

Family and Juvenile Law Advisory Committee Meeting

Call In Number: 877.820.7831

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FEBRUARY 24, 2019

10:00 A.M. - 4:00 P.M.

SACRAMENTO, CA



JUDICIAL COUNCIL
OF CALIFORNIA

OPERATIONS AND PROGRAMS DIVISION
CENTER FOR FAMILIES, CHILDREN & THE COURTS

FAMILY AND JUVENILE LAW ADVISORY COMMITTEE MEETING



JUDICIAL COUNCIL
OF CALIFORNIA

FAMILY AND JUVENILE LAW
ADVISORY COMMITTEE

February 24, 2020
10:00 am.– 4:00 p.m.

2850 Gateway Oaks Drive, Suite 100,
Sacramento, California

Agenda

Joint Meeting:

10:00 a.m.-1:55 p.m. and 3:30-4:00 p.m.
877.820.7831 Listen Only Passcode: **3059688**

Family Law Issues:

1:55–3:30 p.m.
877.820.7831 Listen Only Passcode: **1456449**

Juvenile Law Issues:

1:55–3:30 p.m.
877.820.7831 Listen Only Passcode: **3059688**

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|------------------------|---|
| 10:00 – 10:25 a.m. | Welcome & Introductions
<i>Hon. Jerilyn L. Borack and Hon. Mark A. Juhas, Cochairs</i>
<i>Audrey Fancy and Tracy Kenny, Cocounsels</i> |
| 10:25 – 10:30 a.m. | Public Comment |
| 10:30 – 10:45 a.m. | Review and Discussion of the 2020 Annual Agenda
<i>Cochairs</i> |
| 10:45 – 11:00 a.m. | Legislative Review Process
<i>Andi Liebenbaum, Attorney, Judicial Council Office of Governmental Affairs</i> |
| 11:00 – 11:15 a.m. | Making Rules and Forms Gender Neutral/Inclusive
<i>Diana Glick, Attorney, Center for Families, Children, and the Courts (CFCC)</i> |
| 11:15. – 11:30 a.m. | Court Navigator Program Budget Proposal
<i>Charlene Depner, Director, CFCC</i> |
| 11:45 a.m. – 1:15 p.m. | Joint Working Lunch
Building a Continuum of Support for Families Diverted from Foster Care
<i>Angie Schwartz Vice President Policy & Advocacy, Alliance for Children's Rights & Carolyn Griesemer, Executive Director, Children's Legal Services of California</i> |
| 1:15 – 1:45 p.m. | Gun Relinquishment in Restraining Order Cases and AB 465
<i>Cochairs</i> |
| 1:55 – 3:30 p.m. | Family Law Issues / Juvenile Law Issues
<i>(See Agendas)</i> |
| 3:30 – 4:00 p.m. | 2020 Priorities and Next Steps |

Family Law Issues

Judicial Council, (Tower A)

- | | |
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| 1:55 – 2:15 p.m. | Joint Ad Hoc Subcommittee on Remote Video Appearances
<i>Andrea Jaramillo, Attorney, Legal Services</i> |
| 2:15 – 2:45 p.m. | Family Law Legislative Update
<i>Andi Liebenbaum, Attorney, Judicial Council Office of Governmental Affairs</i> |
| 2:45 - 3:30 p.m. | Setting Committee Priorities for 2020
<i>Hon. Mark A. Juhas, Cochair</i> |
| 3:30 – 4:00 p.m. | Reconvene as Full Committee for 2020 Priorities and Next Steps |

Juvenile Law Issues

Judicial Council, (Sutter Room)

- | | |
|------------------|---|
| 1:55 – 2:20 p.m. | Federally Funded Dependency Representation
<i>Audrey Fancy, Principal Managing Attorney, CFCC</i> |
| 2:20 – 3:00 p.m. | Implementation of the Family First Prevention Services Act (FFPSA)
<i>Sara Rogers, Branch Chief, CCR Branch, Department of Social Services & Marymichael Miatovich Smrdeli, Attorney, CFCC</i> |
| 3:00 – 3:30 p.m. | Setting Committee Priorities for 2020
<i>Hon. Jerilyn L. Borack, Cochair</i> |
| 3:30 – 4:00 p.m. | Reconvene as Full Committee for 2020 Priorities and Next Steps |

