cost of providing legal services to these persons and their children in juvenile dependency proceedings. These costs are substantial, as Welfare and Institutions Code section 317 requires the juvenile court to appoint counsel to represent all children in dependency proceedings<sup>2</sup> absent a finding that a particular child will not benefit from the appointment, as well as all indigent parents of children who have been placed out of the home or for whom out-of-home placement is recommended. Section 317 also authorizes the court to appoint counsel for all other indigent parents. The statute further requires that appointed counsel for a child or nonminor dependent have a caseload and training that ensure adequate representation of the client. To this end, the Legislature directed the Judicial Council to adopt

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<sup>1</sup> All unspecified statutory references are to the Welfare and Institutions Code.

<sup>2</sup> Under section 317.5, each child “who is the subject of a dependency proceeding is a party to that proceeding.” (Section 317.5(b).)

rules of court that establish caseload standards, training requirements, and guidelines for children's counsel. (Sections 317(c), 326.5.) In 2001, the council amended rule 1438 (now 5.660) of the California Rules of Court to set these standards.

At the same time, the Judicial Council also directed staff to conduct a study of the workload of dependency counsel appointed to represent both parents and children to determine more precise caseload, compensation, and performance standards. As a result of the workload study, the council further directed staff to begin implementation of a caseload standard of 141 clients per attorney through the voluntary Dependency Representation, Administration, Funding, and Training (DRAFT) pilot program.

After three years of evaluating caseloads and practice models in 10 volunteer courts, the Judicial Council approved a caseload standard of 188 clients per FTE attorney assisted by support staff, adopted a workload-based funding methodology known as the Caseload Funding Model (CFM), and authorized the expansion of the DRAFT program to a total of 20 courts. Despite the successes of the DRAFT program in promoting more cost-effective representation models, the statewide cost of appointing dependency counsel continued to exceed the available budget appropriations. The Legislature has never fully funded the CFM, requiring court-appointed counsel programs to operate at a structural deficit.

Hoping to tap an alternative source of funds, the Legislature enacted Assembly Bill 131 in 2009. Over the past two and a half years, several subcommittees of the Trial Court Budget Advisory Committee (TCBAC) and its predecessor, the Trial Court Budget Working Group (TCBWG), have worked to develop a framework to implement the collections program. After a series of false starts, due in part to the difficult economic climate, a joint working group of the Family and Juvenile Law Advisory Committee and the TCBWG developed a set of program guidelines and optional forms that were adopted by the Judicial Council, effective January 1, 2013. These guidelines establish procedures that courts can use to determine the cost of legal services in each dependency case; to determine a responsible person's ability to pay all or part of those costs; to collaborate with counties, private vendors, or other courts in implementing the program; and to report program data.

The Court-Appointed Dependency Counsel Funding Subcommittee of the TCBWG was charged with resolving the issues that remained after the approval of the initial guidelines.<sup>3</sup> The two principal outstanding issues were: how and when a participating court might recover its costs of implementing the JDCCP; and how the Judicial Council could equitably allocate the funds remitted through the JDCCP among the trial courts in compliance with the statutory mandate that the funds be used to reduce court-appointed attorney caseloads.

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<sup>3</sup> Although the TCBWG sunset in June of this year, the TCBAC authorized the subcommittee to continue its work through the summer to finalize these amendments. The subcommittee will also sunset on the completion of the amendment process.

While the subcommittee was engaged in this work, the Legislature enacted Senate Bill 75 (Stats. 2013, ch. 31 (effective June 27, 2013)), which modified the authority of the financial evaluation officer to petition for and the court to order reimbursement. Because the legislation required further amendment of the program guidelines, the subcommittee took on this task as well.

The subcommittee brought its proposal to the TCBCAC at the committee's August 14, 2013, meeting. The committee voted unanimously to approve each element of the proposal and recommend adoption by the Judicial Council.

### **Recovery of eligible program implementation costs**

Section 903.47(a)(1)(B) of the Welfare and Institutions Code directs the Judicial Council, as part of the dependency counsel collections program, to “[a]dopt policies and procedures allowing a court to recover[,] from the money collected[,] the costs associated with implementing” the JDCCP. The statute limits costs eligible for recovery to the costs of determining a “parent’s ability to pay for court-appointed counsel and [of collecting] delinquent reimbursements” and requires the policies and procedures to “limit the amount of money a court may recover to a reasonable proportion of the reimbursements collected.”

***Process for recovering program implementation costs.*** The funding subcommittee agreed early on that it would be reasonable to permit a court to recover its eligible costs in full to the extent permitted by statute. Development of a process to recover those costs has been more time-consuming. The subcommittee considered two processes for a court to use to recover its eligible program implementation costs. The first option permits each participating court to recover its eligible program costs from the funds that it has collected before remitting the remaining revenue to the state. The second option would require each participating court to remit its gross collected reimbursements to the state and only thereafter permit a court to submit a claim to the Administrative Office of the Courts (AOC) to recover its eligible program costs.

The TCBCAC unanimously recommends the first option, which is assumed but not expressly stated in the current guidelines. This option has several advantages. First, it is simple. It would require a court only to submit a report documenting the eligible costs that it has already recovered. The guidelines require a court to submit this report monthly, at the same time it reports its collected reimbursement revenue. The court would already need to have determined its costs before remitting and reporting its net collected revenue; the documentation of costs is anticipated to require only marginally more court staff time. This increase in staff time would be smaller than that required for the second option and would be amply justified by the resulting promotion of transparency and accountability.

Second, this option is consistent with current trial court cost recovery standards, in particular the recovery of costs incurred through the Enhanced Collections Program under Penal Code section 1463.007. That section expressly authorizes a court to recover its eligible costs before

distributing any revenue to other governmental entities.<sup>4</sup> Courts are accustomed to these standards and would not need to develop new processes to implement them for dependency counsel reimbursement collections.

Third, permitting each court to recover its costs from its own collected funds would be consistent with current practice in almost every court. An informal survey of court financial personnel revealed no court that remits funds to the state without first recovering its costs or paying its vendors from the revenue collected. The master agreements negotiated by the state with private collections vendors expressly contemplate payment of vendors before distribution of collected revenue. These agreements require a participating court to pay commissions or fees to vendors within 30 days of receipt of an invoice. That requirement assumes that a court is permitted to pay fees from the revenue collected. As the council is aware, courts are facing serious cash-flow shortages; most cannot absorb the costs of implementing this program into their operations budgets. These shortages would be exacerbated by requiring the courts to wait for reimbursement of their dependency collection costs by the AOC. An informal survey of trial court financial personnel confirms that requiring courts to remit collected funds before recovering their costs would cripple any existing collections efforts and possibly have broader negative ramifications.

Finally, this option should promote efficiency by encouraging a court with unprofitable collection efforts to seek a more cost-effective method, such as combining resources with another court, or to terminate its participation in the collection program. It does not seem desirable or consistent with the legislative intent to require an individual court to engage in collection efforts that cost more than the revenue they generate.

From a different perspective, this same advantage could be seen as the primary disadvantage of this option. Because this option limits recovery to the amount of money an individual court is able to collect, a court that cannot collect enough money to cover its own costs might be forced to stop participating in the JDCCP. Any revenue it might have collected would be lost. However, other solutions to this problem are available. For example, a court that cannot collect enough funds to cover its costs might arrange with another court for the second court to engage in collection efforts on its behalf. Alternatively, several courts, none of which alone could collect enough to cover its costs, might join in a group collection effort to allow each court to cover its share of the program costs. Either of these alternatives would allow courts to benefit from economies of scale without necessarily increasing the upfront costs they would need to bear. An amendment to section 10(c) of the guidelines clarifies that such collaborative arrangements are permitted.

