



# Judicial Council of California

455 Golden Gate Avenue · San Francisco, California 94102-3688

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## REPORT TO THE JUDICIAL COUNCIL

*Item No.: 24-034*

For business meeting on May 17, 2024

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**Title**

Rules and Forms: Order for Debtor's  
Examination in Small Claims Cases

**Agenda Item Type**

Action Required

**Effective Date**

June 1, 2024

**Rules, Forms, Standards, or Statutes Affected**

Revise form SC-134

**Date of Report**

May 1, 2024

**Recommended by**

Judicial Council staff  
Anne M. Ronan, Supervising Attorney  
Legal Services

**Contact**

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### Executive Summary

Judicial Council staff recommend revising the instructions on one Judicial Council form to implement a statutory change made by Assembly Bill 1119 (Stats. 2023, ch. 562), enacted October 8, 2023. Revisions to the form will ensure that it conforms to existing law and avoid causing confusion for court users, clerks, and judicial officers.

### Recommendation

Judicial Council staff recommend that the council, effective June 1, 2024, revise *Application and Order to Produce Statement of Assets and to Appear for Examination* (form SC-134) to reflect the revised deadline set in AB 1119 for service of an order for examination of a judgment debtor.

The proposed revised form is attached at pages 4–5.

### Relevant Previous Council Action

Form SC-134 was adopted effective January 1, 1998, and has been revised by the council several times since then. The most recent revision, effective January 1, 2017, clarified the form's instructions for service and reorganized portions of the form to improve clarity and readability.

## **Analysis/Rationale**

Judgments in small claims cases may be enforced under the same provisions applicable to all civil cases, including examination of judgment debtors.<sup>1</sup> Judgment creditors in small claims cases can use either *Application and Order for Appearance and Examination* (form AT-138/EJ-125) or *Application and Order to Produce Statement of Assets and to Appear for Examination* (form SC-134) to seek an examination of the judgment debtor.<sup>2</sup>

Prior law required a judgment creditor to serve a copy of an order to appear for a debtor's examination on the judgment debtor no less than 10 days before the date of the examination. AB 1119<sup>3</sup> changes this deadline to 30 days for all judgment debtors.<sup>4</sup> This change in law became effective on January 1, 2024.

This deadline is stated in item 4 on page 2 of form SC-134. Staff recommend changing "10 calendar days" to "30 calendar days" to reflect the requirements of AB 1119.<sup>5</sup>

## **Policy implications**

The proposed revisions to the form implement an amended statute that changes the deadline for a judgment creditor to serve a judgment debtor with an order to appear for examination. Accordingly, the key policy implication is to ensure that this council form correctly reflects the law.

## **Comments**

This proposal was not circulated for public comment because the changes are noncontroversial and directly implement a change in statute and are therefore within the Judicial Council's purview to adopt without circulation. (See Cal. Rules of Court, rule 10.22(d)(2).) The Civil and Small Claims Advisory Committee will be asking to circulate other revisions to this form later this year as part of a proposal to implement other provisions in AB 1119, but the current changes are needed to ensure that the form is not stating incorrect law in the meantime.

## **Alternatives considered**

The alternative of no action was not considered because, without the proposed revisions, the form does not reflect current law.

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<sup>1</sup> Code Civ. Proc., § 116.820.

<sup>2</sup> Form SC-134 is also used to enforce the requirement in Code of Civil Procedure section 116.830 for the judgment debtor to complete *Judgment Debtor's Statement of Assets* (form SC-133).

<sup>3</sup> See Link A.

<sup>4</sup> Code Civ. Proc., § 708.110(d).

<sup>5</sup> Form AT-138/EJ-125 has already been updated to reflect the new deadline. Judicial Council of Cal., Staff Rep., *Rules and Forms: Order for Debtor's Examination* (Feb. 15, 2024), <https://jcc.legistar.com/View.ashx?M=F&ID=12701049&GUID=532D0822-334E-4355-A9F1-84D3029C7798>.

## **Fiscal and Operational Impacts**

Staff anticipate that this proposal will require courts to train court staff and judicial officers on the changes in law reflected in the revised form. Because the revisions reflect changes in statute, these operational impacts cannot be avoided.

## **Attachments and Links**

1. Form SC-134, at pages 4–5
2. Link A: Assem. Bill 1119,  
[https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=202320240AB1119](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240AB1119)

DRAFT

FOR COURT USE ONLY

DRAFT

04/15/2024

NOT APPROVED

BY COUNCIL

PLAINTIFF/DEMANDANTE (name, address, and telephone number of each):

Telephone No.:

DEFENDANT/DEMANDADO (name, address, and telephone number of each):

Telephone No.:

See attached sheet for additional plaintiffs and defendants.

**ORDER TO PRODUCE STATEMENT OF ASSETS  
AND TO APPEAR FOR EXAMINATION**

1. TO JUDGMENT DEBTOR (name):
  2. YOU ARE ORDERED
    - a. to pay the judgment and file proof of payment (a canceled check or money order or cash receipt, and a written declaration that shows full payment of the judgment, including postjudgment costs and interest) with the court before the hearing date shown in the box below, **OR**
    - b. to
      - (1) personally appear in this court on the date and time shown below, and
      - (2) bring with you a completed *Judgment Debtor's Statement of Assets* (form SC-133).
- At the hearing you will be required to
- answer questions about your income and assets; and
  - explain why you did not complete and mail form SC-133 to judgment creditor in a timely manner. (*You should have sent it within 30 days after the Notice of Entry of Judgment (form SC-130) was mailed or handed to you by the clerk.*)

**Hearing  
Date**

→ Date: \_\_\_\_\_ Time: \_\_\_\_\_  
Dept.: \_\_\_\_\_ Room: \_\_\_\_\_

Name and address of court if different from above:

**If you fail to appear and have not paid the judgment, including postjudgment costs and interest, a bench warrant may be issued for your arrest, you may be held in contempt of court, and you may be ordered to pay penalties.**

**Si usted no se presenta y no ha pagado el monto del fallo judicial, inclusive las costas e intereses posteriores al fallo, la corte puede expedir una orden de detencion contra usted, declararle en desacato y ordenar clue pague multas.**

3. This order may be served by a sheriff, marshal, or registered process server.

Date: \_\_\_\_\_

\_\_\_\_\_  
(SIGNATURE OF JUDGE)

**APPLICATION FOR THIS ORDER**

(See Instructions on reverse)

- A. Judgment creditor (the person who won the case) (name): \_\_\_\_\_ applies for an order requiring judgment debtor (the person or business who lost the case and owes money) (name): \_\_\_\_\_ to (1) pay the judgment or (2) personally appear in this court with a completed *Judgment Debtor's Statement of Assets* (form SC-133), explain why judgment debtor did not pay the judgment or complete and mail form SC-133 to judgment creditor within 30 days after the *Notice of Entry of Judgment* was mailed or handed to judgment debtor, and answer questions about judgment debtor's income and assets.
- B. I, judgment creditor, state the following:
- (1) Judgment debtor has not paid the judgment.
  - (2) Judgment debtor either did not file an appeal or the appeal has been dismissed or judgment debtor lost the appeal.
  - (3) Judgment debtor either did not file a motion to vacate or the motion to vacate has been denied.
  - (4) More than 30 days have passed since the *Notice of Entry of Judgment* was mailed or delivered to judgment debtor.
  - (5) I have not received a completed *Judgment Debtor's Statement of Assets* from judgment debtor.
  - (6) The person to be examined resides or has a place of business in this county or within 150 miles of the place of examination.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: \_\_\_\_\_

\_\_\_\_\_  
(TYPE OR PRINT NAME) \_\_\_\_\_  
(DECLARANT)

- The county provides small claims advisor services free of charge -

## INSTRUCTIONS FOR APPLICANT

1. This form is intended to be an easy tool to enforce your right to receive a completed *Judgment Debtor's Statement of Assets* (form SC-133). This form is not intended to replace the *Application and Order for Appearance and Examination* (form EJ-125), often called an "Order for Examination." The *Application and Order for Appearance and Examination* should still be used to enforce a small claims judgment if you are not seeking at the same time to make the debtor complete a *Judgment Debtor's Statement of Assets*.
2. To set a hearing on an *Application and Order to Produce Statement of Assets and to Appear for Examination*, you must complete this form, present it to the court clerk, and pay the fee for an initial hearing date or a reset hearing date.
3. After you file this form, the clerk will set a hearing date, note the hearing date on the form, and return two copies or an original and one copy of the form to you.
4. If you want to be able to ask the court to enforce the order on the judgment debtor (the person or business who lost the case), you must have a copy of this form and a blank copy of the *Judgment Debtor's Statement of Assets* (form SC-133) personally served on the judgment debtor by a sheriff, marshal, or registered process server at least **30 calendar days** before the date of the hearing, and have a proof of service filed with the court. The law provides for a new fee if you reset the hearing.
5. If the judgment is paid, including all postjudgment costs and interest, you must immediately complete the *Acknowledgment of Satisfaction of Judgment* on the reverse of the *Notice of Entry of Judgment* (form SC-130) and file a copy with the court.
6. You must attend the hearing unless the judgment has been paid.



**Request for Accommodations.** Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least 5 days before your hearing. Contact the clerk's office for *Request for Accommodation* (form MC-410). (Civil Code, § 54.8.)