Family and Juvenile Law Advisory Committee

Annual Agenda¹—2020

Approved by RUPRO: October 28, 2019

I. COMMITTEE INFORMATION

Chair:	Hon. Jerilyn Borack and Hon. Mark A. Juhas, Co-chairs
Lead Staff:	Ms. Tracy Kenny and Ms. Nicole Giacinti, Co-lead Staff; Ms. Amanda Morris, Administrative Coordinator, Center for Families, Children & the Courts
Committee's Charge/Membership: Rule 10.43. Family and Juvenile Law Advisory Committee of the California Rules of Court states the charge of the Family and Juvenile Law Advisory Committee, which is to make recommendations to the Judicial Council for improving the administration of justice in all cases involving marriage, family, or children. Rule 10.43. Family and Juvenile Law Advisory Committee sets forth additional duties of the committee. The Family and Juvenile Law Advisory Committee currently has 36 voting members and one advisory member. The Family and Juvenile Law Advisory Committee website provides the composition of the committee.	
Subcommittees/Working Groups²: <ol style="list-style-type: none">1. Protective Order Working Group (POWG)2. Violence Against Women Education Program/Victims of Crime Act (VAWEP/VOCA)3. Joint Juvenile Competency Issues Working Group	

¹ The annual agenda outlines the work a committee will focus on in the coming year and identifies areas of collaboration with other advisory bodies and the Judicial Council staff resources.

² California Rules of Court, rule 10.30 (c) allows an advisory body to form subgroups, composed entirely of current members of the advisory body, to carry out the body's duties, subject to available resources, with the approval of its oversight committee.

II. COMMITTEE PROJECTS

#	New or One-Time Projects ³	
1.	Legislative Changes from the 2018-2019 Legislative Session	Priority 1⁴
<p>Project Summary: As directed by the Judicial Council, review legislation identified by Governmental Affairs that may have an impact on family and juvenile law issues within the advisory committee’s purview. The committee will review the legislation below, and any other identified legislation, and propose rules and forms as may be appropriate for the council’s consideration.</p> <p><u>Domestic Violence:</u></p> <ul style="list-style-type: none"> a. AB 800 (Chu) Civil actions: confidentiality (Ch. 439, Statutes of 2019) Allows active participants in the Safe at Home Program to participate in a civil proceeding under a pseudonym and with other protections when that person is a party in the proceeding. b. AB 925 (Gloria) Protective orders: confidential information regarding minors (Ch. 294, Statutes of 2019) Expands the circumstances in which it is permissible to disclose a minor’s confidential information contained in certain protective orders. <p><u>Family:</u></p> <ul style="list-style-type: none"> c. AB 677 (Choi) Intercountry adoption finalized in a foreign country (Ch. 805, Statutes of 2019) Requires that a foreign adoption be set for re-adoption in California within a set period of time. d. AB 1165 (Bauer-Kahan) Child custody: supervised visitation (Ch. 823, Statutes of 2019) Revises requirements for professional providers of supervised visitation services in child custody matters. e. AB 1179 (Rubio) Child custody: allegations of abuse: report (Ch. 127, Statutes of 2019) Requires that a child custody evaluation, investigation, or assessment ordered by the court where the court determines that there is a serious allegation of child sexual abuse, must, beginning January 1, 2021, be completed on a form developed by Judicial Council. 		

³ All proposed projects for the year must be included on the Annual Agenda. If a project implements policy or is a program, identify it as *implementation* or a *program* in the project description and attach the Judicial Council authorization/assignment or prior approved Annual Agenda to this Annual Agenda.

⁴ For non-rules and forms projects, select priority level 1 (must be done) or 2 (should be done). For rules and forms proposals, select one of the following priority levels: 1(a) Urgently needed to conform to the law; 1(b) Urgently needed to respond to a recent change in the law; 1(c) Adoption or amendment of rules or forms by a specified date required by statute or council decision; 1(d) Provides significant cost savings and efficiencies, generates significant revenue, or avoids a significant loss of revenue; 1(e) Urgently needed to remedy a problem that is causing significant cost or inconvenience to the courts or the public; 1(f) Otherwise urgent and necessary, such as a proposal that would mitigate exposure to immediate or severe financial or legal risk; 2(a) Useful, but not necessary, to implement statutory changes; 2(b) Helpful in otherwise advancing Judicial Council goals and objectives.