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<sup>4</sup> In addition to practical consistency, this option would permit a reading of section 903.47(a)(1)(B)'s authorization of a court to recover its program costs "from the money collected" in harmony with Penal Code section 1463.007(a)'s authorization of a court to recover its program costs "from any revenues collected." Section 1463.007 and the guidelines adopted by the council under its authority make clear that a court may recover its costs from the revenue it has collected before making required distributions to other governmental entities.

### **Allocation methodology**

The subcommittee considered three methods for determining which courts will be eligible to receive an allocation and then determining the amount of each eligible court's allocation. Each method considered requires a court, to be eligible for an allocation, to demonstrate its participation in the JDCCP by both adopting a local rule or policy requiring an inquiry into every responsible person's ability to pay reimbursement and filing program data reports under section 13 of the guidelines. None of the methods considered leads to a change in any court's base allocation for court-appointed counsel, nor would any court be subject to a reduction of funds through the operation of the JDCCP.

The methods differed, however, in the weight given each court's dependency counsel funding need as estimated by the Caseload Funding Model (CFM) approved by the Judicial Council in 2007 and 2008.<sup>5</sup> In evaluating the three methods, the subcommittee was guided by the requirements of AB 131, the Judicial Council's previous decisions regarding dependency-counsel funding methodology, and the council's approval of the new trial court funding methodology. The subcommittee ultimately recommended a method that seeks to allocate JDCCP funds equitably among the courts based on dependency-counsel workload and to loosen the connection between allocations and historical funding decisions. The TCBAC endorses this recommendation and recommends its adoption by the council.

The recommended method allocates a share of the available JDCCP funds to each participating court whose current share of the base funding is less than its share of the statewide funding need. A court that receives an allocation equal to or more than its share of the statewide need would not be eligible to receive a JDCCP allocation. For example, if Court A currently receives an allocation equivalent to 0.5 percent of the available base, but its CFM-estimated funding need is 1.0 percent of the statewide need, Court A would receive a JDCCP allocation, assuming that it has met the participation criteria. Court B, which receives an allocation equivalent to 2.0 percent of the available base but whose estimated need is 1.5 percent of the statewide need, would not receive a JDCCP allocation.

The proposed method then addresses the allocation of funds among the eligible courts. It does so by aggregating the funding need of all the courts that meet the eligibility criteria, determines each court's share of that aggregate need, and allocates to each court a share of the JDCCP funds proportionate to its share of need. Because the aggregate need of the eligible courts is less than the statewide aggregate need, each eligible court's share of the funding need is proportionately higher. For example, Court A, which accounts for 1.0 percent of statewide need, might account for 2.5 percent of the eligible courts' aggregate need. Court A would, therefore, receive an

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<sup>5</sup> The CFM uses data collected in the 2002 Caseload Study to calculate the amount of time a court-appointed attorney would spend working on each stage of a juvenile dependency case. Because the basic elements of a dependency case remain the same as they were in 2002, the constants in the CFM remain valid indicators of attorney workload per case. The variable inputs in the CFM—total clients and attorney salaries—are updated periodically to reflect current conditions.

allocation of 2.5 percent of the JDCCP funds. Attachment A, the allocation methodology worksheet, illustrates the operation of this methodology using a hypothetical \$1.725 million in JDCCP funds.

This method is intended to fulfill both aspects of AB 131's statutory mandate. It should help to reduce caseloads to the approved level by allocating JDCCP funds only to courts that currently receive a lower percentage of available funds than their share of statewide funding need. It gives priority to courts with the highest caseloads by allocating a greater share of the additional funding to those courts with a proportionately greater need. (See section 903.47(a)(2).)

### **Senate Bill 75**

Finally, the TCBAC unanimously recommends amending section 6(e) and deleting section 7(d) of the guidelines to reflect SB 75's amendment of Welfare and Institutions Code section 903.45(b). Before amendment, that code section authorized a financial evaluation officer to determine whether repayment would harm the ability of a parent who had already reunified to support the child and prohibited the officer from petitioning the court for an order of repayment in those circumstances. For parents receiving reunification services but not yet reunified, however, the statute reserved to the court the authority to determine whether repayment would pose a barrier to reunification. SB 75 united the authority to determine whether repayment would jeopardize family reunification in the financial evaluation officer in both situations. It further prohibited the officer from petitioning the court for an order of repayment in those circumstances or when the court finds that repayment would be unjust.

The Judicial Council proposed this legislative amendment as part of a package of measures designed to promote efficient court operations. It is hoped that permitting the financial evaluation officer to determine whether repayment would be a hardship during as well as after reunification will lead to a faster, more consistent, and less burdensome process for judicial officers, court staff, and families. A copy of the pertinent section of SB 75 is included as Attachment B.

### **Comments, Alternatives Considered, and Policy Implications**

With respect to court recovery of JDCCP implementation costs, the committee considered an option that would have required each court to remit all (gross) revenue collected through the reimbursements program to the state under section 903.47(a)(2) as well as section 12 of the guidelines. The court would then have needed to submit a claim or invoice to the state to recover its eligible costs from the pool of money remitted to the program by all participating courts.

This option would have had one principal advantage. If consistent with statute, it would have opened the possibility for a court to recover its eligible costs even if those costs exceeded the amount of the reimbursements that it could collect individually. This possibility might, in turn, have allowed those courts to continue participating in the reimbursements program when they

could not otherwise afford to do so.<sup>6</sup> As discussed above, however, courts with unprofitable collection programs will still be able to take advantage of economies of scale by combining efforts or contracting for collections services with another court. Furthermore, this remittance option would not address existing unrecoverable costs and might impose additional unrecoverable costs on the courts.

There are also reasons to believe that this option might not have had the desired effect of supporting collection efforts that are not otherwise cost-effective.<sup>7</sup> First, this option would have made it more difficult for a court to contract with a third party to implement the program. The court would have borne the cost of vendor fees or commissions much longer than it will under the recommended option. If a court were not permitted to pay these fees from its own collected funds before remitting them to the state, it would be required instead to pay them, if it could, from its operations budget, to delay payments to vendors, or even to withhold payment. Implementation would seem more difficult for any court. As noted above, the current cash flow shortages faced by the trial courts would be exacerbated by requiring them to wait, possibly for months, for the state to approve and issue reimbursement for program costs. A court would be effectively required to lend money to the state until the state was able to process its cost-recovery claim.

Second, this option would have led to additional time and cost for AOC Fiscal Services Office staff. The same staff members who process the distribution of collected funds to reduce appointed counsel caseloads would have also needed to review and process claims for cost recovery. Third, this extra work, along with the need to temporarily hold some collected funds in reserve in anticipation of future cost recovery claims, would have been likely to lead to further delay and uncertainty in the distribution of collected funds to the courts for use to reduce appointed counsel caseloads.

Fourth, even if this approach was consistent with the statutory language, permitting each court to recover its eligible costs from, or up to the amount of, the total funds collected statewide would have been inconsistent with the legislative purpose of the JDCCP, which is to increase revenue available for reducing attorney caseloads. In a scenario where one or more large courts' program costs exceed the revenue collected, permitting recovery of costs from the total funds collected statewide could easily have spent all of the collected funds on these program costs alone.

This option seems to enhance the transparency and accountability of the cost recovery process at least as well as the recommended option. The latter, however, would do so at a lower cost to the courts and the branch. Both options would require courts to verify and document their program costs to the Judicial Council. Court financial services staff suggested that the documentation of

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<sup>6</sup> There is reason to think that the Legislature, by inserting the requirement that a court consider “the cost-effectiveness of the program” in determining ability to pay, intended to discourage courts from implementing the program if doing so would not be cost effective. See section 903.47(a).

<sup>7</sup> Again, assuming this effect is desirable and permissible under statute. See *id.*

costs after remittance would be at least as onerous a burden as the reporting needed if courts were to be permitted to recover their costs before remittance. Court staff further predicted that requiring a court to also submit a claim for its costs would require substantial additional staff time and could provide an incentive to include this ineligible staff cost in its claim for recovery.