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## REPORT TO THE JUDICIAL COUNCIL

*Item No.: 24-094*

For business meeting on May 17, 2024

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**Title**

Civil Remote Proceedings: When a Judicial Officer May Preside Remotely

**Agenda Item Type**

Action Required

**Rules, Forms, Standards, or Statutes Affected**

Adopt Cal. Rules of Court, rule 10.635

**Effective Date**

July 1, 2024

**Recommended by**

Trial Court Presiding Judges Advisory Committee  
Hon. Maria D. Hernandez, Chair

**Date of Report**

April 17, 2024

**Contact**

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### Executive Summary

The Trial Court Presiding Judges Advisory Committee recommends that the Judicial Council adopt a rule of court concerning when a judicial officer may preside remotely in civil cases subject to Code of Civil Procedure section 367.75, effective July 1, 2024. The proposed rule satisfies the statutory mandate contained in Code of Civil Procedure section 367.10 which requires the council to adopt a rule that includes “standards for when a judicial officer, in limited situations and in the interest of justice, may preside over a remote court proceeding from a location other than a courtroom.” (Code Civ. Proc., § 367.10.)

### Recommendation

The Trial Court Presiding Judges Advisory Committee recommends that the Judicial Council adopt California Rules of Court, rule 10.635, effective July 1, 2024.

The proposed rule is attached at pages 8–9.

## **Relevant Previous Council Action**

The council has taken no previous action regarding when a judicial officer may preside over a remote court proceeding from a location other than a courtroom.

## **Analysis/Rationale**

### **Background**

Code of Civil Procedure section 367.10 requires the council to adopt a rule establishing standards for when a judicial officer may preside over a remote proceeding from a location other than a courtroom. The statute provides that judicial officers may do so “in limited situations and in the interest of justice.”<sup>1</sup>

### **Proposed rule**

The Trial Court Presiding Judges Advisory Committee recommends adoption of proposed rule 10.635 to fulfill the statutory mandate expressed in Code of Civil Procedure section 367.10. As required by the statute, the rule sets out the limited circumstances under which, in the interest of justice, a judicial officer may preside remotely from a location other than a courtroom.

The proposed rule does not address the ability of any party or other participant to appear remotely. That option is governed by Code of Civil Procedure section 367.75 and rule 3.672. The rule also in no way limits the court’s ability to conduct remote proceedings; in accordance with the statute, it limits only the location from which the judicial officer may preside over such proceedings.

The proposed rule applies only in civil cases subject to Code of Civil Procedure section 367.75 and does not apply in criminal proceedings, juvenile justice proceedings, or proceedings in matters identified in Code of Civil Procedure section 367.76 (civil commitments and other specified proceedings). The rule also does not apply when a judicial officer presides in person over a remote proceeding.

### ***Purpose of the proposed rule***

Subdivision (a) describes the purpose of the proposed rule, consistent with the statutory mandate in section 367.10. The provision explains that the rule prescribes when, in limited situations and in the interest of justice, a judicial officer may use remote technology to effectuate their own participation in a proceeding—that is, preside remotely—from a location other than a courtroom.<sup>2</sup>

### ***Scope of the proposed rule***

Subdivision (b) describes the scope of the proposed rule, designating the circumstances and types of cases in which the rule applies.

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<sup>1</sup> Code Civ. Proc., § 367.10.

<sup>2</sup> Proposed rule 10.635(a).

With respect to the circumstances covered by the proposed rule, the rule is limited to situations in which a judicial officer is using remote technology to effectuate their own participation in the proceeding.<sup>3</sup> This language clarifies that if a judicial officer is presiding in person but “using” remote technology to effectuate others’ participation (such as admitting remote participants from a virtual waiting room or muting disruptive remote participants), the rule does not apply. The rule therefore does not affect the location of a judicial officer who is presiding in person, even if one or more participants join a proceeding remotely.<sup>4</sup>

With respect to the types of cases to which the proposed rule applies, subdivision (b)(3) establishes that the rule applies to civil cases subject to Code of Civil Procedure section 367.75. The rule therefore does not apply in juvenile justice proceedings or proceedings in certain specific matters listed in section 367.76 that are expressly excised from section 367.75 (judicial commitments, involuntary treatment and conservatorships, contempt proceedings, mentally disordered offender proceedings, commitment proceedings under the Penal Code, competency proceedings, outpatient placement and revocation proceedings, and involuntary medication and treatment hearings). Other statutory provisions already include requirements concerning the location of a judicial officer during a remote proceeding in these types of cases.<sup>5</sup>

The proposed rule also does not apply in criminal proceedings. The omission of criminal proceedings from the rule is not intended to authorize a judicial officer to preside remotely over such proceedings where not otherwise allowed. Because the statutory authorization for criminal remote proceedings sunsets effective January 1, 2025, it would be premature to address criminal proceedings in the proposed rule while extension of that authority is pending in the Legislature.

In addition, the proposed rule does not apply to superior court appellate division proceedings because the Appellate Advisory Committee is considering revisions to rule 8.885 (which governs oral argument in misdemeanor and limited civil appeals) and rule 8.929 (which governs oral argument in infraction appeals) that should clarify the use of remote proceedings in appellate division proceedings.<sup>6</sup>

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<sup>3</sup> Proposed rule 10.635(b)(1).

<sup>4</sup> Accordingly, the proposed rule does not affect a court’s existing authority to convene in-person hearings outside of a courtroom. (See, e.g., Code Civ. Proc., § 651(a), (b) (authorizing site visits outside of a courtroom, including the taking of evidence at such site visits, to aid a trier of fact in determining a case); Gov. Code, § 68115(a)(1) (in times of specified emergencies, a presiding judge may request authorization to hold court sessions anywhere within the county).)

<sup>5</sup> See Code Civ. Proc., § 367.76(d) (if the subject person is physically present in court, absent exceptional circumstances and exempting certain state department counsel, specified other participants and the judicial officer must be physically present in the courtroom); Welf. & Inst. Code, § 679.5(c), (d) (minor has the right to the physical presence of the defense counsel, any testifying prosecution witnesses, and the judicial officer, subject to the minor’s waiver).

<sup>6</sup> Judicial Council of Cal., Advisory Comm. Agenda (Oct. 26, 2023), item 13 Update rules regarding oral argument in the appellate divisions, p. 11, <https://www.courts.ca.gov/documents/aac-annual.pdf>.



Paragraph (b)(4) of the proposed rule clarifies that the rule does not otherwise limit any powers judicial officers have to perform certain judicial functions outside of a courtroom, as permitted by law. For example, the rule does not affect existing law permitting specific judicial acts to be performed at any place in the state.<sup>7</sup>

### ***Definitions***

Subdivision (c) of the proposed rule defines several of the terms used in the rule. The rule incorporates existing definitions from rule 3.672(c) (which governs remote proceedings) and Government Code section 70301(d) (which defines “court facilities” under the Trial Court Facilities Act of 2002). Incorporating existing definitions is intended to maintain clarity and consistency within the law.

### ***Situations in which a judicial officer may preside remotely from a location other than a courtroom***

The statutory mandate directs the council to adopt a rule describing “limited situations” in which, “in the interest of justice,” a judicial officer may preside remotely from a location other than a courtroom. To comply with this mandate, subdivisions (d) and (e) of the proposed rule place clear limits on judicial officers presiding remotely from locations outside of a courtroom.

To achieve appropriate limitations on judicial officers presiding remotely, the rule divides its strictures into two situations: when a judicial officer is in a court facility but not presiding from a courtroom, and when a judicial officer is outside of a court facility. The rule provides graduated provisions for these two scenarios, recognizing that only the most extraordinary circumstances will justify a judicial officer presiding remotely from outside of a court facility.

Two general limitations apply in all scenarios: (1) presiding remotely requires the approval of the presiding judge, and (2) presiding remotely must be in the interest of justice. These requirements serve two functions. First, requiring presiding judge approval assures that presiding judges have the necessary authority to exercise their assignment duties and ensure the effective management and administration of their courts in accordance with their responsibilities under rule 10.603. Their approval also ensures that the rule’s limitations will be faithfully observed. Second, requiring that presiding remotely be in the interest of justice ensures consistency with the clear statutory mandate.

Under subdivision (d) of the proposed rule, a judicial officer may preside remotely from a location within a court facility that is not a courtroom if the presiding judge approves, presiding remotely is in the interest of justice, and either (1) the proceeding is fully remote because no parties are appearing in person, or (2) no courtrooms are available in the court facility. These limitations prioritize presiding over remote proceedings from a courtroom in most cases but permit some flexibility for particular circumstances. This is especially true when limited courtroom space may favor judicial officers presiding over remote proceedings from other parts

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<sup>7</sup> See, e.g., Code Civ. Proc., § 166(b) (authorizing judges to exercise certain powers out of court, anywhere in the state).

of a court facility, such as a conference room or chambers, to keep courtrooms available for in-person proceedings.

Under subdivision (e) of the proposed rule, a judicial officer may preside remotely from a location outside of a court facility only in very limited circumstances. Again, presiding remotely must be approved by the presiding judge and be in the interest of justice. But in addition, a judicial officer may preside remotely from a non-court location only if either (1) hazardous conditions prevent the judicial officer from safely accessing a court facility (proposed rule 10.635(e)(1)), or (2) presiding remotely in the matter is essential to preventing a significant delay that will substantially prejudice the litigants (proposed rule 10.635(e)(2)). These provisions allow cases to proceed even if external conditions prevent a judicial officer from using a court facility and give presiding judges necessary tools to prevent excessive case delays that harm litigants.

### **Policy implications**

Adopting the proposed rule describing the limited situations in which a judicial officer may preside remotely from a location other than a courtroom will satisfy a statutory mandate. The proposed rule is carefully drafted to achieve a balance between maintaining flexibility for individual courts and effectuating the Legislature’s mandate that presiding remotely be “in limited situations and in the interest of justice.”