#	New or One-Time Projects ³
	<p>f. AB 1373 (Patterson) Adoption (Ch. 192, Statutes of 2019) Clarifies when the termination of parental rights as part of an adoption may be waived and expands the ability to use the limited stepparent adoption process when a child is born to a married couple or domestic partners through gestational surrogacy.</p> <p>g. AB 1817 (Committee on Judiciary) Family law omnibus (Ch. 115, Statutes of 2019) Makes numerous and clarifying changes to terminology in the Family Code.</p> <p>h. SB 495 (Durazo) Child custody (Ch. 551, Statutes of 2019) Prohibits a court from considering sex, gender identity, gender expression, or the sexual orientation of a parent, legal guardian, or relative when making a best interest determination for purposes of awarding child custody or visitation rights.</p> <p><u>Juvenile Dependency:</u></p> <p>i. AB 175 (Gipson) Foster care: rights (Ch. 416, Statutes of 2019) Expands, clarifies, and revises the rights of foster youth found in current statute under the Foster Youth Bill of Rights.</p> <p>j. AB 686 (Waldron) Indian Children (Ch. 434, Statutes of 2019) Requires the Judicial Council to develop a rule of court that authorizes telephonic or remote appearance by an Indian Child's tribe in cases where ICWA is applicable.</p> <p>k. AB 718 (Eggman) Dependent children: documents (Ch. 438, Statutes of 2019) Requires child welfare agencies to begin process of providing key documents to foster youth beginning at age 16, rather than at the end of juvenile court jurisdiction.</p> <p>l. AB 748 (Gipson) Nonminor dependents (Ch. 682, Statutes of 2019) Provides that youth who were subject to an order for foster care before they reached 18 years of age but were not yet adjudged dependents of the juvenile court before reaching their 18th birthday, are eligible for extended foster care benefits.</p> <p>m. AB 819 (Stone) Foster care (Ch. 777, Statutes of 2019) Requires the court to terminate its dependency jurisdiction and to retain jurisdiction over the child as a ward of the legal guardianship, following establishment of a legal guardianship, if a relative of the child is appointed guardian, as authorized.</p> <p>n. AB 1068 (Cooley) Juveniles: dependency: child and family teams (Ch. 780, Statutes of 2019)</p>

#	New or One-Time Projects ³
	<p>Adds procedural formalities to provisions governing child and family teams to provide oversight, ensure meaningful participation, and protect confidential information.</p> <p>o. SB 377 (McGuire) Juveniles: psychotropic medications: medical information (Ch. 547, Statutes of 2019) Requires the Judicial Council to include in its forms for authorizing the administration of psychotropic drugs to a child dependent or ward of the court to include a request for authorization by the child or the child’s attorney to release the child’s medical information to the Medical Board of California to ascertain whether there is excessive prescribing of psychotropic medication</p> <p><u>Juvenile Justice:</u></p> <p>p. AB 1394 (Daly) Juveniles: sealing of records (Ch. 582, Statutes of 2019) Prohibits a court or probation department from charging any applicant a filing fee to petition to seal juvenile court records.</p> <p>q. AB 1423 (Wicks) Transfers to juvenile court (Ch. 583, Statutes of 2019) Creates a mechanism for the return of a case back to the juvenile court from the criminal court under certain circumstances.</p> <p>r. AB 1537 (Cunningham) Juvenile records: inspection: prosecutorial discovery (Ch. 50, Statutes of 2019) Expands a prosecutor’s ability to request to access, inspect, or use specified sealed juvenile records if the prosecutor has reason to believe that the record may be necessary to meet a legal obligation to disclose favorable or exculpatory evidence to a defendant in a criminal case.</p> <p>s. SB 94 (Committee on Budget and Fiscal Review) Public Safety: omnibus (Ch. 25, Statutes of 2019) Transfers the Division of Juvenile Justice Facilities from the California Department of Corrections (CDCR) to the Health and Human Services Agency and establishes the Department of Youth and Community Restoration as of July 1, 2020. Requires various technical changes and the establishment of memoranda of understanding with various departments and agencies to effectuate this change. Creates a committee of the Child Welfare Council to provide recommendations and input on the newly created Department of Youth and Community Restoration and requires annual reporting to the Legislature through 2025.</p> <p>Status/Timeline: Any rules and forms proposals required to implement legislation enacted in 2019 will be prepared for the Winter or Spring public comment cycles in 2020 as appropriate with anticipated effective dates of either September 1, 2020 or January 1, 2021.</p> <p>Fiscal Impact/Resources: CFCC staff, in consultation with staff from the Legal Services will prepare revised rules and forms as needed. Joint Rules Subcommittee of Trial Court Presiding Judges and Court Executive Advisory Committees (TCPJAC/CEAC JRS) will review proposals for court operations impacts as necessary.</p>