With respect to allocation, the committee considered two other methods. The first would have allocated the JDCCP funds pro rata to each participating court currently funded at 90 percent or less of its funding need as determined by CFM. That is, each eligible court would have received a share of the available JDCCP funds that depended on its current, historically based allocation, not on its need. This method would have fulfilled the statutory mandate to reduce caseloads to the approved level by allocating funds only to courts funded below their need as determined by the CFM, thereby increasing each eligible court's appointed-counsel funding to a level closer to its need. This method would not, however, have addressed the second element of the mandate—to give priority to courts with the highest caseloads. It allocates the same percentage of a court's current funding base to each eligible court, regardless of differences in level of need.

The second alternative method was similar to the recommended method. However, it would have allocated funds to each participating court, regardless of current allocation level, in proportion to its funding need as estimated by the CFM. This option would have given priority to courts with the highest caseloads by allocating a greater share of the collected funds to those courts with greater need. However, it would also have led courts that currently receive a percentage of available funds greater than their percentage of statewide funding need nevertheless to receive an allocation of collected funds. This result seems contrary to the statutory requirement that the JDCCP funds be used to reduce caseloads to the council-approved level.

### **Implementation Requirements, Costs, and Operational Impacts**

Although the JDCCP as a whole places a sizable burden on the trial courts, particularly small and medium-sized courts, these guideline amendments will require few human or fiscal resources to implement. Most courts already recover their program costs before remitting the reimbursements they have collected. Those that do not will save time and money as a result of the amendments to sections 11 and 12. The allocation of remitted reimbursements through the methodology in section 14 can be incorporated into the broader court-appointed dependency counsel budget development process. It should have a moderate impact on administrative staff time and should entail no other costs. The availability of the additional funds will enable severely underfunded courts to take steps toward ensuring adequate representation for all parties in juvenile dependency proceedings. Finally, the amendments to section 6 and 7 will lead to more efficient court operations and a slightly reduced burden on juvenile court judicial officers.

### **Attachments**

1. Guidelines for the Juvenile Dependency Counsel Collections Program, at pp. 10–22
2. Attachment A: Allocation methodology worksheet
3. Attachment B: Senate Bill 75, § 26

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2  
3 **Appendix F.**  
4

5 **Guidelines for the Juvenile Dependency Counsel Collections Program (JDCCP)**

6 **1. Legal Authority**

7 These guidelines are adopted under the authority of section 903.47 of the Welfare and  
8 Institutions Code,<sup>1</sup> which mandates that the Judicial Council “establish a program to collect  
9 reimbursements from the person liable for the costs of counsel appointed to represent  
10 parents or minors pursuant to Section 903.1 in dependency proceedings.” (Welf. & Inst.  
11 Code, § 903.47(a).) As part of the program, the statute requires the council to “[a]dopt a  
12 statewide standard for determining [a responsible person’s] ability to pay reimbursements  
13 for counsel.” This standard must “at a minimum include the family’s income, their  
14 necessary obligations, the number of people dependent on this income, and the cost-  
15 effectiveness of the program.” (*Ibid.*) The statute also requires the council to “[a]dopt  
16 policies and procedures allowing a court to recover from the money collected the costs  
17 associated with implementing the reimbursements program.”<sup>2</sup> These policies and  
18 procedures must, in turn, “limit the amount of money a court may recover to a reasonable  
19 proportion of the reimbursements collected and provide the terms and conditions under  
20 which a court may use a third party to collect reimbursements.” (*Ibid.*)

21 Section 903.1 imposes liability on specified persons and estates for the cost of legal  
22 services provided to the child and directly to those persons in dependency proceedings.  
23 These responsible persons are jointly and severally liable for the cost of the child’s  
24 representation. If the petition is dismissed at or before the jurisdictional hearing, though, no  
25 liability attaches.

26  
27 Section 904 authorizes the trial court to determine the cost of dependency-related legal  
28 services using methods or procedures approved by the Judicial Council.

29  
30 Under section 903.47(b), the court may designate a court financial evaluation officer (FEO)  
31 or, with the consent of the county, a county financial evaluation officer (FEO) to determine  
32 a responsible person’s ability to pay the cost of court-appointed counsel. The court refers  
33 any responsible person to the designated FEO at the close of the dispositional hearing  
34 under section 903.45(b) unless that referral would not be cost-effective under section  
35 903.47(a)(1)(A). The FEO then determines the responsible person’s ability to pay all or  
36 part of the cost of dependency-related legal services under the procedures and within the  
37 limits set by section 903.45(b). The statutory scheme, particularly sections 901 and 903,  
38 prohibits the assessed amount from exceeding the actual cost of the legal services.  
39

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<sup>1</sup> Except as otherwise specified, all statutory references in these guidelines are to the Welfare and Institutions Code.

<sup>2</sup> This section defines *costs associated with implementing the reimbursements program* as the “court costs of assessing a parent’s ability to pay for court-appointed counsel and the costs to collect delinquent reimbursements.”

1 Sections 903.1(c) and 903.47(a)(2) direct each court to deposit collected reimbursements in  
2 the same manner as it deposits revenue collected under section 68085.1 of the Government  
3 Code. The Administrative Office of the Courts (AOC) must then transfer the remitted  
4 reimbursements to the Trial Court Trust Fund (TCTF).

5  
6 Except as otherwise authorized by law, the Judicial Council must allocate the funds  
7 collected through the reimbursement program to reduce court-appointed attorney caseloads  
8 to the Judicial Council–approved standard. In determining allocations, the council must  
9 give priority to courts with the highest attorney caseloads that also demonstrate the ability  
10 to immediately improve outcomes for parents and children as the result of lower caseloads.  
11

## 12 **2. Effective Date**

13 These guidelines are effective for all dependency proceedings filed on or after January 1,  
14 2013. Amendments adopted after that date will take effect as specified by the Judicial  
15 Council, but no sooner than 30 days after the council meeting at which they are adopted.  
16

## 17 **3. Responsible Person—Definition**

18 “Responsible person,” as used in these guidelines, refers to the father, mother, spouse, or  
19 any other person liable for the support of a child; the estate of that person; or the estate of  
20 the child, as made liable under section 903.1(a) for the cost of dependency-related legal  
21 services rendered to the child or directly to that person.  
22

## 23 **4. No Liability**

24 Under section 903.1(b), a responsible person is not liable for, and the court will not seek  
25 reimbursement of, the cost of legal services under section 903.1(a) if the dependency  
26 petition is dismissed at or before the jurisdictional hearing.  
27

## 28 **5. Determination of Cost of Legal Services**

29 The court is charged with determining the cost of dependency-related legal services. In  
30 doing so, the court may adopt **one** of the three methods in (a)–(c). In no event will the court  
31 seek reimbursement of an amount that exceeds the actual cost of legal services already  
32 provided to the children and the responsible person in the proceeding. The court may  
33 update its determination of the cost of legal services on an annual basis, on the conclusion  
34 of the dependency proceedings in the juvenile court, or on the cessation of representation of  
35 the child or responsible person.  
36

### 37 **(a) Actual Cost**

38 The court may determine the actual cost of the legal services provided to a child or  
39 responsible person in a dependency proceeding. The court should base this  
40 determination on the actual cost incurred per event in the proceeding, per hour billed,  
41 or per client represented.  
42

### 43 **(b) Cost Model**

1 The court may determine the cost of legal services provided to a child or responsible  
2 person in a dependency proceeding by applying the Uniform Regional Cost Model  
3 available on ~~serranus.jud.ca.gov~~ [serranus.courtinfo.ca.gov](http://serranus.courtinfo.ca.gov) or from [jdccp@jud.ca.gov](mailto:jdccp@jud.ca.gov).  
4 Use of the cost model as described in this section will ensure that the court seeks  
5 reimbursement of an amount that most closely approximates, but does not exceed, the  
6 actual cost incurred by the court.