### **Comments**

The proposed rule was circulated for public comment from February 8 to March 15, 2024, as part of a special cycle, and 11 comments were received. The committee received comments from the following: four individual judges, the Superior Court of San Diego County, the Family Law and Juvenile Divisions of the Superior Court of Orange County, a judicial officer at the Superior Court of Riverside County, a group of judicial officers at the Superior Court of San Bernardino County, a group of deputy directors at the Superior Court of San Bernardino County, Court Technology Services at the Superior Court of San Bernardino County, and the Orange County Bar Association. Two commenters agreed with the proposal, six commenters agreed with the proposal if modified, one commenter did not agree, and two did not indicate a position but provided suggested revisions to the proposed rule.

A chart with the full text of the comments received and the committee’s responses is attached at pages 10–22. The principal comments and the committee’s responses are summarized below. Also, several commenters provided comments addressing fiscal or operational impacts of the proposal which are described below in “Fiscal and Operational Impacts.”

### ***Scope of the proposed rule***

Two commenters suggested that it should be made clear in a comment to the proposed rule or text accompanying the rule that the rule does not apply to superior court appellate division proceedings. As noted above, the Appellate Advisory Committee is considering revisions to the rules that govern the use of remote proceedings in appellate division proceedings. For this reason, the committee is not recommending adopting the commenters’ specific proposed

modifications. The committee does agree, as stated previously, that the proposed rule does not apply to appellate division oral arguments.

### ***Approval by presiding judge***

Two commenters suggested that, in addition to presiding judges, supervising judges be allowed to approve a request from a judicial officer to preside remotely, explaining that “[i]n bigger courts, judges have more immediate access to their supervising judges.” The committee is not recommending a change to the rule, but agrees that, in larger courts, presiding judges may determine that a supervising judge will have a more granular understanding of day-to-day issues in a particular courthouse, including the caseloads and calendars of the judicial officers. As a result, the presiding judge in such a court may find it appropriate to delegate this responsibility.

One commenter objected to the proposed rule’s requirement of presiding judge approval in order for a judicial officer to preside remotely. As discussed above and in the attached comment chart, the committee concludes an approval requirement is necessary to balance the flexibility individual courts need to ensure litigants have timely and suitable access to justice with implementing the legislative mandate to prioritize presiding from courtrooms. Moreover, that requirement assures that presiding judges are able to ensure the effective management and administration of their courts, consistent with the rule.

### ***Location of the rule***

In response to a question posed in the invitation to comment regarding whether the proposed rule should be located in title 3 (Civil) of the California Rules of Court or whether it would be more appropriate to locate it in another title (e.g., title 10 (Judicial Administration)), the Superior Court of San Diego County and the Family Law and Juvenile Divisions of the Superior Court of Orange County commented that title 10 was the more appropriate location. The deputy directors at the Superior Court of San Bernardino County, commented that title 3 seemed appropriate because of its proximity to other rules on remote proceedings.

In considering the issue, the committee believes that it is more appropriate to locate the rule in title 10. Although there is some advantage to locating the proposed rule near rule 3.672 due to their similar subject matter (remote proceedings), the proposed rule is fundamentally one of court administration that imposes no duties or obligations on parties. Moreover, locating the rule in title 10 offers proximity to other rules governing the duties and responsibilities of presiding judges (rule 10.603) and trial court judges (rule 10.608). For these reasons, the committee is recommending that the location of the rule be revised accordingly.

The Family Law and Juvenile Divisions of the Superior Court of Orange County also suggested that the rule be located in title 1 (Rules Applicable to All Courts). However, the committee is not recommending that the rule be located there because the rule is not applicable to all courts.

### **Alternatives considered**

Because Code of Civil Procedure section 367.10 mandates that the council adopt a rule of court, the committee did not consider the alternative of taking no action or an alternative that did not include adopting a rule.

### **Fiscal and Operational Impacts**

The committee does not anticipate that this proposal would result in substantial fiscal or operational impacts on the courts. Because judicial officers and courts gained experience with remote proceedings during the height of the COVID-19 pandemic, the committee anticipates that courts will not need to make substantial operational changes to implement the proposed rule. Moreover, the rule does not mandate any court actions. Rather, the rule establishes those limited situations in which a judicial officer may preside remotely, when in the interest of justice and with the presiding judge's approval.

The committee received comments from three courts in response to questions posed in the invitation to comment regarding fiscal and operational impacts of the proposed rule. Although the courts reported a possible need for additional procedures or training concerning the proposed rule, no court reported substantial fiscal or operational burdens as a result of the proposal.

Finally, the committee anticipates no impact on litigants or other court participants because the rule addresses only the situations in which judicial officers may preside remotely; it has no bearing on whether or when parties or other participants may appear remotely.

### **Attachments and Links**

1. Cal. Rules of Court, rule 10.635, at pages 8–9
2. Chart of comments, at pages 10–22
3. Link A: Code Civ. Proc., § 367.10,  
[https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=367.10.&lawCode=CCP](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=367.10.&lawCode=CCP)

Rule 10.635 of the California Rules of Court is adopted, effective July 1, 2024, to read:

1 Title 10. Judicial Administration Rules

2  
3 Division 4. Trial Court Administration

4  
5 Chapter 1. General Rules on Trial Court Management

6  
7  
8 **Rule 10.635. Limited situations in which a judicial officer may preside remotely**  
9 **from a location other than a courtroom**

10  
11 **(a) Purpose**

12  
13 This rule prescribes when, in limited situations and in the interest of justice, a  
14 judicial officer may use remote technology to effectuate their own participation in a  
15 proceeding from a location other than a courtroom.

16  
17 **(b) Application**

18  
19 (1) This rule applies when a judicial officer presiding from a location other than  
20 a courtroom uses remote technology to effectuate their own participation in  
21 the proceeding.

22  
23 (2) This rule does not apply when a judicial officer presides in person over a  
24 proceeding convened in a location other than a court facility, even if another  
25 participant appears remotely.

26  
27 (3) This rule applies to all civil cases subject to Code of Civil Procedure section  
28 367.75.

29  
30 (4) Nothing in this rule limits a judicial officer from engaging in any other  
31 judicial functions, duties, or actions authorized by law to be performed in a  
32 location other than a courtroom.

33  
34 **(c) Definitions**

35  
36 As used in this rule:

37  
38 (1) “Court facility” has the same meaning as that provided in Government Code  
39 section 70301(d).

40  
41 (2) The following terms have the same meaning as those provided in rule  
42 3.672(c):

Rule 10.635 of the California Rules of Court is adopted, effective July 1, 2024, to read:

1           (A) “Proceeding.”

2  
3           (B) “Remote proceeding.”

4  
5           (C) “Remote technology.”

6  
7   **(d) Location of a judicial officer within a court facility**

8  
9           A judicial officer may preside remotely from a location within a court facility other  
10           than a courtroom only if doing so is in the interest of justice, the presiding judge  
11           approves, and either:

12  
13           (1) No parties are appearing in person at the proceeding; or

14  
15           (2) No courtrooms are available in the court facility.

16  
17   **(e) Location of a judicial officer outside a court facility**

18  
19           A judicial officer may not preside remotely from a location outside a court facility  
20           unless doing so is in the interest of justice, the presiding judge approves, and

21  
22           (1) The judicial officer cannot safely access or preside from a court facility  
23           because of hazardous conditions, including those resulting from:

24  
25           (A) Natural disaster;

26  
27           (B) Severe weather;

28  
29           (C) Public emergency;

30  
31           (D) Facilities failure;

32  
33           (E) Security threats; or

34  
35           (F) Other extraordinary circumstances as determined by the presiding  
36           judge; or

37  
38           (2) Presiding remotely in a matter is essential to prevent a significant delay that  
39           would substantially prejudice the litigants.

**Civil Remote Proceedings: When a Judicial Officer May Preside Remotely** (adopt Cal. Rules of Court, rule 3.674)

All comments are verbatim unless indicated by an asterisk (\*).

	Commenter	Position	Comment	Committee Response
1.	Hon. Janet M. Frangie Judge, Superior Court of San Bernardino County	N	<p>What is the rationale for this rule? While remote proceedings have shown to be effective during the Pandemic and afterwards for consumers and attorneys, this rule seeks to restrict the court from implementing its own rules for remote access for judicial officers tailored to that court’s specific needs.</p> <p>For example, in San Bernardino County, the largest county size wise in the contiguous United States, there may be an occasion where a judicial officer is called on to handle a calendar in a court far from his/her sitting court and remote proceedings for non-trial/evidentiary hearing purposes would be advantageous and cost-effective.</p> <p>Does this rule apply to judges conducting settlement conferences and Informal Discovery Conferences in chambers via Zoom where all other parties/attorneys are also on Zoom? It would seem to.</p> <p>I have sat on many calendars after the Pandemic where the only person in the courtroom was me.</p>	<p>Proposed rule 10.635 is a response to the Legislature’s mandate in Code of Civil Procedure section 367.10 that “the Judicial Council shall adopt rules that include standards for when a judicial officer, in limited situations and in the interest of justice, may preside over a remote court proceeding from a location other than a courtroom.” (Code Civ. Proc., § 367.10.)</p> <p>The committee agrees that judicial officers presiding remotely can offer convenience and efficiency in counties with large and diverse geography. The committee notes that nothing in the rule prevents a judicial officer from using remote technology to preside from their own bench over a proceeding in a different courthouse. If no courtrooms are available in their own courthouse, they may preside remotely from any location within the court facility under subdivision (d)(2).</p> <p>In the described circumstances, the rule would apply and, assuming the presiding judge has approved and presiding remotely is in the interest of justice, the judicial officer would be authorized to preside remotely from chambers under subdivision (d)(1) because the judicial officer is within a court facility and all parties are appearing remotely.</p> <p>The committee appreciates the information.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

**Civil Remote Proceedings: When a Judicial Officer May Preside Remotely** (adopt Cal. Rules of Court, rule 3.674)

All comments are verbatim unless indicated by an asterisk (\*).