#	New or One-Time Projects³	
	<p>Internal/External Stakeholders: All draft proposals will circulate for public comment to a list of family and juvenile law related stakeholders as well as all court executives and presiding judges.</p> <p>AC Collaboration: For proposals that impact family and civil courts, the committee will collaborate with the Civil and Small Claims Advisory Committee. For proposals impacting tribal courts, the committee will collaborate with the Tribal Court–State Court Forum. For proposals impacting the Courts of Appeal, the committee will collaborate with the Appellate Advisory Committee.</p>	
2.	Advise on Distribution of Federal Title IV-E Reimbursement for Dependency Counsel	Priority 1a
	<p>Project Summary: A change in the federal <i>Child Welfare Policy Manual</i> permits attorneys who provide dependency representation to claim reimbursement for specified legal activities. The Budget Act of 2019 supports this federal reimbursement with an increase of \$34 million, and ongoing funds in future years, for court appointed dependency counsel. The Council recently authorized distribution of these funds to court appointed dependency counsel statewide.</p> <p>Status/Timeline: Ongoing</p> <p>Fiscal Impact/Resources: Legal Services; BAPS</p> <p>Internal/External Stakeholders: CEAC Subcommittee, California Department of Social Services, Child Welfare Directors Association, Court Appointed Counsel in Dependency Providers</p> <p>AC Collaboration: TCPJAC/CEAC</p>	
3.	Family: Correcting Spousal Support form to Address <i>In re Marriage of Martin</i>	Priority 1a

#	New or One-Time Projects³	
	<p>Project Summary: Under current law spousal support orders terminate upon the remarriage of the obligee unless there is a stipulated order to the contrary, but as the Court of Appeal noted in <i>In re Marriage of Martin</i>, 32 Cal.App.5th 1195 (2019), the Judicial Council form order for spousal support requires that a box terminating support upon remarriage be checked in order for that to apply. The court expressly directed the council to revise the form to make that a mandatory order with a check box only for those stipulating that it not apply.</p> <p>Status/Timeline: Anticipated effective date of January 1, 2021 for rules and forms</p> <p>Fiscal Impact/Resources: Legal Services for rules and forms, TCPJAC/CEAC JRS will review proposals for court operations impacts as necessary.</p> <p>Internal/External Stakeholders: A draft proposal would circulate for public comment to a list of family and juvenile law related stakeholders as well as all court executives and presiding judges.</p> <p>AC Collaboration: None</p>	
4.	AB 1058 Program Rule and Statutory Changes to Implement Guideline Study and Federal Rule Changes	Priority 1a
	<p>Project Summary: The Judicial Council submitted its statutorily required quadrennial child support guideline review to the legislature in 2019 and staff has been working with the Department of Child Support Services and other key stakeholders to discuss what changes might be needed to statute, rules of court, and forms to implement the recommendations in the report. This effort will also consider needed changes to implement recently issued changes in federal regulations governing the Title IV-D program which funds child support enforcement and the AB 1058 program. It is expected that proposals for rules and form changes will be suggested and that legislation will be introduced for the council to review and comment on.</p> <p>Status/Timeline: Anticipated effective date of January 1, 2021 for rules and forms, and introduction of legislation in 2020 for review. TCPJAC/CEAC JRS will review proposals for court operations impacts as necessary.</p> <p>Fiscal Impact/Resources: Legal Services and Government Affairs; TCPJAC/CEAC JRS will review proposals for court operations impacts as necessary.</p> <p>Internal/External Stakeholders: California Department of Child Support Services</p> <p>AC Collaboration: None</p>	

#	New or One-Time Projects ³	
5.	Juvenile: Providing exculpatory information from sealed juvenile court files	Priority 1b
<p>Project Summary: Recent legislation (AB 2952 (Stone; Stats. 2018, ch. 1002) set forth a procedure by which prosecutors can petition the juvenile court for access to sealed juvenile court records that may contain exculpatory material required to be provided to the defendant under <i>Brady</i> principles. The committee circulated a proposal for comment in the Spring 2019 RUPRO cycle to seek input on whether there was a need for a rule of court and or form to implement these requirements. Most commenters were in favor of developing such a proposal in a future cycle.</p> <p>Status/Timeline: Anticipated effective date of January 1, 2021 for rules and forms</p> <p>Fiscal Impact/Resources: Legal Services for rules and forms, TCPJAC/CEAC JRS will review proposals for court operations impacts as necessary.</p> <p>Internal/External Stakeholders: A draft proposal would circulate for public comment to a list of family and juvenile law related stakeholders as well as all court executives and presiding judges.</p> <p>AC Collaboration: Criminal Law Advisory Committee</p>		
6.	Protective Orders: Access to the California Protective Order Registry	Priority 1b
<p>Project Summary: As lead committee for Protective Orders Working Group (POWG), work with Civil Small Claims Advisory Committee to examine the need for statewide guidance and policies on access to the California Protective Order Registry (CCPOR).</p> <p>Status/Timeline: Anticipated effective date of January 1, 2021.</p> <p>Fiscal Impact/Resources: Legal Services</p> <p>Internal/External Stakeholders: California Department of Justice</p> <p>AC Collaboration: Civil and Small Claims Advisory Committee</p>		