7  
8 (1) *Time Allocated to Each Event per Attorney*

9 The court will calculate the time allocated to each event in a local dependency  
10 proceeding by

11  
12 (A) Dividing the normative caseload of 141 clients per attorney by the actual  
13 caseload reported by the dependency attorneys in the county in which the  
14 court sits, and then

15  
16 (B) Multiplying the result by the number of hours allocated to the type of  
17 event in question by the Dependency Counsel Caseload Study.<sup>3</sup>

18  
19 (2) *Cost of Each Event per Attorney*

20 The court will then calculate the cost of each type of event by multiplying the  
21 time allocated to the event by

22  
23 (A) The actual hourly rate billed to the court for the provision of dependency-  
24 related legal services, or

25  
26 (B) The lowest actual hourly rate billed for dependency-related legal services  
27 in the region<sup>4</sup> in which the court is located as reported in the most recent  
28 survey of those rates, or

29  
30 (C) The approved hourly rate for the region in which the court is located as  
31 provided in the Caseload Funding Model (CFM) approved by the Judicial  
32 Council in October 2007 and June 2008.<sup>5</sup>

33  
34 (3) *Cost of Proceeding per Attorney*

35 The court will then calculate the cost of the services provided by an attorney in  
36 a dependency proceeding by adding together the costs of each event that has  
37 occurred in the proceeding at issue.

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<sup>3</sup> See Center for Families, Children & Cts., Admin. Off. of Cts. Rep., *Court-Appointed Counsel: Caseload Standards, Service Delivery Models, and Contract Administration* (June 23, 2004), p. 3 & appen.

<sup>4</sup> California trial courts are grouped into four regions based on parity in cost of living, attorney salaries, and other factors among counties in a given region. See Center for Families, Children & Cts., Admin. Off. of Cts. Rep., *DRAFT Pilot Program and Court-Appointed Counsel* (Oct. 26, 2007), pp. 7–8.

<sup>5</sup> See *id.* (Oct. 2007), at pp. 7–10; Trial Court Budget Working Group Rep., *Court-Appointed Counsel Compensation Model and Workload-Based Funding Methodology* (June 10, 2008).

1  
2 **(c) Flat Rate Fee Structure**

3 The court may adopt a flat rate fee structure for the cost of legal services in a  
4 dependency proceeding as long as the fees charged do not exceed the actual cost of  
5 the services provided in that proceeding up to and including the date of the  
6 determination and assessment.  
7

8 **6. Determination of Ability to Pay; Financial Evaluation Officer; Statewide Standard**  
9

10 **(a) Referral for Financial Evaluation**

11 At the close of the dispositional hearing, the court will order any responsible person  
12 present at the hearing to appear before a designated financial evaluation officer (FEO)  
13 for a determination of the responsible person's ability to pay reimbursement of all or  
14 part of the cost of legal services for which he or she is liable under section 903.1(a),  
15 unless the court finds that, given the resources of the court, evaluation by an FEO  
16 would not be a cost-effective method of determining the responsible person's ability  
17 to pay.  
18

19 **(1) *Responsible Person Not Present at Dispositional Hearing***

20 If a responsible person is not present at the dispositional hearing, the court will  
21 issue proper notice and an order for him or her to appear before an FEO for  
22 determination of his or her ability to pay reimbursement of all or part of the cost  
23 of legal services for which he or she is liable under section 903.1(a) unless the  
24 court finds that evaluation by an FEO would not be a cost-effective method of  
25 determining the responsible person's ability to pay given the resources of the  
26 court.  
27

28 To issue proper notice to a responsible person not present at the hearing at  
29 which appearance for a financial evaluation is ordered, the court should send  
30 *Order to Appear for Financial Evaluation* (form JV-131) or the equivalent local  
31 form by first-class mail to that person's mailing address of record.  
32

33 **(2) *Alternative Methods***

34 If the court finds that evaluation by an FEO is not cost-effective, it may take  
35 whatever steps it deems cost-effective to determine the responsible person's  
36 ability to pay.  
37

38 **(3) *Failure to Appear for Financial Evaluation***

39 If a responsible person is ordered to appear for financial evaluation, has  
40 received proper notice, and fails to appear as ordered, the FEO will recommend  
41 that the court order the responsible person to pay the full cost of legal services  
42 as determined under section 5 of these guidelines unless the next paragraph  
43 applies.

1  
2 If a responsible person is not present at the hearing at which the order to appear  
3 for a financial evaluation is made, has received proper notice and an order to  
4 appear, and responds to the order by submitting a declaration that he or she is  
5 involuntarily confined and therefore not able to attend or reschedule the  
6 evaluation, the FEO or the court may presume that he or she is unable to pay  
7 reimbursement and is eligible for a waiver of liability at that time.  
8

9 (4) *Proper Notice*

10 Proper notice to a responsible person will contain notice of all of the following:  
11

- 12 (A) His or her right to a statement of the costs as soon as it is available;  
13 (B) His or her procedural rights under section 27755 of the Government Code;  
14 (C) The time limit within which his or her appearance is required; and  
15 (D) A warning that if he or she fails to appear before the FEO, the officer will  
16 recommend that the court order him or her to pay the full cost of legal  
17 services, and that the FEO's recommendation will be a sufficient basis for  
18 the court to order payment of an amount up to the full cost.  
19

20 (b) **Financial Evaluation Officer**

21 The court may either designate a court FEO to determine responsible persons' ability  
22 to reimburse the cost of legal services or, with the consent of and under terms agreed  
23 to by the county, designate a county FEO to determine responsible persons' ability to  
24 reimburse the cost of legal services.  
25

26 (c) **Authority of Financial Evaluation Officer**

27 The designated FEO will conduct the evaluation under the procedures outlined in  
28 section 903.45(b). The FEO may determine a referred responsible person's ability to  
29 pay all or part of the cost of legal services for which he or she is liable, negotiate a  
30 plan for reimbursement over a set period of time based on the responsible person's  
31 financial condition, enter into an agreement with the responsible person regarding the  
32 amount to be reimbursed and the terms of reimbursement, petition the court for an  
33 order of reimbursement according to the terms agreed to with the responsible person,  
34 and refer the responsible person back to court for a hearing in the event of a lack of  
35 agreement.  
36

37 (d) **Standard for Determining Ability to Pay**

38 The FEO will determine the responsible person's ability to reimburse the cost of legal  
39 services using the following standard:  
40

41 (1) *Presumptive Inability to Pay; Waiver*

42 If a responsible person receives qualifying public benefits or has a household  
43 income 125 percent or less of the threshold established by the federal poverty

1 guidelines in effect at the time of the inquiry, then he or she is presumed to be  
2 unable to pay reimbursement and is eligible for a waiver of liability.

3  
4 (A) *Qualifying public benefits* include benefits under any of the programs  
5 listed in Government Code section 68632(a).

6  
7 (2) *Further Inquiry*

8 If the court has concluded as a matter of policy that further inquiry into the  
9 financial condition of persons ~~presumed eligible for a waiver~~ unable to pay  
10 would not be warranted or cost-effective, the inquiry may end at this point with  
11 a determination that the person is unable to pay.

12  
13 If the court has concluded as a matter of policy that further inquiry into the  
14 financial condition of a persons ~~presumed eligible for a waiver~~ unable to pay is  
15 warranted notwithstanding the presumption, the FEO may proceed to a detailed  
16 evaluation under ~~section 6(d)(3)~~.

17  
18 (3) *Responsible Person's Financial Condition*

19 The FEO may, at any time following the close of the dispositional hearing,  
20 make a detailed evaluation of a referred responsible person's financial condition  
21 at that time under section 903.45(b). Based on any relevant information  
22 submitted by the responsible person, including but not limited to a completed  
23 *Financial Declaration—Juvenile Dependency* (form JV-132) or the equivalent  
24 local form, the FEO will assess the responsible person's household income,  
25 household needs and obligations (including other court-ordered obligations),  
26 and the number of persons dependent on the household income and will  
27 determine the person's ability to pay all or part of the cost of legal services  
28 without using funds that would normally be used to pay for the common  
29 necessities of life.