	Commenter	Position	Comment	Committee Response
			<p>My courtroom and the civil courtrooms in San Bernardino County contain three large screens for those present in the courtroom. When I have appeared remotely during the Pandemic from outside the court (due to quarantining), my appearance is much larger on the screen than when I am physically present in the court.</p>	
			<p>I urge this body to not restrict a particular court’s ability to allow remote proceedings where the presiding judge or court determines that remote proceedings can be conducted by a judicial officer outside the courtroom in non-trial/evidentiary proceedings.</p>	<p>In light of the Legislature’s requirement that the Judicial Council adopt rules that permit presiding remotely only in limited situations and in the interest of justice, the council cannot decline to adopt a rule that applies to all courts. The committee believes the rule is faithful to the legislative mandate while allowing courts the flexibility they need to ensure litigants have timely and convenient access to justice.</p>
			<p>At the most, this rule should be limited to non-trial/evidentiary proceedings.</p>	<p>The committee appreciates this comment but, in light of the Legislature’s mandate, does not recommend that the rule’s scope should be narrowed based on type of proceeding.</p>
<p>2.</p>	<p>Hon. Harold W. Hopp Judge, Superior Court of Riverside County</p>	<p>AM</p>	<p>I agree with the proposed rule, but suggest an edit to the language. Twice the proposed rule includes "effectuate their own participation" (subsections a and b(1)). I suggest that "participate" would convey the same meaning and save a few words. I note that elsewhere, the proposed rule uses "preside", which would also be a better alternative than the proposed language, in my view.</p>	<p>The committee appreciates the commenter’s suggestion and agrees that using “preside” or “participate” in the referenced instances presents a more streamlined approach. The committee recommends the proposed language, however, to emphasize that presiding using remote technology does not include a judicial officer using remote technology to effectuate the participation of others at the hearing (when a judicial officer uses a</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.



SP24-02

**Civil Remote Proceedings: When a Judicial Officer May Preside Remotely** (adopt Cal. Rules of Court, rule 3.674)

All comments are verbatim unless indicated by an asterisk (\*).

	Commenter	Position	Comment	Committee Response
				remote technology platform to admit a party from an electronic waiting room, for example). The committee is concerned that using only “preside” or “participate” may suggest that the rule includes when a judicial officer is presiding in person but using remote technology for other purposes. Because the rule does not encompass that situation, the committee does not recommend modifying the language.
3.	Orange County Bar Association by Christina Zabat-Fran, President	A	The Orange County Bar Association agrees with the above referenced proposals [including instant SP24-02].	No response required.
4.	Hon. Annemarie Pace Judge, Superior Court of San Bernardino County	NI	I support the ability for judicial officers to appear by remote proceedings under the proposed rule. It promotes access to justice and the speedy resolution of matters. I have conducted hearings remotely where I was recovering from surgery or illness. My ability to do my calendar from home made it so families were not subjected to continuances or long waits for their cases to be heard. It also limited the burden on the other judges who already have full calendars.  My suggested modification would be to allow supervising judges as well as the PJ to approve remote proceedings. In bigger courts, judges have more immediate access to their supervising judges.	The committee appreciates the information.  The committee appreciates this suggestion and notes that it expects presiding judges in larger courts may find it appropriate to delegate responsibility for approving such requests.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

**Civil Remote Proceedings: When a Judicial Officer May Preside Remotely** (adopt Cal. Rules of Court, rule 3.674)

All comments are verbatim unless indicated by an asterisk (\*).

	Commenter	Position	Comment	Committee Response
5.	Superior Court of Orange County, Family Law and Juvenile Divisions by Katie Tobias, Operations Analyst	NI	This proposal will clearly state when a Judicial Officer may or may not appear remotely outside of the Court Facility and why.	The committee appreciates this comment.
			<p><i>Does the proposal appropriately address the stated purpose?</i> Yes, the proposal does appropriately address the stated purpose.</p>	The committee appreciates the responses to the specific questions posed in the invitation to comment.
			<p><i>What would the implementation requirements be for courts—for example, training staff (please identify positions and expected hours of training) and revising processes and procedures (please describe)?</i> Communication of the new rule and training sessions (2-4 hours) for new judicial officers on how to conduct hearings remotely utilizing different devices. Court Technology Services will be impacted to provide equipment and update security protocols. If new equipment is incorporated, additional training would be needed (hours dependent on type of equipment) and training materials would have to be produced.</p>	
			<p><i>Would the proposal provide cost savings? If so, please quantify.</i> The proposal does not appear to provide cost savings.</p>	
			<p><i>Should the proposed rule be located in Title 3 (Civil) of the California Rules of Court, or would</i></p>	The committee agrees that it is more appropriate to locate the rule in title 10 (Judicial Administration).

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

**Civil Remote Proceedings: When a Judicial Officer May Preside Remotely** (adopt Cal. Rules of Court, rule 3.674)

All comments are verbatim unless indicated by an asterisk (\*).

	Commenter	Position	Comment	Committee Response
			<p><i>it be more appropriate to locate it in another title (e.g., Title 10 (Judicial Administration))?</i>                      The following locations are more appropriate for the proposed rule: Title 1 (Rules Applicable to All Courts) or Title 10 (Judicial Administration).</p> <hr/> <p><i>Would 45 days from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?</i>                      Our court is a large court and 90 days is more appropriate for implementation.</p>	<p>Although there is some advantage to locating the rule near rule 3.672 due to their similar subject matter, the proposed rule is fundamentally one of court administration that imposes no duties or obligations on parties. In light of this, the committee recommends revising the location of the rule accordingly. The committee is not recommending that the rule be located in title 1 because the rule is not applicable to all courts.</p> <hr/> <p>The committee appreciates this response to the specific question posted in the invitation to comment. In light of the legislative mandate, the committee does not recommend revising the effective date.</p>
6.	Superior Court of Riverside County, “Judicial Officer” by Sarah Hodgson, General Counsel	AM	<p>Judicial officer comment: A judicial officer should not need approval from the presiding judge to preside remotely from one's chambers. It is common to do Informal Discovery Conferences, MSCs, and other work from chambers and to do so remotely. Technically, one is still presiding over these matters. Also, if technology in the courtroom is not working, it is common to preside over fully remote matters in chambers.</p>	<p>The committee appreciates this comment. The committee included the required approval by presiding judges to achieve a balance between maintaining flexibility for individual courts and effectuating the Legislature’s mandate that presiding remotely be “in limited situations in the interest of justice.” The committee believes presiding judge approval is essential to this balance and necessary for presiding judges to effectively fulfill their duties. The committee therefore does not recommend revising this language.</p>

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**Civil Remote Proceedings: When a Judicial Officer May Preside Remotely** (adopt Cal. Rules of Court, rule 3.674)

All comments are verbatim unless indicated by an asterisk (\*).

	Commenter	Position	Comment	Committee Response
7.	Superior Court of San Bernardino County, Court Technology Services, by Brenda Martin Del Campo, Management Analyst II	AM	<p>In the last sentence of the second paragraph on page 4, it seems reasonable (and likely) that a judicial officer may preside from their chambers in these circumstances as well, we could suggest that be added as an example “....such as a conference room or chambers...”</p> <p>This option could also possibly lead to different courtroom footprint needs if we could assign cases to “hearing rooms” that could potentially be smaller and/or with fewer requirements than full-blown courtrooms.</p> <p>Some things to consider might be:</p> <ol style="list-style-type: none"> <li>1.Procedures clarifying criteria and process for Presiding Judge approval</li> <li>2.Procedures for staff support for a remote judicial officer</li> <li>3.CMS Calendar/scheduling/remote appearance solution (e.g. Zoom) considerations when not in a courtroom</li> </ol> <p>Since it’s not a requirement for a judge to conduct proceedings remotely, I don’t know that the timeline from approval would affect implementation, but rather how long it would take our court to develop and communicate procedures and make any associated case management changes.</p>	<p>The committee agrees that, if a judicial officer otherwise meets the requirements of subdivision (d)(1), they may preside remotely from any location within the court facility, including a conference room or chambers. The committee will include the suggested example to the report to the council.</p> <p>No response required.</p> <p>The committee appreciates this information. The committee expects that individual courts will implement procedures as necessary to meet their needs.</p> <p>The committee appreciates the response to the specific question posed in the invitation to comment.</p>

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**Civil Remote Proceedings: When a Judicial Officer May Preside Remotely** (adopt Cal. Rules of Court, rule 3.674)

All comments are verbatim unless indicated by an asterisk (\*).