#	New or One-Time Projects ³	
7.	Juvenile Law: Revise Form JV-535	Priority 1b
<p>Project Summary: In response to multiple concerns about the accuracy and usability of this form, the Committee will revise form JV-535 to ensure it is legally accurate and user-friendly.</p> <p>Status/Timeline: Anticipated effective date of January 1, 2021.</p> <p>Fiscal Impact/Resources: Legal Services; TCPJAC/CEAC JRS will review proposals for court operations impacts as necessary.</p> <p>Internal/External Stakeholders: None</p> <p>AC Collaboration: None</p>		
8.	Family Law: Update Statutory References in FL-165	Priority 1b
<p>Project Summary: Update federal statutory references in item 5, Declaration of nonmilitary status, on the <i>Request to Enter Default (Family Law-Uniform Parentage)</i> (FL-165) and consider whether the current affidavit language is legally sufficient.</p> <p>Status/Timeline: Anticipated effective date of January 1, 2021.</p> <p>Fiscal Impact/Resources: Legal Services</p> <p>Internal/External Stakeholders: None</p> <p>AC Collaboration: Information Technology Advisory Committee, Civil and Small Claims Advisory Committee, Probate and Mental Health Advisory Committee</p>		
9.	Family/Probate Law Crossover: Form for Designation of Emergency Child Caregiver and Nomination of Guardian	Priority 2
<p>Project Summary: Provide input and feedback to the Probate Mental Health Advisory Committee (PMHAC) as it seeks to develop a Judicial Council form for a parent to use to designate an emergency caregiver for a child and to nominate a guardian for the child.</p> <p>Status/Timeline: New form anticipated to take effect September 1, 2020.</p>		

#	New or One-Time Projects³	
	<p><i>Fiscal Impact/Resources:</i> Committee staff</p> <p><i>Internal/External Stakeholders:</i> Legal Services</p> <p><i>AC Collaboration:</i> Probate Mental Health Advisory Committee</p>	
10.	Remote Video Appearances in Noncriminal Proceedings Workstream	Priority 2
	<p><i>Project Summary:</i> Provide input and feedback to the Information Technology Advisory Committee (ITAC) as it seeks legislation and amended rules of court to allow for remote video appearances in civil proceedings.</p> <p><i>Status/Timeline:</i> Anticipated effective date of January 1, 2021.</p> <p><i>Fiscal Impact/Resources:</i> Legal Services, Government Affairs</p> <p><i>Internal/External Stakeholders:</i></p> <p><i>AC Collaboration:</i> Information Technology Advisory Committee, Civil and Small Claims Advisory Committee, Probate and Mental Health Advisory Committee</p>	
11.	Protective Order Forms: Continuance form for Renewal of Protective Order	Priority 2
	<p><i>Project Summary:</i> As lead committee for Protective Orders Working Group (POWG), work with Civil Small Claims Advisory Committee to consider whether to adopt a form to request a continuance in a DVPA proceeding to renew a protective order.</p> <p><i>Status/Timeline:</i> Anticipated effective date of January 1, 2021.</p> <p><i>Fiscal Impact/Resources:</i> Legal Services</p> <p><i>Internal/External Stakeholders:</i> California Department of Justice</p> <p><i>AC Collaboration:</i> Civil and Small Claims Advisory Committee</p>	
12.	Juvenile Law: Warrant Form for Department of Juvenile Facilities	Priority 2