30  
31 When calculating a person's household income, the FEO must exclude from  
32 consideration any benefits received from a public assistance program that  
33 determines eligibility based on need.<sup>6</sup>

34  
35 (e) **Circumstances Requiring No Petition or Order for Reimbursement**

36 Under section 903.45(b), the FEO ~~will~~ may not petition the court to order  
37 reimbursement of the cost of legal services, and the court will not so order, if:

38  
39 (1) The responsible person has been reunified with any of the children under a court  
40 order and the FEO determines that requiring repayment reimbursement ~~reimbursement~~  
41 would harm his or her ability to support the children;

<sup>6</sup> *In re S.M.* (Sept. 5, 2012, D0607332012), 209 Cal.App.4th 21, [pp. 8–9]28–31.  
[www.courts.ca.gov/opinions/documents/D060733.PDF](http://www.courts.ca.gov/opinions/documents/D060733.PDF).

1  
2       (2) The responsible person is currently receiving reunification services and the  
3       court or the FEO determines that requiring repayment will pose a barrier to  
4       reunification; or

5  
6       (3) The court determines that requiring repayment would be unjust under the  
7       circumstances of the case.

8  
9       **(f) Amount Assessed**

10       The FEO may, consistent with the responsible person's ability to pay, assess any  
11       amount up to the full cost determined under section 5 of these guidelines, and may  
12       recommend reimbursement in a single lump sum or in multiple installments over a set  
13       period of time.

14  
15       **(g) Agreement; Petition**

16       If the responsible person agrees in writing to the FEO's written determination of the  
17       amount that the responsible person is able to reimburse and the terms of  
18       reimbursement, the FEO will petition the court for an order requiring the responsible  
19       person to reimburse the court in a manner that is reasonable and compatible with the  
20       responsible person's financial condition.

21  
22       **(h) Dispute; ~~Hearing~~Referral**

23       If the responsible person disputes his or her liability for the cost of legal services, the  
24       amount of that cost, the FEO's determination of his or her ability to reimburse all or  
25       part of that cost, or the terms of reimbursement, the FEO will refer the matter, with  
26       his or her written determination, back to the juvenile court for a hearing.

27  
28       **7. Judicial Proceeding Following Determination of Ability to Reimburse Cost**

29       On having made a determination of the responsible person's ability to reimburse all or part  
30       of the cost of legal services, the FEO will return the matter to the juvenile court as follows:

31  
32       **(a) Agreement; Order**

33       If the responsible person agrees to reimburse the court as recommended by the FEO,  
34       the FEO will prepare an agreement to be signed by the responsible person. The  
35       agreement will reflect the amount to be reimbursed and the terms under which  
36       reimbursement will be paid. The juvenile court may order the responsible person to  
37       pay reimbursement under those terms without further notice to the responsible person.

38  
39       **(b) Dispute; Hearing**

40       ~~If the responsible person does not agree with the FEO's determination with respect to~~  
41       ~~liability, ability to pay, amount, or terms of reimbursement, the matter will be is~~  
42       deemed in dispute and the FEO ~~will refer~~ has referred the matter back to the juvenile  
43       court under section 6(h), the court ~~will~~ to be set and conduct ~~for~~ a hearing as required  
44       under section 903.45(b).

1  
2 **(c) Judicial Determination**

3 If, at the conclusion of the hearing, the court determines that the responsible person is  
4 able to reimburse all or part of the cost of legal services—including the cost of any  
5 attorney appointed to represent the responsible person at that hearing—without using  
6 funds that would normally be used to pay for the common necessities of life, the  
7 court will set the amount to be reimbursed and order the responsible person to pay  
8 that amount to the court in a manner that the court believes reasonable and compatible  
9 with the responsible person’s financial condition.

10  
11 **~~(d) Exclusions~~**

12 ~~—The court will not order the responsible person to reimburse the cost of legal services~~  
13 ~~if:~~

14  
15 ~~(1) —The responsible person is currently receiving reunification services and the~~  
16 ~~court finds that reimbursement would pose a barrier to reunification because:~~

17 ~~(A) —It would limit the responsible person’s ability to comply with the~~  
18 ~~requirements of the reunification plan; or~~

19 ~~(B) —It would harm the responsible person’s current or future ability to~~  
20 ~~meet the needs of the child; or~~

21  
22 ~~(2) —The court finds that reimbursement would be unjust under the circumstances~~  
23 ~~of the case.~~

24  
25 **8. Reevaluation of Ability to Pay**

26 At any time before reimbursement is complete, a responsible person may petition the court  
27 ~~for a modification of~~ to modify or vacate the reimbursement order ~~based on the ground of a~~  
28 ~~change in circumstances affecting his or her ability to pay reimbursement.~~ The court may  
29 deny the petition without a hearing if the petition fails to state a change of circumstances.  
30 The court may grant the petition without a hearing if the petition states a change of  
31 circumstances and all parties stipulate to the requested modification.

32  
33 **9. Frequency of Determination of Ability to Pay and Assessment**

34 The initial evaluation and determination of a responsible person’s ability to pay  
35 reimbursement may be conducted at any time following the conclusion of the dispositional  
36 hearing. The court may order a reevaluation of a responsible person’s financial condition  
37 on an annual basis, on the conclusion of the dependency proceedings in the juvenile court,  
38 or on the cessation of court-appointed representation of the child or the responsible person.

39  
40 If the FEO determines on reevaluation that the responsible person is able at that time to pay  
41 all or part of the cost of legal services, the FEO may, consistent with the responsible  
42 person’s ability to pay without using funds that would normally be used to pay for the  
43 common necessities of life, assess an amount up to the full cost, as determined under

1 section 5, ~~of these guidelines~~ of any legal services provided to the child or the responsible  
2 person and may recommend reimbursement in a single lump sum or in multiple  
3 installments over a set period of time.  
4

## 5 **10. Collection Services**

6

### 7 **(a) Court-Based Collection Services**

8 To the extent applicable and consistent with sections 903.1 and 903.47, a courts  
9 should administer the collection, processing, and deposit of court-ordered  
10 reimbursement of the cost of dependency-related legal services under the procedures  
11 in policies FIN 10.01 and FIN 10.02 of the *Trial Court Financial Policies and*  
12 *Procedures Manual*.  
13

### 14 **(b) Outside Collection Services Providers**

15 When appropriate and consistent with policy FIN 10.01, a court may use an outside  
16 collection-services provider.  
17

#### 18 (1) *Collection Services Provided by County*

19 If collection services are provided by the county, the agreement should be  
20 formalized by a memorandum of understanding (MOU) between the court and  
21 county. AOC staff will provide a sample MOU on request. An electronic copy  
22 of the MOU, including a scanned copy of the completed signature page, ~~must~~  
23 be sent to [jdccp@jud.ca.gov](mailto:jdccp@jud.ca.gov).  
24

#### 25 (2) *Collection Services Provided by Private Vendor*

26 A court that uses a private collection service should use a vendor has entered  
27 into a master agreement with the AOC to provide comprehensive collection  
28 services. A court that uses such a vendor should complete a participation  
29 agreement and send it to the AOC via e-mail to [jdccp@jud.ca.gov](mailto:jdccp@jud.ca.gov). A court may  
30 contract directly with a private vendor only on terms and conditions  
31 substantially similar to those set forth in the master agreements for  
32 comprehensive collection services available at  
33 <http://serranus.courtinfo.ca.gov/programs/collections/mva.htm>.  
34

#### 35 (3) *Court Option for AOC Agreement with Collection Services Provider*

36 At a court's request, the AOC may directly enter into an MOU with the county  
37 or an agreement with a private collection-services vendor for ~~dependency~~  
38 ~~counsel reimbursement collection services~~ under this program.  
39

### 40 **(c) Agreements Between Courts**

41 Nothing in this section is intended to preclude a court or courts from establishing an  
42 agreement with another court or courts for one or more courts to perform services

1           under this program on behalf of other courts, or for one or more courts to combine  
2           collection efforts under this program.