	Commenter	Position	Comment	Committee Response
			This is not called out in the proposed rule, but I do think that part of the presiding judge procedure to authorize a judge to conduct a proceeding outside of the courthouse, may want to include the remote judge confirming they have adequate internet bandwidth and equipment to adequately conduct a courtroom session.	The committee appreciates this suggestion and expects that individual courts will implement procedures as necessary to meet their needs.
8.	Superior Court of San Bernardino County, “Deputy Director Feedback” by Brenda Martin Del Campo, Management Analyst II	AM	The proposal does appropriately address the status purpose.	The committee appreciates the response to the specific questions posed in the Invitation to Comment.
			Title 3 seems appropriate because it would follow the other rules regarding Hearings, Conferences and Proceedings re: Telephone Appearances and Remote Proceedings.	The committee thanks the commenter for its response to the question concerning the location of the proposed rule. The committee is recommending that the rule be located in title 10 (Judicial Administration) because the rule is fundamentally one of court administration that imposes no duties or obligations on parties, as discussed further in the response to Comment no. 5, <i>supra</i> .
			Currently we use Zoom and all our staff (CA and JA) are trained on how to use Zoom – However, if a different program is to be used we would need training.	The committee appreciates the responses to the specific questions posed in the invitation to comment.
			As we have experienced with Civil Remote Proceedings in the past implementation requirements should have minimal effect. However, we will need to implement procedures	

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**Civil Remote Proceedings: When a Judicial Officer May Preside Remotely** (adopt Cal. Rules of Court, rule 3.674)

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	Commenter	Position	Comment	Committee Response
			<p>to properly notify the public, litigants, and counsel of when a judicial officer intends to preside remotely over a specific hearing.</p> <p>It would be necessary to create procedures for requests to the presiding judge that a judicial officer preside over a hearing remotely in the interest of justice or to prevent a significant delay that would substantially prejudice the litigants. Ex. Petitions for Request for Release of Remains.</p> <p>We think it wouldn't be cost saving but at the same time it shouldn't cost the court more money as the judges have computers. As long as we use systems that the court currently use the cost should be the same.</p> <p>I truly see very minimal cost savings in the use of Civil Remote Proceedings, because although the Court facilities and utilities may not be being used during remote proceedings, we still have the overhead costs of technology to support the remote proceedings and the time, resources and staffing effort and materials required to properly notify the public, litigants, and counsel of when a judicial officer intends to preside remotely over a specific hearing.</p> <p>This depends on the technology already available to the court. If it is not necessary to purchase new equipment and it is merely a matter of installing it in conference rooms for the remote appearance of</p>	

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**Civil Remote Proceedings: When a Judicial Officer May Preside Remotely** (adopt Cal. Rules of Court, rule 3.674)

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	Commenter	Position	Comment	Committee Response
			<p>a judicial officer, then it might save the court the need to remodel and create new courtrooms in counties with a greater need.</p>	
			<p>45-60 days from the approval of this by the JCC, should provide sufficient time for implementation.</p>	<p>The committee appreciates this response to the specific question posed in the invitation to comment. The committee does not recommend any change to the implementation date, as discussed further in the response to Comment no. 5, <i>supra</i>.</p>
			<p>I know CCP367.75 outlines the proceedings eligible for remote appearance; however trials will be problematic or any evidentiary hearing because of exhibits.</p>	<p>The committee appreciates this information. The committee notes that the rule would not provide any limitations or authorizations beyond existing law governing when a court may conduct remote proceedings, or in which types of cases a court may do so.</p>
			<p>Does location matter, in terms of the judge being in the county the case resides?</p>	<p>The committee notes that the rule does not place any limitations on a judicial officer’s specific location beyond whether the judicial officer is in a courtroom, in a court facility, or outside a court facility. However, to the extent existing law addresses the locations from which a judge may perform certain functions, that law would continue to govern.</p>
<p>9.</p>	<p>Superior Court of San Bernardino County, “Judicial Officer Feedback” by Brenda Martin Del Campo, Management Analyst II</p>	<p>AM</p>	<p>I would be completely supportive of a Judges ability to appear remotely. Especially when a Judge is ill or must quarantine secondary to COVID or any other infectious process that would</p>	<p>The committee appreciates this information. The committee notes that whether an illness or quarantine will justify a judicial officer’s presiding remotely under the rule will depend on the individual circumstances at issue.</p>

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**Civil Remote Proceedings: When a Judicial Officer May Preside Remotely** (adopt Cal. Rules of Court, rule 3.674)

All comments are verbatim unless indicated by an asterisk (\*).

	Commenter	Position	Comment	Committee Response
			be a source or contamination for the staff as well as the public.	
			I support it as I have used this option during an illness and that it prevented delays for the families waiting for their cases to be heard.	The committee appreciates this information.
			I also suggested that the supervising judge be able to approve remote proceedings by the judge.	Please refer to the committee’s response to Comment no. 4, <i>supra</i> .
			Not sure why it is necessary to make a distinction between on facility and off facility. Seems like remote is remote. Clearly, they are discouraging off facility appearances. Is it because of logistics? (files, staff...?) or security (signing in from unsecure equipment?) which leads to my second thought...	Proposed rule 10.635 is a response to the Legislature’s mandate in Code of Civil Procedure section 367.10 that “the Judicial Council shall adopt rules that include standards for when a judicial officer, in limited situations and in the interest of justice, may preside over a remote court proceeding from a location other than a courtroom.” (Code Civ. Proc., § 367.10.)
			Is there any limitations on the security of the equipment being used? Does it have to be on court provided equipment? Is this something to be determined on a Court by Court basis?	Nothing in the rule addresses required equipment or security protocols. The committee is not recommending changes in response to this suggestion because it is outside the scope of the current proposal.
			Do they need to address staff, JA, Reporter? Does this contemplate they will also be appearing remotely, but at the facility? especially for off facility hearings?	The rule addresses only the location from which a judicial officer may preside remotely. Separate statutes and rules govern the location of other court staff. The committee notes that if an “off-facility hearing” is an in-person hearing, then the rule does not apply. Even if one or more participants appear remotely at such a hearing, if the judicial officer is presiding in person, the rule does not apply. (See Proposed rule 10.635(b)(2).)

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**Civil Remote Proceedings: When a Judicial Officer May Preside Remotely** (adopt Cal. Rules of Court, rule 3.674)

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	Commenter	Position	Comment	Committee Response
			<p>I support the proposal, but there are two clarifications that would be helpful. First, the comments accompanying the rule could make clear that the presiding judge could authorize a judicial officer to conduct multiple hearings away from court, for a period of time, encompassing multiple cases.</p>	<p>The committee appreciates these comments. The committee expects that individual courts will implement procedures as necessary to meet their needs.</p>
			<p>Second, as the rule is currently written it appears to be limited to "hazardous conditions." Presumably that could include a hazard to a judge's health, but the phrasing of the rule makes it appear to be focused on external factors. Those might already be implied, given the breadth of the proposal, but it seemed worth mentioning.</p>	<p>The committee notes that the rule does not include health hazards to a judicial officer as a specific, enumerated basis for presiding remotely. However, it is possible that such hazards may constitute "other extraordinary circumstances as determined by the presiding judge" under subdivision (e)(1)(F), or may authorize presiding remotely to prevent a significant and prejudicial delay under subdivision (e)(2), provided the other requirements of the subdivision are met. This will depend on the individual circumstances at issue.</p>
			<p>Another small point: appellate division hearings do not raise the same concerns as other court proceedings. California's appellate courts have conducted oral arguments with justices not being in a court location, which speaks to the nature of appellate calendars – there are no witnesses, no evidence, and no juries. That being so, I believe the text accompanying the rule (in particular, the second paragraph of the executive summary) should state that just as the rule does not apply to non-civil proceedings, it does not apply to appellate division proceedings.</p>	<p>The committee appreciates this comment and will integrate the suggested reference into the report to the council.</p>

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**Civil Remote Proceedings: When a Judicial Officer May Preside Remotely** (adopt Cal. Rules of Court, rule 3.674)

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	Commenter	Position	Comment	Committee Response
10.	Superior Court of San Diego County by Michael M. Roddy, Executive Officer	AM	<p><i>Does the proposal appropriately address the state purpose?</i> Yes.</p> <p><i>What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training) and revising processes and procedures (please describe)?</i> Updating procedures and minute orders.</p> <p><i>Would the proposal provide cost savings? If so, please quantify.</i> No.</p> <p><i>Would 45 days from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?</i> Yes.</p>	The committee appreciates the responses to the specific questions posed in the invitation to comment.
			<p><i>Should the proposed rule be located in Title 3 (Civil) of the California Rules of Court, or would it be more appropriate to locate it in another title (e.g., Title 10 (Judicial Administration))?</i> It would be more appropriate to locate the rule in Title 10 Judicial Administration.</p>	The committee agrees that it is more appropriate to locate the rule in title 10 (Judicial Administration). Although there is some advantage to locating the rule near rule 3.672 due to their similar subject matter, the proposed rule is fundamentally one of court administration that imposes no duties or obligations on parties. In light of this, the committee recommends revising the location of the rule accordingly (see response to Comment no. 5, <i>supra</i> ).

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

**Civil Remote Proceedings: When a Judicial Officer May Preside Remotely** (adopt Cal. Rules of Court, rule 3.674)

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	Commenter	Position	Comment	Committee Response
11.	Hon. Helen Williams Judge, Superior Court of Santa Clara County	A	It would seem that the proposed rule is not intended to cover appellate division oral arguments, which include limited civil cases and which are elsewhere covered at rule 8.885. These arguments occur in superior courts. This appellate division rule (which needs to be updated) allows oral argument by "videoconference" or for judges to appear/preside that way under certain circumstances. It might help to have a comment to the proposed rule [10.635] that expressly says it is not intended to cover appellate division arguments occurring in superior court.	<p>The committee thanks the commenter for the suggestion and agrees that the rule does not encompass appellate division oral arguments. Because the Appellate Advisory Committee is considering revisions to rules 8.885 and 8.929, which govern the use of remote proceedings in appellate division proceedings, the committee does not recommend adopting this modification.</p> <p>In order to clarify the rule’s scope, however, the committee will note in the report to the council that the rule does not impact appellate division proceedings (see response to Comment no. 9, <i>supra</i>).</p>

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# Judicial Council of California

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## REPORT TO THE JUDICIAL COUNCIL

*Item No.: 24-102*

For business meeting on May 17, 2024

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**Title**

Criminal Law: Judicial Council Appointment  
to Board of State and Community  
Corrections

**Agenda Item Type**

Action Required

**Effective Date**

July 1, 2024

**Rules, Forms, Standards, or Statutes Affected**

None

**Date of Report**

May 3, 2024

**Recommended by**

Executive and Planning Committee  
Hon. Brad R. Hill, Chair

**Contact**

Martha Wright, 415-865-7649  
[martha.wright@jud.ca.gov](mailto:martha.wright@jud.ca.gov)

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### Executive Summary

The Executive and Planning Committee recommends that the Judicial Council reappoint Judge Janet Gaard (Ret.) to the Board of State and Community Corrections (BSCC). The BSCC is an independent statutory agency that provides leadership to the adult and juvenile criminal justice systems and expertise on public safety realignment issues. The BSCC is composed of 13 members, including a judge appointed by the Judicial Council.