#	New or One-Time Projects³	
	<p>Project Summary: Consider whether to adopt forms, similar to CR-301 and CR-302, that enable staff at the facility to request a warrant for arrest when a person committed to Department of Juvenile Facilities escapes.</p> <p>Status/Timeline: Anticipated effective date of January 1, 2022.</p> <p>Fiscal Impact/Resources: Legal Services</p> <p>Internal/External Stakeholders: California Department of Justice/Health and Human Services Agency</p> <p>AC Collaboration: Criminal Law Advisory Committee</p>	
13.	Juvenile Law/Appellate: Amendments to Rules 8.405, 8.450, and 8.454	Priority 2
	<p>Project Summary: Provide input and feedback to the Appellate Advisory Committee as it considers whether to revise three juvenile appellate rules to modify the way in which the clerk is obligated to notify the court reporter to prepare a transcript.</p> <p>Status/Timeline: Anticipated effective date of January 1, 2021.</p> <p>Fiscal Impact/Resources: Legal Services</p> <p>Internal/External Stakeholders: None</p> <p>AC Collaboration: Appellate Advisory Committee</p>	
14.	Juvenile Law: Court Appointed Special Advocate Rule of Court	Priority 2
	<p>Project Summary: Consider whether to revise the current rule for Court Appointed Special Advocates (CASA), rule 5.655, to allow programs to provide CASA support to children under the jurisdiction of a different county when the child is placed in the county where the CASA program is located.</p> <p>Status/Timeline: Anticipated effective date of January 1, 2021.</p> <p>Fiscal Impact/Resources: Legal Services</p> <p>Internal/External Stakeholders: California CASA</p>	

#	New or One-Time Projects ³	
	<i>AC Collaboration:</i> None	
15.	Judicial Council forms within the committee’s purview that have a gender identity question or term	<i>Priority 2</i>
	<p><i>Project Summary:</i> Revise all gendered terms or gender identity questions to conform to legislative changes providing for nonbinary gender identity as those forms are subject to revision for any other purpose including implementation of statutory changes.</p> <p><i>Status/Timeline:</i> Ongoing with each RUPRO cycle</p> <p><i>Fiscal Impact/Resources:</i> Legal Services</p> <p><i>Internal/External Stakeholders:</i> None</p> <p><i>AC Collaboration:</i> None</p>	

#	Ongoing Projects and Activities	
1.	Proposition 57 and AB 1423	Priority 1
<p>Project Summary: Monitor implementation of a recently enacted propositions and legislation, and assist juvenile courts with any required implementation:</p> <p>a) Proposition 57 enacted November 8, 2016 restructured the process for transfer of jurisdiction from juvenile to criminal court and eliminated the ability of prosecutors to directly file cases in criminal court. Pending legislation, AB 1423, seeks to allow a reverse remand procedure for young people who are tried in adult court but are not convicted of the crime that was the basis of the transfer to adult court.</p> <p>b) SB 384 (Wiener; Stats. 2017, ch. 541) implemented changes to sex offender registration requirements.</p> <p>Status/Timeline: Ongoing</p> <p>Fiscal Impact/Resources: Criminal Justice Services</p> <p>Internal/External Stakeholders: None</p> <p>AC Collaboration: Criminal Law Advisory Committee</p>		
2.	Family First Prevention Services Act Implementation	Priority 1
<p>Project Summary: Monitor implementation of the Family First Prevention Services Act (FFPSA), which reforms federal child welfare financing streams, Title IV-E and Title IV-B of the Social Security Act, to provide services to families who are at risk of entering the child welfare system. The committee may be asked to provide input on required changes to California law or to develop rules and forms.</p> <p>Status/Timeline: Ongoing</p> <p>Fiscal Impact/Resources: Legal Services and Government Affairs; TCPJAC/CEAC JRS will review proposals for court operations impacts as necessary.</p> <p>Internal/External Stakeholders: California Department of Social Services, Chief Probation Officers of California, Child Welfare Directors Association</p> <p>AC Collaboration: None</p>		