3  
4   **11. Recovery of ~~Cost of Program Implementation Costs~~**

5   ~~Courts~~ A court may recover, ~~the~~ from the money it has collected, its eligible program  
6   implementation costs of implementing the reimbursements program before remitting the  
7   balance of the collected funds to the state in the manner required by Government Code  
8   section 68085.1. Recoverable Eligible costs are limited by statute to the cost of assessing  
9   determining responsible persons' ability to repay for the cost of court-appointed counsel  
10   and to the costs to of collecting delinquent reimbursements. If a court's eligible costs in any  
11   given month exceed the amount of revenue it has collected in that month, the court may  
12   carry the excess costs forward within the same fiscal year until sufficient revenue is  
13   collected to recover the eligible costs in full. Courts may recover these costs before  
14   remitting collected reimbursements to the bank accounts designated under Government  
15   Code section 68085.1. Any program costs recovered by the court should ~~must~~ be  
16   documented by the court and reported monthly by e-mail to [jdccp@jud.ca.gov](mailto:jdccp@jud.ca.gov) and follow  
17   in a format consistent with the Cost Recovery Template available on  
18   [serranus.courtinfo.ca.gov](http://serranus.courtinfo.ca.gov) or from [jdccp@jud.ca.gov](mailto:jdccp@jud.ca.gov).

19  
20   **(a) Limit on Recovery Delinquent Reimbursement Defined**

21   ~~Under section 903.47(a)(1)(B), recovered costs may not exceed a reasonable~~  
22   ~~proportion of the reimbursements collected. For purposes of this section, *delinquent*~~  
23   ~~*reimbursement* means any reimbursement payment not received within one business~~  
24   ~~day of the date it is due.~~

25  
26   **12. Remittance and Reporting of Collected Revenue**

27   ~~Courts~~ A court will remit collected revenue, ~~less recovered costs,~~ to the ~~state AOC,~~ ~~less~~  
28   ~~costs recoverable under section 903.47(a)(1)(B),~~ in the same manner as required under  
29   Government Code section 68085.1 and will report this revenue on row 130 of *Court*  
30   *Remittance Advice* (form TC-145). The AOC will deposit the revenue received ~~under these~~  
31   guidelines ~~through this program~~ into the Trial Court Trust Fund ~~as required by statute.~~

32  
33   **(a) AOC Collections Agreement Option**

34   Where the AOC has entered into an MOU or an agreement with a county or a private  
35   collection-services vendor under section 10(b)(3) of these guidelines, funds will be  
36   remitted directly to the AOC under the terms of the MOU or the agreement.

37  
38   **13. Program Data Reporting**

39   Each court should report ~~collections program~~ JDCCP data to the AOC to ensure  
40   implementation of the Legislature's intent by determining the cost-effectiveness of the  
41   program and confirming that efforts to collect reimbursement do not negatively impact  
42   reunification; to provide a basis for projecting the amount of future reimbursements; and to

1 evaluate the JDCCP's effectiveness of the reimbursement program at both statewide and at  
2 the local levels.

3  
4 **(a) Ongoing Reporting Requirement**

5 To support the amount remitted to the Trial Court Trust Fund, All courts each court  
6 will report collections data annually on or before September 30, beginning  
7 September 30, 2013. Completed reports should be sent as attachments to an e-mail  
8 message to [jdeep@jud.ca.gov](mailto:jdeep@jud.ca.gov)~~jdeep@jud.ca.gov~~. The first report should cover the  
9 period from January 1, 2013, to June 30, 2013. Each court should submit its  
10 completed report attached to an e-mail message to [jdccp@jud.ca.gov](mailto:jdccp@jud.ca.gov). Thereafter,  
11 reports should reflect data from the entire preceding fiscal year.

12  
13 (1) *Collections Data Reporting*

14 ~~To the extent feasible in light of each court's current practices and resources,~~  
15 ~~data should be collected in the following categories: The AOC will provide a~~  
16 ~~reporting template that solicits the following information:~~

- 17  
18 (A) Total number of responsible persons evaluated in the reporting period to  
19 determine their ability to pay  
20 (B) ~~Total n~~Number of responsible persons in (A) found unable to pay not  
21 ordered to pay because of potential impact on reunification  
22 (C) ~~Total n~~Number of responsible persons not ordered to pay based on  
23 other financial hardship not ordered to pay because of potential  
24 interference with reunification  
25 Number of persons in (A) found able to pay but not ordered to pay under  
26 section 6(e)  
27 (D) ~~Number of responsible persons with open collections, start of fiscal year~~  
28 accounts at the beginning of the reporting period  
29 (E) ~~Dollar amount of in open collections, accounts at the start~~ beginning of the  
30 fiscal year reporting period  
31 (F) ~~Number of responsible persons added in fiscal year~~ new accounts opened  
32 in the reporting period  
33 (G) ~~Dollar amount added in fiscal year~~ in accounts opened during the  
34 reporting period  
35 (H) ~~Total dollar amount collected from all accounts in the fiscal year~~ reporting  
36 period  
37 (I) ~~Total responsible persons fully paid/closed in fiscal year~~  
38 (J) ~~Number of responsible person accounts closed or discharged in the fiscal~~  
39 year reporting period  
40 (K)(J) ~~Number of responsible persons with open collections, open~~  
41 accounts at the end of the reporting period fiscal year  
42 (L)(K) ~~Dollar amount of open, in open accounts at the end of the fiscal~~  
43 year reporting period

1  
2 (2) JDCCP Implementation Review

3 Within two years of the effective date of these guidelines and thereafter as  
4 needed, the Judicial Council will evaluate the progress of the JDCCP’s  
5 statewide implementation and examine the impact of the program on court  
6 workload and finances. For this purpose, AOC staff may survey the courts about  
7 their financial evaluation processes, including the time and resources needed to  
8 determine responsible persons’ ability to pay, the number of such persons  
9 evaluated, the results of the evaluations as specified in 6(d)–(g), and the number  
10 of judicial hearings necessary under 7(b)–(c).

11  
12 **14. Allocation of Collected Funds to Trial Courts**

13  
14 **(a) Eligibility for Allocation**

15 A trial court is eligible to receive an allocation from the funds remitted through the  
16 JDCCP for the purpose of reducing its dependency-counsel caseload if it meets the  
17 following criteria.

18  
19 (1) Participation

20 The court has demonstrated its participation in the JDCCP by

21  
22 (A) adopting a local rule or policy requiring the juvenile court to inquire at or  
23 before the close of each dispositional hearing about each responsible  
24 person’s ability to pay reimbursement and

25  
26 (B) submitting annual reports under section 13.

27  
28 (2) Funding Need

29 The court receives a base court-appointed counsel allocation that, viewed as a  
30 percentage of the available statewide funding, is less than its percentage share of  
31 the statewide court-appointed counsel funding need as estimated by the CFM.<sup>7</sup>  
32

33 **(b) Allocation Methodology**

---

<sup>7</sup> In October 2007, the TCBWG developed and the Judicial Council approved a need-based compensation or caseload funding model (CFM) for court-appointed dependency counsel practicing in courts under the DRAFT program. (See Trial Court Budget Working Group Rep., *supra* note 5.) In June 2008, the council’s Executive and Planning Committee extended that methodology to appointed dependency counsel in all juvenile courts statewide. The CFM uses the number of data-supported clients in a county to determine the number of FTE attorneys needed to serve that population at the Judicial Council–approved caseload standard of 188 clients per FTE attorney. (See *id.*, at p. 4.) It then uses cost of living, county counsel salaries, and other economic factors to assign each court to one of four statewide groups. (See *id.*, at p. 5.) To promote equity in attorney compensation, each group of courts is assigned an attorney salary level based on the prevailing county counsel salary range in that group. Each court’s appointed-counsel salary needs are determined by multiplying the mid-tier salary level by the number of FTE attorneys needed to serve the client population at the approved caseload. The cost of benefits and overhead, including support staff, are calculated at assigned percentages of the attorney salaries. Adding these elements together yields a precise estimate of the funding needed for a court to ensure competent representation of all parties in juvenile dependency proceedings under sections 317(c) and 317.5, as well as rule 5.660(d) of the California Rules of Court.