### Recommendation

The Executive and Planning Committee recommends that the Judicial Council, effective July 1, 2024, reappoint Judge Janet Gaard (Ret.) to the Board of State and Community Corrections for a term beginning July 1, 2024, and ending June 30, 2027.

### Relevant Previous Council Action

On May 21, 2021, the council appointed Judge Gaard to the BSCC from July 1, 2021, to June 30, 2024.

## **Analysis/Rationale**

### **Background**

Established in 2012, the California Board of State and Community Corrections is an independent statutory agency that provides leadership to the adult and juvenile criminal justice systems, expertise on Public Safety Realignment issues, a data and information clearinghouse, and technical assistance on a wide range of community corrections issues. (Pen. Code, § 6024, 6025.)

The BSCC acts as the supervisory board of state planning under federal acts such as the Omnibus Crime Control and Safe Streets Act of 1968 and the federal Juvenile Delinquency Prevention and Control Act of 1968. It establishes priorities for the use of the federal funds under these acts, approves expenditures, and evaluates the recipients of the program's funding.

The BSCC is the successor entity to the Corrections Standards Authority (CSA), which was abolished in July 2012. The BSCC absorbed the previous functions of the CSA, as well as certain other programs previously administered by the California Emergency Management Agency. Additionally, it assumed the roles of the California Council on Criminal Justice and the Office of Gang and Youth Violence Policy.

### **Role of the board**

Policy for the BSCC is set by a 13-member board, whose members are prescribed by statute; appointed by the Governor, the Legislature, and the Judicial Council; and subject to approval by the state Senate. The chair of the BSCC board is Linda Penner, former chief probation officer for Fresno County. The board is composed of representatives from local detention facilities, the courts, county administration, probation, law enforcement, treatment, and youth advocacy. One board position is reserved for a "judge appointed by the Judicial Council of California." (Pen. Code, § 6025(a)(8).) The BSCC has a variety of subcommittees, several with members representing the judicial branch.

### **Term**

The most recent appointee, Judge Gaard, would continue in her position on July 1, 2024. Terms of office are three years. The appointee receives no compensation but is reimbursed for expenses incurred in the performance of BSCC duties. The board meets bimonthly, primarily in Sacramento and occasionally in Southern California.

### **Recommendation**

Judge Gaard is recommended for reappointment to the BSCC by the Executive and Planning Committee. A judge of the Superior Court of Yolo County from 2008 to 2019, Judge Gaard has extensive experience in collaborative courts and criminal court assignments. Before her appointment to the superior court, she served in several roles with the Office of the Attorney General, including deputy attorney general assigned to the criminal division from 1984 to 1999 and special assistant attorney general and director of legislative affairs from 1999 to 2007. During her time on the bench, she presided over collaborative courts and served as the assistant presiding judge and presiding judge of the court. She has served on the Juvenile Law Curriculum

Committee, Family Law Curriculum Committee, and Judicial Branch Leadership Development Curriculum Committee.

**Policy implications**

None.

**Comments**

Public comments were not solicited for this proposal because the recommendation is within the Judicial Council’s purview to approve without circulation.

**Alternatives considered**

None.

**Fiscal and Operational Impacts**

The BSCC is staffed by employees of the BSCC. Judicial Council appointees to the BSCC receive no compensation but are reimbursed from the BSCC budget for expenses incurred in the performance of BSCC duties. (Pen. Code, § 6025.1.)

**Attachments and Links**

1. Link A: Pen. Code, §§ 6024–6034,  
[https://leginfo.legislature.ca.gov/faces/codes\\_displayText.xhtml?lawCode=PEN&division=&title=7.&part=3.&chapter=5.&article=1](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=PEN&division=&title=7.&part=3.&chapter=5.&article=1)



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## REPORT TO THE JUDICIAL COUNCIL

*Item No.: 24-104*

For business meeting on May 17, 2024

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**Title**

Trial Court Budget: 2023–24 State Trial Court Improvement and Modernization Fund Allocation Increase for Legal Services

**Rules, Forms, Standards, or Statutes Affected**

None

**Recommended by**

Trial Court Budget Advisory Committee  
Hon. Jonathan B. Conklin, Chair

**Agenda Item Type**

Action Required

**Effective Date**

May 17, 2024

**Date of Report**

May 2, 2024

**Contact**

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[eric.schnurpfeil@jud.ca.gov](mailto:eric.schnurpfeil@jud.ca.gov)

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### Executive Summary

The Trial Court Budget Advisory Committee recommends a \$2 million fiscal year 2023–24 State Trial Court Improvement and Modernization Fund allocation for the Litigation Management Program to address increased legal services for the trial courts. The \$2 million request in current year is to supplement the annual appropriation of \$6.2 million General Fund for the Litigation Management Program.

### Recommendation

The Trial Court Budget Advisory Committee recommends that the Judicial Council approve, effective May 17, 2024, a \$2 million fiscal year 2023–24 Trial Court Improvement and Modernization Fund allocation to the Judicial Council’s Legal Services office to support trial court–related expenses managed under the Litigation Management Program.

This recommendation was approved by the Judicial Branch Budget Committee in an action by email between meetings on May 2, 2024.

## **Relevant Previous Council Action**

Before fiscal year (FY) 2019–20, \$4.5 million from the State Trial Court Improvement and Modernization Fund (IMF) was allocated to the Legal Services budget annually to address trial court–related litigation expenses and settlements under the Litigation Management Program (LMP). In 2017, funds were approved to pay for a significant fee award in a long-running case involving access to court records. These allocations were approved through the Judicial Council.

## **Analysis/Rationale**

The Judicial Council’s Legal Services office provides litigation management services for the defense and indemnification of all judicial branch entities, their bench officers, and their employees. Defense of these parties is for government claims, prelitigation claims, and litigation, as well as for various risk-reduction measures as required by Government Code sections 810–811.9, 825–825.6, 900.3, and 995–996.6 and California Rules of Court, rules 10.201 and 10.202. These obligations are generally referred to as the Litigation Management Program.

The LMP receives an annual appropriation of \$6.2 million General Fund. The majority of this funding is for expenditures and settlements related to trial court matters. In FY 2023–24, the LMP incurred three large trial court–related settlements that substantially affected the budget; in addition, expenses are pending in a nearly 10-year trial court litigation. The current year’s settlement expense is the second largest in the last decade.

As a result of these increased expenses, the LMP appropriation for 2023–24 has been fully used. Additional funding of \$2 million is necessary to continue servicing the LMP portfolio of cases and fund higher-value settlements before the end of the current fiscal year. Overall, settlement values are generally increasing, particularly with employment matters for which recovery of attorney’s fees often drives up the settlement value.

Litigation expenditures were generally consistent with those of past years, but costs in the current year were affected by a significant litigation matter that was granted summary judgment a week before trial, as well as three high-expense employment cases. While the sizeable amount of trial settlements affected the budget, overall litigation expenses have continued to rise and remain a growing pressure on the fund.

The IMF is an appropriate fund source to pay for trial court–related expenditures to ensure the continuity of LMP services. Attachment A reflects the approved year-to-date IMF allocations for the Judicial Council. This request for \$2 million is reflected in the IMF Fund Condition Statement (Attachment B). Based on current revenue estimates, the fund will have a sufficient balance for the requested allocation in FY 2023–24.

As cost increases for the LMP are expected to continue, an IMF allocation of \$1.7 million will be requested for FY 2024–25 to supplement the General Fund appropriation. Legal Services will evaluate program costs and available resources to determine if a future budget change proposal is needed to ensure that the program is adequately funded.



**Policy implications**

None.

**Comments**

This proposal is not required to be circulated for comment and was not. However, meetings considering this allocation request were open to the public and written public comments were accepted. No written public comment was received for this item when it was considered during meetings by the Trial Court Budget Advisory Committee's Revenue and Expenditure Subcommittee on April 18, 2024, and by the Trial Court Budget Advisory Committee on May 1, 2024, and in an action by email between meetings for the Judicial Branch Budget Committee on May 2, 2024.

**Alternatives considered**

The advisory committee did not consider an alternative because the Judicial Council has a legal obligation to defend and indemnify trial courts under the LMP.

**Fiscal and Operational Impacts**

There are no additional fiscal or operations costs to implement this recommendation.