#	Ongoing Projects and Activities	
3.	Indian Child Welfare Act Legal Updates	<i>Priority 1</i>
<p>Project Summary: Monitor implementation of rules and forms created pursuant to AB 3176 (Waldron) Indian children. Assembly Bill 3176 updates the Indian Child Welfare Act provisions in the Welfare and Institutions Code to comply with recent Federal Bureau of Indian Affairs regulations.</p> <p>Status/Timeline: Anticipated effective date of January 1, 2021 for rules and forms. TCPJAC/CEAC JRS will review proposals for court operations impacts as necessary.</p> <p>Fiscal Impact/Resources: Legal Services</p> <p>Internal/External Stakeholders: None</p> <p>AC Collaboration: Tribal Court–State Court Forum</p>		
4.	Juvenile Traffic Offenders	<i>Priority 1</i>
<p>Project Summary: At the request of the Futures Traffic Working Group, provide subject matter expertise on the impact on juvenile traffic offenders in proposed Judicial Council sponsored legislation to implement Futures Commission recommendations that would make adult traffic offenses subject to civil rather than criminal sanctions.</p> <p>Status/Timeline: Sponsored legislation proposal to be introduced in Winter 2020.</p> <p>Fiscal Impact/Resources: Criminal Justice Services</p> <p>Internal/External Stakeholders: None</p> <p>AC Collaboration: Futures Traffic Working Group</p>		
5.	Assembly Bill 1058 Child Support Program Funding	<i>Priority 1</i>

#	Ongoing Projects and Activities	
	<p>Project Summary: As directed by the council, provide recommendations to the Trial Court Budget Advisory Committee regarding a funding methodology for the Family Law Facilitator program and continued implementation of the workload based funding methodology for the AB 1058 Child Support Commissioners program. Provide recommendations to the council for allocation of federal draw down funding for courts who are able to provide matching funds to obtain additional Title IV-D funds for the AB 1058 program.</p> <p>Status/Timeline: Ongoing</p> <p>Fiscal Impact/Resources: Budget Services</p> <p>Internal/External Stakeholders: None</p> <p>AC Collaboration: Trial Court Budget Advisory Committee and Court Executives Advisory Committee</p>	
6.	Access to Visitation Funding and Legislative Report	Priority 1
	<p>Project Summary: Provide recommendations to the council for allocation of funding pursuant to Family Code section 3204. Additionally, the committee will provide the council with the statutorily mandated legislative report on the program due every other year.</p> <p>Status/Timeline: Ongoing</p> <p>Fiscal Impact/Resources: Budget Services</p> <p>Internal/External Stakeholders: None</p> <p>AC Collaboration: None</p>	
7.	Court Appointed Special Advocates (CASA) grants program Funding Augmentation (Welf. & Inst. Code, § 100 et seq.)	Priority 1
	<p>Project Summary: Evaluate impact of \$500,000 augmentation received beginning fiscal year 18-19 and develop recommendation to the Judicial Council for an ongoing methodology for these funds.</p> <p>Status/Timeline: Ongoing</p>	

#	Ongoing Projects and Activities	
	<p><i>Fiscal Impact/Resources:</i> Budget Services</p> <p><i>Internal/External Stakeholders:</i> None</p> <p><i>AC Collaboration:</i> None</p>	
8.	Blue Ribbon Commission on Children in Foster Care (BRC) Recommendations	Priority 1
	<p><i>Project Summary:</i> Continue to provide Judicial Council members input on council accepted recommendations concerning child welfare made by the BRC.</p> <p><i>Status/Timeline:</i> Ongoing</p> <p><i>Fiscal Impact/Resources:</i> None</p> <p><i>Internal/External Stakeholders:</i> None</p> <p><i>AC Collaboration:</i> None</p>	
9.	Family Law: Elkins Family Law Task Force recommendations	Priority 1
	<p><i>Project Summary:</i> Continue to provide Judicial Council members input on council accepted recommendations for family law issues addressed by the Elkins Family Law Task Force.</p> <p><i>Status/Timeline:</i> Ongoing</p> <p><i>Fiscal Impact/Resources:</i> None</p> <p><i>Internal/External Stakeholders:</i> None</p> <p><i>AC Collaboration:</i> None</p>	

#	Ongoing Projects and Activities	
10.	Referrals from the Commission on the Future of California’s Court System	Priority 1
<p>Project Summary: The Futures Commission made recommendations for significant reform in family and juvenile law. If those recommendations are referred to the committee it would review them and determine the next steps needed for implementation. See Letter from Chief Justice to Judicial Council internal committee chairs, May 17, 2017</p> <p>Family Recommendations:</p> <ul style="list-style-type: none"> a) Provide mediation without recommendations as the first step in resolving all child custody disputes. b) Explore through pilot projects or otherwise whether additional services, including tiered mediation, would be effective in complex or contentious cases. <p>Juvenile Recommendations:</p> <ul style="list-style-type: none"> a) Establish a single juvenile court with consolidated jurisdiction over all juvenile court matters. b) Provide courts with jurisdiction over children and parents in all juvenile cases and provide children and parents counsel when appropriate. c) Test these proposals via pilot programs in a diverse set of courts <p>Status/Timeline: Ongoing</p> <p>Fiscal Impact/Resources: Legal Services, Governmental Affairs</p> <p>Internal/External Stakeholders: None</p> <p>AC Collaboration: None</p>		
11.	Domestic Violence	Priority 1
<p>Project Summary: Provide recommendations to the council on statewide judicial branch domestic violence issues in the area of family and juvenile law, including projects referred from the work of the Domestic Violence Practice and Procedure Task Force and the Violence Against Women Education Program (VAWEP). Serve as lead committee for Protective Orders Working Group (POWG). Examine the need for statewide guidance and policies on access to the California Courts Protective Order Registry (CCPOR).</p>		