1  
2 Remitted funds will be allocated annually, as part of the court-appointed counsel  
3 budget development process, to each eligible court in an amount equivalent to its  
4 need as a percentage of the estimated aggregate funding need of all eligible courts.  
5 Any allocation from the remitted funds is separate from, and in addition to, a court's  
6 allocation from the statewide court-appointed counsel funding base.  
7

8 The Judicial Council provides a single funding allocation to the DRAFT program to  
9 support court-appointed counsel in participating courts. This funding is managed by  
10 the Judicial Council as part of the court-appointed counsel budget development and  
11 funding process. Collected reimbursements allocated to the DRAFT program will  
12 also be managed by the council through this process.  
13

14 **(c) Review of Determination of Funding Level**

15 A court that believes that the amount of its allocation is due to an error in determining  
16 its funding need may request a review of that determination within 90 days. The  
17 request should clearly state the nature of the error.  
18

19 The review will be conducted collaboratively by the court and the Judicial Council.  
20

21 **14.15. Technical Assistance**

22 AOC staff to the Judicial Council will provide technical assistance on request to courts that  
23 ~~do not yet have a dependency counsel reimbursement program in place~~ are in the process of  
24 implementing the JDCCP or that wish to coordinate collection efforts with other courts ~~in~~  
25 ~~establishing a regional reimbursement program~~. Courts may send requests by e-mail to  
26 [jdccp@jud.ca.gov](mailto:jdccp@jud.ca.gov) to receive technical assistance, which can include (but is not limited to)  
27 services such as:

- 28 (a) Helping a court ~~establish a~~ implement the reimbursement program within its current  
29 administrative structure;
- 30 (b) Advising a court on the application of the Uniform Cost Model under section 5(b) of  
31 these guidelines;
- 32 (c) Coordinating a regional reimbursement program among several courts; or
- 33 (d) Working with current collection-services providers who have entered into master  
34 agreements with the AOC to ensure compliance with the JDCCP reporting  
35 requirements.

Proposed Allocation Methodology for Funds Remitted Through the JDCCP

	A	B	C	D	E	F
1	Court	Estimated Funding Need per Caseload Funding Model (CFM) 1/13	Proportion of Total CFM Estimated Funding Need	Current Base CAC Budget Allocation	Proportion of Current Base Funding	Option 2: Allocate Share of Collected Funds to Courts with Disproportionately Low Current Allocation†
2	Alpine	\$0.00	0.00%	\$0.00	0.00%	\$0.00
3	Colusa*	\$53,045.34	0.04%	\$0.00	0.00%	\$0.00
4	Madera	\$470,467.12	0.36%	\$53,030.50	0.05%	\$9,438.13
5	San Benito	\$190,087.72	0.14%	\$31,884.50	0.03%	\$3,813.39
6	Sutter	\$290,834.22	0.22%	\$84,082.75	0.08%	\$5,834.48
7	Tuolumne	\$216,700.00	0.16%	\$63,980.75	0.06%	\$4,347.26
8	Tehama	\$317,430.04	0.24%	\$93,909.01	0.09%	\$6,368.02
9	Glenn	\$159,673.69	0.12%	\$55,250.00	0.05%	\$3,203.25
10	Kings	\$594,444.59	0.45%	\$199,672.35	0.19%	\$11,925.27
11	San Mateo	\$861,103.65	0.65%	\$323,021.73	0.31%	\$17,274.77
12	Riverside	\$9,960,737.40	7.56%	\$4,171,897.50	4.02%	\$199,824.24
13	Ventura	\$1,763,823.63	1.34%	\$755,357.00	0.73%	\$35,384.41
14	Tulare	\$1,486,953.46	1.13%	\$658,892.25	0.64%	\$29,830.05
15	Calaveras	\$164,425.88	0.12%	\$76,519.00	0.07%	\$3,298.58
16	San Bernardino	\$7,271,805.86	5.52%	\$3,587,297.00	3.46%	\$145,881.08
17	Monterey	\$591,586.23	0.45%	\$329,570.00	0.32%	\$11,867.92
18	Merced	\$988,495.67	0.75%	\$593,861.37	0.57%	\$19,830.41
19	Kern	\$3,456,745.25	2.62%	\$2,023,943.00	1.95%	\$69,346.42
20	Yolo	\$539,849.13	0.41%	\$333,430.00	0.32%	\$10,830.01
21	Napa	\$285,404.82	0.22%	\$176,430.00	0.17%	\$5,725.56
22	Butte	\$983,443.74	0.75%	\$664,759.00	0.64%	\$19,729.06
23	Placer	\$655,009.52	0.50%	\$418,422.00	0.40%	\$13,140.28
24	Shasta	\$861,355.26	0.65%	\$569,416.00	0.55%	\$17,279.81
25	<b>DRAFT</b>	<b>\$53,820,131.02</b>	<b>40.84%</b>	<b>\$34,064,073.00</b>	<b>32.84%</b>	<b>\$1,079,695.89</b>
26	Mariposa	\$56,413.30	0.04%	\$32,243.00	0.03%	\$1,131.71
27	Mono	\$14,256.58	0.01%	\$12,329.00	0.01%	\$0.00
28	Trinity	\$92,618.85	0.07%	\$83,204.00	0.08%	\$0.00
29	Modoc	\$17,681.78	0.01%	\$16,064.00	0.02%	\$0.00
30	Yuba	\$210,997.37	0.16%	\$199,732.00	0.19%	\$0.00
31	Fresno	\$2,957,067.13	2.24%	\$2,958,296.00	2.85%	\$0.00
32	<b>DRAFT</b>	<b>\$29,654,711.05</b>	<b>22.50%</b>	<b>\$36,231,939.29</b>	<b>34.93%</b>	<b>\$0.00</b>
33	Orange	\$6,227,511.20	4.73%	\$6,583,082.00	6.35%	\$0.00
34	Lassen	\$104,406.70	0.08%	\$108,374.00	0.10%	\$0.00
35	San Francisco	\$3,101,987.42	2.35%	\$3,907,633.00	3.77%	\$0.00
36	Contra Costa	\$2,543,025.40	1.93%	\$3,120,151.00	3.01%	\$0.00
37	Nevada	\$204,344.30	0.16%	\$232,799.00	0.22%	\$0.00
38	Sierra	\$10,945.86	0.01%	\$14,898.00	0.01%	\$0.00
39	Humboldt	\$407,522.92	0.31%	\$562,460.00	0.54%	\$0.00
40	Siskiyou	\$167,555.91	0.13%	\$256,552.00	0.25%	\$0.00
41	Inyo	\$38,017.54	0.03%	\$76,990.00	0.07%	\$0.00
42		<b>\$131,792,616.55</b>	<b>100.00%</b>	<b>\$103,725,445.00</b>	<b>100.00%</b>	<b>\$1,725,000.00</b>
43						
44	*County pays for dependency counsel					
45						
46	†Assuming participation requirements met					