**Attachments and Links**

1. Attachment A: Judicial Council of California Approved 2023–24 Allocations, State Trial Court IMF, State Operations and Local Assistance Appropriations
2. Attachment B: State Trial Court IMF Fund Condition Statement, April 2024

**Judicial Council of California**  
**Approved 2023-24 Allocations**  
**State Trial Court Improvement and Modernization Fund**  
**State Operations and Local Assistance Appropriations**

Updated: April 12, 2024

#	Program Name	Office	Approved 2023-24 Allocations			Proposed 2023-24 Allocations	
			State Operations	Local Assistance	Total	IMF Allocation Increase	Total
A	B	C	D	E	F = (D + E)	G	H = (F + G)
1	Audit Services	AS	\$ 372,000	\$ -	\$ 372,000	\$ -	\$ 372,000
2	Trial Court Master Agreements	BAP	182,000	-	182,000	-	182,000
3	Treasury Services - Cash Management	BAP	110,000	-	110,000	-	110,000
4	Data Analytics Advisory Committee	BMS	-	9,000	9,000	-	9,000
5	Budget Focused Training and Meetings	BS	-	25,000	25,000	-	25,000
6	Revenue Distribution Training	BS	-	10,000	10,000	-	10,000
7	Treasury Services - Cash Management	BS	-	-	-	-	-
8	Domestic Violence Forms Translation	CFCC	-	17,000	17,000	-	17,000
9	Interactive Software - Self-Rep Electronic Forms	CFCC	-	60,000	60,000	-	60,000
10	Self-Help Center	CFCC	-	5,000,000	5,000,000	-	5,000,000
11	Statewide Multidisciplinary Education	CFCC	-	67,000	67,000	-	67,000
12	Shriver Civil Counsel - cy près Funding	CFCC	-	893,000	893,000	-	893,000
13	Statewide Support for Self-Help Programs	CFCC	-	100,000	100,000	-	100,000
14	Court Interpreter Testing etc.	CFCC	-	143,000	143,000	-	143,000
15	CJER Faculty	CJER	-	48,000	48,000	-	48,000
16	Essential Court Management Education	CJER	40,000	-	40,000	-	40,000
17	Essential Court Personnel Education	CJER	-	130,000	130,000	-	130,000
18	Judicial Education	CJER	-	1,284,000	1,284,000	-	1,284,000
19	Jury System Improvement Projects	CJS	-	9,000	9,000	-	9,000
20	Trial Court Labor Relations Academies and Forums	HR	-	23,000	23,000	-	23,000
21	Data Center and Cloud Service	IT	2,215,000	4,471,000	6,686,000	-	6,686,000
22	Uniform Civil Filing Services	IT	399,000	3,000	402,000	-	402,000
23	California Courts Protective Order Registry (CCPOR)	IT	418,000	537,000	955,000	-	955,000
24	Telecommunications	IT	-	14,500,000	14,500,000	-	14,500,000
25	Enterprise Policy & Planning (Statewide Planning and Dev Support)	IT	1,044,000	2,500,000	3,544,000	-	3,544,000
26	Data Integration	IT	703,000	993,000	1,696,000	-	1,696,000
27	Jury Management System	IT	-	665,000	665,000	-	665,000
28	Case Management System Replacement	IT	-	-	-	-	-
29	Telecom	IT	1,297,000	4,384,000	5,681,000	-	5,681,000
30	Digitizing Court Records	IT	-	721,490	721,490	-	721,490
31	Jury System Improvement Projects	LS	-	10,000	10,000	-	10,000
32	Regional Office Assistance Group	LS	861,000	-	861,000	-	861,000
33	Litigation Management Program	LS	-	-	-	2,000,000	2,000,000
34	Judicial Performance Defense Insurance	LSS	-	1,931,000	1,931,000	-	1,931,000
<b>Total</b>			<b>\$ 7,641,000</b>	<b>\$ 38,533,490</b>	<b>\$ 46,174,490</b>	<b>\$ 2,000,000</b>	<b>\$ 48,174,490</b>

Totals by Office		Office	State Operations	Local Assistance	Total	Proposed IMF Allocation Increase	Revised Total
Legend		C	D	E	F = (D + E)	G	H = (F + G)
35	Audit Services	AS	\$ 372,000	\$ -	\$ 372,000	\$ -	\$ 372,000
36	Branch Accounting and Procurement	BAP	292,000	-	292,000	-	\$ 292,000
37	Business Management Services	BMS	-	9,000	9,000	-	\$ 9,000
38	Budget Services	BS	-	35,000	35,000	-	\$ 35,000
39	Center for Families, Children & the Courts	CFCC	-	6,280,000	6,280,000	-	\$ 6,280,000
40	Center for Judicial Education and Research	CJER	40,000	1,462,000	1,502,000	-	\$ 1,502,000
41	Criminal Justice Services	CJS	-	9,000	9,000	-	\$ 9,000
42	Human Resources	HR	-	23,000	23,000	-	\$ 23,000
43	Information Technology	IT	6,076,000	28,774,490	34,850,490	-	\$ 34,850,490
44	Legal Services	LS	861,000	10,000	871,000	2,000,000	\$ 2,871,000
45	Leadership Services	LSS	-	1,931,000	1,931,000	-	\$ 1,931,000
<b>Total Allocations</b>			<b>\$ 7,641,000</b>	<b>\$ 38,533,490</b>	<b>\$ 46,174,490</b>	<b>\$ 2,000,000</b>	<b>\$ 48,174,490</b>

**State Trial Court Improvement and Modernization Fund  
Fund Condition Statement  
April 2024**

Updated: April 12, 2024

#	Description	2020-21	2021-22	2022-23	Estimated		
		(Year-End Financial Statement)	(Year-End Financial Statement)	(Year-End Financial Statement)	2023-24	2024-25	2025-26
		A	B	C	D	E	E
1	Beginning Balance	21,152,288	16,886,288	23,242,054	38,128,109	32,236,659	28,540,659
2	Prior-Year Adjustments	2,422,000	8,176,338	8,638,611	-3,200,000	0	0
3	<b>Adjusted Beginning Balance</b>	<b>23,574,288</b>	<b>25,062,626</b>	<b>31,880,665</b>	<b>34,928,109</b>	<b>32,236,659</b>	<b>28,540,659</b>
4	<b>REVENUES<sup>1</sup>:</b>						
5	Jury Instructions Royalties	466,000	538,154	429,853	576,000	560,000	560,000
6	Interest from Surplus Money Investment Fund	242,000	210,218	1,550,086	1,727,000	1,296,000	1,037,000
7	Escheat-Unclaimed Checks, Warrants, Bonds	65,000	0	1,000	1,000	1,000	1,000
8	50/50 Excess Fines Split Revenue	7,288,250	4,986,200	7,504,000	2,863,000	2,720,000	2,584,000
9	2% Automation Fund Revenue	7,925,750	8,455,157	8,327,104	8,479,000	8,394,000	8,394,000
10	Other Revenues/State Controller's Office Adjustments	366,000	285,925	171,078	20,000	2,000	2,000
11	Class Action Residue	911,000	952,317	329,186	0	0	0
12	<b>Subtotal Revenues</b>	<b>17,264,000</b>	<b>15,428,439</b>	<b>18,311,387</b>	<b>13,666,000</b>	<b>12,973,000</b>	<b>12,578,000</b>
13	<b>Transfers and Other Adjustments</b>						
14	To Trial Court Trust Fund (Gov. Code, § 77209(j))	-13,397,000	-13,397,000	-13,397,000	-13,397,000	-13,397,000	-13,397,000
15	To Trial Court Trust Fund (Budget Act)	-594,000	-594,000	-594,000	-594,000	-594,000	-594,000
16	General Fund Transfer (Gov. Code, § 20825.1)		-270,000	0	0	0	0
17	<b>Total Revenues, Transfers, and Other Adjustments</b>	<b>3,273,000</b>	<b>1,167,439</b>	<b>4,320,387</b>	<b>-325,000</b>	<b>-1,018,000</b>	<b>-1,413,000</b>
18	<b>Total Resources</b>	<b>26,847,288</b>	<b>26,230,065</b>	<b>36,201,052</b>	<b>34,603,109</b>	<b>31,218,659</b>	<b>27,127,659</b>
19	<b>EXPENDITURES:</b>						
20	Judicial Branch Total State Operations	4,635,000	5,217,956	5,319,495	8,184,400	10,051,000	8,683,000
21	Judicial Branch Total Local Assistance	47,825,000	44,734,883	36,857,436	38,283,050	36,531,000	36,859,000
22	Pro Rata and Other Adjustments	289,000	307,171	180,012	117,000	314,000	314,000
23	Less funding provided by General Fund (Local Assistance)	-42,788,000	-47,272,000	-44,284,000	-44,218,000	-44,218,000	-44,218,000
24	<b>Total Expenditures and Adjustments</b>	<b>9,961,000</b>	<b>2,988,011</b>	<b>-1,927,057</b>	<b>2,366,450</b>	<b>2,678,000</b>	<b>1,638,000</b>
25	<b>Fund Balance</b>	<b>16,886,288</b>	<b>23,242,054</b>	<b>38,128,109</b>	<b>32,236,659</b>	<b>28,540,659</b>	<b>25,489,659</b>
26	<b>Fund Balance - less restricted funds</b>	<b>12,775,459</b>	<b>19,677,611</b>	<b>35,864,950</b>	<b>30,072,500</b>	<b>26,426,500</b>	<b>23,375,500</b>
27	<b>Structural Balance</b>	<b>-6,688,000</b>	<b>-1,820,572</b>	<b>6,247,444</b>	<b>-2,691,450</b>	<b>-3,696,000</b>	<b>-3,051,000</b>