	A	B	C	D	E	F
1	Eligible Court	CFM Allocation	Percentage of total	Allocation of collected repayments to each court		
2	Madera	\$470,467.00	0.55%	\$9,438.13		
3	San Benito	\$190,088.00	0.22%	\$3,813.39		
4	Sutter	\$290,834.00	0.34%	\$5,834.48		
5	Tuolumne	\$216,700.00	0.25%	\$4,347.26		
6	Tehama	\$317,430.00	0.37%	\$6,368.02		
7	Glenn	\$159,674.00	0.19%	\$3,203.25		
8	Kings	\$594,445.00	0.69%	\$11,925.27		
9	San Mateo	\$861,104.00	1.00%	\$17,274.77		
10	Riverside	\$9,960,737.00	11.58%	\$199,824.24		
11	Ventura	\$1,763,824.00	2.05%	\$35,384.41		
12	Tulare	\$1,486,953.00	1.73%	\$29,830.05		
13	Calaveras	\$164,426.00	0.19%	\$3,298.58		
14	San Bernardino	\$7,271,806.00	8.46%	\$145,881.08		
15	Monterey	\$591,586.00	0.69%	\$11,867.92		
16	Merced	\$988,496.00	1.15%	\$19,830.41		
17	Kern	\$3,456,745.00	4.02%	\$69,346.42		
18	Yolo	\$539,849.00	0.63%	\$10,830.01		
19	Napa	\$285,405.00	0.33%	\$5,725.56		
20	Butte	\$983,444.00	1.14%	\$19,729.06		
21	Placer	\$655,010.00	0.76%	\$13,140.28		
22	Shasta	\$861,355.00	1.00%	\$17,279.81		
23	<b>DRAFT</b>	<b>\$53,820,131.00</b>	<b>62.59%</b>	\$1,079,695.89		
24	Mariposa	\$56,413.00	0.07%	\$1,131.71		
25	<b>TOTAL</b>	<b>\$85,986,922.00</b>	<b>100.00%</b>	<b>\$1,725,000.00</b>		
26						
27	Assumes satisfaction of participation requirements in § 14(a)(1) of the guidelines.					
28						
29						
30	\$1,725,000 is a hypothetical amount used for illustrative purposes.					
31						
32						
33	Allocate share of available funds (D25) equivalent to each court's share of aggregate funding need.					
34						
35						
36	How will each eligible court's allocation be determined?					
37						
38	(1) Determine total CFM funding need of all eligible courts (B25).					
39	(2) Determine each eligible court's proportionate share of that total (Cn=Bn/B25).					
40	(3) Allocate to each eligible court a % of total collected funds equal to					
41	that court's % of need (Dn=D25*Cn).					

Senate Bill 75 (Stats. 2013, ch. 31), effective June 27, 2013.

SECs. 1–25 \*\*\*

SEC. 26.

Section 903.45 of the Welfare and Institutions Code is amended to read:

**903.45.**

(a) \*\*\*

(b) In ~~any~~<sup>a</sup> county where a board of supervisors has designated a county financial evaluation officer, the juvenile court shall, at the close of the disposition hearing, order any person liable for the cost of support, pursuant to Section 903, the cost of legal services as provided for in Section 903.1, probation costs as provided for in Section 903.2, or any other reimbursable costs allowed under this code, to appear before the county financial evaluation officer for a financial evaluation of his or her ability to pay those ~~costs; and if costs.~~ *If* the responsible person is not present at the disposition hearing, the court shall cite him or her to appear for ~~such~~<sup>a</sup> financial evaluation. In the case of a parent, guardian, or other person assessed for the costs of transport, food, shelter, or care of a minor under Section 207.2 or 903.25, the juvenile court shall, upon request of the county probation department, order the appearance of the parent, guardian, or other person before the county financial evaluation officer for a financial evaluation of his or her ability to pay the costs assessed.

If the county financial evaluation officer determines that a person so responsible has the ability to pay all or part of the costs, the county financial evaluation officer shall petition the court for an order requiring the person to pay that sum to the county or court, depending on which entity incurred the expense.

If the parent or guardian is liable for costs for legal services pursuant to Section 903.1, the parent or guardian has been reunified with the child pursuant to a court order, and the county financial evaluation officer determines that repayment of the costs would harm the ability of the parent or guardian to support the child, then the county financial evaluation officer shall not petition the court for an order of repayment, and the court shall not make that order. *In addition, if the parent or guardian is currently receiving reunification services, and the court ~~finds~~<sup>finds, or the county financial officer determines</sup>, that repayment by the parent or guardian will pose a barrier to reunification with the child because it will limit the ability of the parent or guardian to comply with the requirements of the reunification plan or compromise the parent's or guardian's current or future ability to meet the financial needs of the child, or in any case in which the court finds that the repayment would be unjust under the circumstances of the case, ~~the court then the county financial evaluation officer shall not petition the court for an order of repayment, and the court shall not order repayment by the parent or guardian.~~ In evaluating a person's ability to pay under this section, the county financial evaluation officer and the court shall take into consideration the family's income, the necessary obligations of the family, and the number of persons dependent upon this income. ~~Any~~<sup>A</sup> person appearing for a financial evaluation ~~shall have~~<sup>has</sup> the right to dispute the county financial evaluation officer's determination, in which*

case he or she ~~shall be~~ *is* entitled to a hearing before the juvenile court. The county financial evaluation ~~officer~~ *officer*, at the time of the financial ~~evaluation~~ *evaluation*, shall advise ~~such a~~ *the* person of his or her right to a hearing and of his or her rights pursuant to subdivision (c). At the hearing, ~~any a~~ person ~~so~~ responsible for costs ~~shall be~~ *is* entitled to have, but shall not be limited to, the opportunity to be heard in person, to present witnesses and other documentary evidence, to confront and cross-examine adverse witnesses, to disclosure of the evidence against him or her, and to receive a written statement of the findings of the court. The person ~~shall have~~ *has* the right to be represented by counsel, and, ~~when if~~ the person is unable to afford counsel, the right to appointed counsel. If the court determines that the person has the ability to pay all or part of the costs, including the costs of any counsel appointed to represent the person at the hearing, the court shall set the amount to be reimbursed and order him or her to pay that sum to the county or court, depending on which entity incurred the expense, in a manner in which the court believes reasonable and compatible with the person's financial ability.

If the ~~person or persons,~~ *person*, after having been ordered to appear before the county financial evaluation officer, ~~have~~ *has* been given proper notice and ~~fail~~ *fails* to appear as ordered, the county financial evaluation officer shall recommend to the court that ~~he, she, or they~~ *the person* be ordered to pay the full amount of the costs. Proper notice to ~~him, her, or them~~ *the person* shall contain all of the following:

- (1) That ~~he, she, or they~~ *the person has* a right to a statement of the costs as soon as it is available.
- (2) ~~His, her, or their~~ *The person's* procedural rights under Section 27755 of the Government Code.
- (3) The time limit within which ~~his, her, or their~~ *the person's* appearance is required.
- (4) A warning that if ~~he, she, or they~~ *the person fails* to appear before the county financial evaluation officer, the officer will recommend that the court order ~~him, her, or them~~ *the person* to pay the costs in full.

If the county financial evaluation officer determines that the person ~~or persons~~ *have* ~~has~~ the ability to pay all or a portion of these costs, with or without terms, and ~~he, she, or they~~ *concur* ~~the person concurs~~ in this determination and ~~agree~~ *agrees* to the terms of ~~payments,~~ *payment*, the county financial evaluation officer, upon his or her written evaluation and the person's ~~or persons'~~ written agreement, shall petition the court for an order requiring ~~him, her, or them~~ *the person* to pay that sum to the county or the court in a manner ~~which~~ *that* is reasonable and compatible with ~~his, her, or their~~ *the person's* financial ability. This order may be granted without further notice to the ~~person or persons,~~ *person*, provided a copy of the order is served on ~~him, her, or them~~ *the person* by mail.

However, if the county financial evaluation officer cannot reach an agreement with the person ~~or persons~~ with respect to either the liability for the costs, the amount of the costs, ~~his, her, or their~~ *the person's* ability to pay the ~~same,~~ *costs*, or the terms of payment, the matter shall be deemed in dispute and referred by the county financial evaluation officer back to the court for a hearing.

(c)-(d) \*\*\*