<sup>1</sup> Revenue estimates are as of 2024-25 Governor's Budget

**State Trial Court Improvement and Modernization Fund -- Fund Condition Statement**

#	PCC	Description	Office	2021-22 (Year-end Financial Statement)
		Beginning Balance		16,886,288
		PY Adjustments		(25)
		<i>Prior Year Adjustments (GAAP/FSCU)</i>		
		<i>Reverted Appropriations</i>		
		Prior Year Revenue adjustments		7,128,573
		Prior Year Expenditure		1,047,790
		Total Adjustments		8,176,338
		<b>Adjusted Beginning Balance</b>		<b>25,062,626</b>
		<b>Revenues</b>		
	0164603	50/50 Excess Fines Split Revenue (GC77025) 164603		4,986,200
	0164602	2% Automation Fund Revenue (GC68098.8) 164602		8,455,157
	0141200	Jury Instructions Royalties (Sales of Documents) 141200 GC 77209(h)		538,154
	0150300	Interest from SMIF 150300		210,218
		Escheat-Unclaimed Checks, Warrants, Bonds, and Coupons 161000		468
	0161000	MiscRevenue/Penalty-Audit Findings		285,925
	0161000	Class Action Residue (Cy Pres) 163001/163000		952,317
		<b>Subtotal Revenues</b>		<b>15,428,439</b>
		<b>Transfers</b>		
		From State General Fund		
		To Trial Court Trust Fund (Budget Act)		(594,000)
		To TCTF (GC 77209(j))		(13,397,000)
		Gov Code Sec 20825.1 Trf to GF EO 21/22 276 Revised		(270,000)
		<b>Subtotal Transfers</b>		<b>(14,261,000)</b>
		<b>Net Revenues and Transfers</b>		<b>1,167,439</b>
		<b>Total Resources</b>		<b>26,230,065</b>
		<b>Total, State Operations (Support Provided by JCC Staff)</b>		<b>5,217,956</b>
		<b>Total, Local Assistance</b>		<b>44,734,883</b>
		Less Funding Provided by GF (Local Assistance)		(47,272,000)
		SCO - MyCalPays Assessments (FY 2012-13)		
		<b>Possible Expenditure Reduction to Programs (if needed)</b>		
		Forced Savings		
		Pro Rata and Other Adjustments		307,171
		<b>Total Expenditures</b>		<b>2,988,011</b>
		<b>Fund Balance</b>		<b>23,242,054</b>
		<b>Reserve</b>		<b>2,000,000</b>
		<b>Restricted Funds - Jury Management GC 77209(h)</b>		<b>506,307</b>
		<b>Restricted Funds - Sargent Shriver Civil Counsel</b>		<b>1,058,137</b>
		<b>Restricted Funds - Case Management Systems (CMS)</b>		<b>-</b>
		<b>Available Fund Balance</b>		<b>19,677,611</b>
			FSO	<b>6,552,455</b>



# Judicial Council of California

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## REPORT TO THE JUDICIAL COUNCIL

*Item No.: 24-106*

For business meeting on May 17, 2024

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**Title**

Judicial Council: Nonvoting Council Position

**Agenda Item Type**

Action Required

**Rules, Forms, Standards, or Statutes Affected**

None

**Effective Date**

September 15, 2024

**Recommended by**

Executive and Planning Committee  
Hon. Brad R. Hill, Chair

**Date of Report**

May 3, 2024

**Contact**

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### Executive Summary

The chair of the Executive and Planning Committee recommends approving one new advisory, nonvoting position on the Judicial Council for a single, three-year term. The Judicial Council has the authority to add nonvoting positions under article VI, section 6 of the California Constitution and rule 10.2 of the California Rules of Court. This position will provide the council with an additional source of court-based knowledge and statewide perspective and enhance the geographic and gender diversity among its membership.

### Recommendation

The chair of the Executive and Planning Committee recommends that the Judicial Council approve the creation of one new advisory, nonvoting Judicial Council position for a single three-year term, from September 15, 2024, through September 14, 2027.

## Relevant Previous Council Action

Effective July 1, 1993, the Judicial Council adopted rule 1005 of the California Rules of Court, which expressly authorized the Chief Justice to appoint nonvoting advisory members to the council. Rule 1005(g)(1)–(3) required the following five nonvoting members: three positions for either a superior court clerk or a trial court executive officer, one appellate court clerk, and one court commissioner.

Effective June 3, 1998, California voters approved Proposition 220, which, among other things, amended article VI, section 6 of the California Constitution to add to the list of council members and require two “nonvoting court administrators” to serve on the Judicial Council and to allow the council to establish other nonvoting positions. Effective January 1, 1999, rule 6.2(a) incorporated the council membership list as approved in Proposition 220.<sup>1</sup> At the time Proposition 220 was passed, the council had six nonvoting members: the five specified in rule 1005 and the president of the California Judges Association, appointed under the general authority of the Chief Justice under rule 1005(g).

To preserve the four nonvoting positions<sup>2</sup> not specified under amended article VI, section 6, the council approved those positions through September 14, 1999, by circulating order on July 28, 1998. The following year, another circulating order extended those positions by an additional year, through September 14, 2000.

On July 18, 2000, the council approved by circulating order the recommendation from its Executive and Planning Committee (Executive Committee) that the council have the following five advisory<sup>3</sup> positions: three court administrators (one of which may be an appellate court clerk, at the Chief Justice’s discretion),<sup>4</sup> the president of the California Judges Association, and a superior court commissioner. The terms of these positions are open-ended, although the circulating order states that the council intends to review the appropriateness of the commissioner’s position.

Rule 10.46(f), as amended in July 2013,<sup>5</sup> also provides for another advisory position for the chair of the Trial Court Presiding Judges Advisory Committee. The rule requires the committee to

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<sup>1</sup> Rule 6.2(a) was renumbered as rule 10.2(a) effective January 1, 2007.

<sup>2</sup> These four positions constitute one trial court administrator, one appellate court clerk, one court commissioner, and the president of the California Judges Association.

<sup>3</sup> In 1998 and 1999 circulating orders, these positions were described as “nonvoting.” In the 2000 circulating order, they were described as “advisory.”

<sup>4</sup> These three court administrators included the two identified in the state Constitution as a result of Proposition 220.

<sup>5</sup> Rule 10.46(f) was amended to require one nomination from the committee to the Chief Justice for the chair position of the Trial Court Presiding Judges Advisory Committee. Previously, the rule provided for three nominations from the committee to the Chief Justice from which to make a selection and an appointment to the Judicial Council.

submit one nomination for its chair each year to the Chief Justice. The Chief Justice appoints the chair to serve as an advisory member of the council.

### **Single-term advisory positions on the council**

The Judicial Council has created advisory positions for single terms, as needed. Following is the recent history of advisory positions in reverse chronological order:

- In July 2022, the Executive Committee recommended, and the council approved, the addition of one nonvoting advisory position for a single three-year term, to which Judge Judith K. Dulcich was appointed.
- In May 2021, the Executive Committee recommended, and the council approved, the addition of two nonvoting advisory positions for a single three-year term, to which Justice Carin T. Fujisaki and Judge Ann C. Moorman were reappointed. Subsequently, in September 2021, Justice Fujisaki was appointed to a voting position to replace Justice Harry E. Hull, Jr.
- In September 2020, the Executive Committee recommended, and the council approved, the addition of one nonvoting advisory position for a limited, one-year term, to which Justice Fujisaki was reappointed.
- In March 2019, the Executive Committee recommended, and the council approved, the addition of two nonvoting advisory positions for a limited, one-year term, to which Justice Fujisaki and Judge Eric C. Taylor were appointed. Subsequently, in December 2019, Judge Taylor was appointed to a voting position to replace retired Judge Scott M. Gordon.
- In May 2018, the Executive Committee recommended, and the council approved, the addition of one nonvoting advisory position for a three-year term, to which Judge Moorman was appointed.
- In September 2016, the Executive Committee recommended, and the council approved, the addition of one nonvoting advisory position for a three-year term, to which Judge Kenneth K. So was reappointed.
- In February 2016, the Executive Committee recommended, and the council approved, the addition of one nonvoting advisory position for a three-year term, to which Justice Marsha G. Slough was appointed.
- In May 2015, the Executive Committee recommended, and the council approved, the addition of one nonvoting advisory position for a three-year term, to which Ms. Kimberly Flener was appointed.

- In September 2014, the Executive Committee recommended, and the council approved, the addition of one nonvoting advisory position for a three-year term, to which Judge Daniel J. Buckley was appointed.
- In May 2013, the Executive Committee recommended, and the council approved, the extension of the two nonvoting advisory positions, each for a three-year term, to which Judge James E. Herman and Judge So were appointed.
- In May 2012, the Executive Committee recommended, and the council approved, the addition of three nonvoting advisory positions, each for a three-year term, to which Judge Morris D. Jacobson, Judge Brian L. McCabe, and Judge Charles D. Wachob were appointed.
- In May 2010, the Executive Committee created on behalf of the council two additional advisory positions, to which Judge Teri L. Jackson and Judge Robert James Moss were appointed.
- In April 2010, the Executive Committee created on behalf of the council a limited-term advisory position and nominated Judge Terry B. Friedman (Ret.) to fill the position. The position lapsed in September 2012.
- In May 2009, the Executive Committee created on behalf of the council another advisory position for a single three-year term, to which Mr. Frederick K. Ohlrich was appointed, returning the number of court administrators on the council to four.
- In 2007, the Executive Committee created on behalf of the council an advisory position for a limited, one-year term, to which Sen. Joseph Dunn (D-Santa Ana) was appointed. The position lapsed in December 2007.
- In May 2005, the Executive Committee created on behalf of the council an advisory position for a single three-year term. At that time, an additional court administrator was appointed to the Judicial Council, bringing the total number of court administrators on the council to four; when that position lapsed in September 2008, the council was left with three court administrators as advisory members.

### **Analysis/Rationale**

Rule 10.4(a) observes that nominees for positions on the Judicial Council should be drawn from “diverse backgrounds, experiences, and geographical locations.” The Judicial Council has recognized that it benefits from a diverse group of members with a blend of professional expertise and other experience on a variety of leadership issues. With the complexity and far-ranging policy implications of the issues brought before it, the council would benefit from an additional member.



Although the state Constitution limits the number of voting members on the council to 21 and requires two nonvoting court administrator members, there is no upper limit on the size or composition of the advisory membership of the council. The council can be as small as the constitutionally required 23 members or as large as the voting membership chooses.

**Policy implications**

None.

**Comments**

Public comments were not solicited for this proposal because the recommendation is within the Judicial Council’s purview to approve without circulation. (See Cal. Rules of Court, rule 10.2(a)(1).)

**Alternatives considered**

None.

**Fiscal and Operational Impacts**

There will be no fiscal or operational impact from the creation of this single advisory position on the council.

**Attachments and Links**

None.

DRAFT