#	Ongoing Projects and Activities	
	<p><i>Status/Timeline:</i> Ongoing</p> <p><i>Fiscal Impact/Resources:</i> Criminal Justice Services, Lega Services</p> <p><i>Internal/External Stakeholders:</i> None</p> <p><i>AC Collaboration:</i> Civil Small Claims Advisory Committee, Criminal Law Advisory Committee</p>	
12.	Legislation	Priority 1
	<p><i>Project Summary:</i> As requested by the Judicial Council Policy Coordination and Liaison Committee review and recommend positions on legislation related to family and juvenile law matters.</p> <p><i>Status/Timeline:</i> Ongoing</p> <p><i>Fiscal Impact/Resources:</i> Governmental Affairs</p> <p><i>Internal/External Stakeholders:</i> None</p> <p><i>AC Collaboration:</i> None</p>	
13.	Education	Priority 1
	<p><i>Project Summary:</i> Contribute to planning efforts in support of family and juvenile law judicial branch education.</p> <p><i>Status/Timeline:</i> Ongoing</p> <p><i>Fiscal Impact/Resources:</i> CJER</p> <p><i>Internal/External Stakeholders:</i> None</p>	

#	Ongoing Projects and Activities	
	<i>AC Collaboration:</i> CJER Governing Committee	
14.	Review approval of training providers under 5.210, 5.225, 5.230, and 5.518.	Priority 1
	<p><i>Project Summary:</i> Training providers/courses are reviewed for compliance with these rules by Judicial Council staff, in consultation with the Family and Juvenile Law Advisory Committee. As directed by the Judicial Council, result of review of delegations.</p> <p><i>Status/Timeline:</i> Ongoing <i>Fiscal Impact/Resources:</i> Support Services, Legal Services</p> <p><i>Internal/External Stakeholders:</i> None</p> <p><i>AC Collaboration:</i> None</p>	
15.	FL-800 Joint Petition for Summary Dissolution	Priority 1
	<p><i>Project Summary:</i> Update to reflect change in cost of living per Family Code section 2400(b) as a technical change.</p> <p><i>Status/Timeline:</i> Ongoing requirement to adjust every other year, next adjustment to be effective September 2, 2021 (approved by the Judicial Council 3/24/17 in a technical report).</p> <p><i>Fiscal Impact/Resources:</i> Legal Services</p> <p><i>Internal/External Stakeholders:</i> None</p> <p><i>AC Collaboration:</i> None</p>	
16.	Fee Waiver: Changes to Rules and Forms Based on <i>Jameson v. Desta</i>	Priority 1a
	<p><i>Project Summary:</i> The California Supreme Court in Jameson v. Desta, (2018) 5 Cal.5th 594, held that a superior court cannot withhold court reporter services from an indigent litigant, who had been granted an initial fee waiver, based on a general policy that official court reporters</p>	

#	Ongoing Projects and Activities	
	<p>are not made available for civil cases. The Judicial Council approved a rules and forms proposal at its May 2019 meeting, and directed the Civil and Small Claims Advisory Committee to continue to work on this issue in light of the comments received from legal services. These included at a minimum the development of a form to request court interpreters and also consideration of the proposals that no request be required, but instead that either court reporters or electronic recordings be automatically made available for all hearings for fee waiver recipients.</p> <p><i>Status/Timeline:</i> Anticipated effective date of January 1, 2021 for rules and forms.</p> <p><i>Fiscal Impact/Resources:</i> Legal Services; TCPJAC/CEAC JRS will review proposals for court operations impacts as necessary.</p> <p><i>Internal/External Stakeholders:</i> None</p> <p><i>AC Collaboration:</i> Civil and Small Claims Advisory Committee, Probate and Mental Health Advisory Committee</p>	
17.	<p>Juvenile Case Files: AB 1617 (Bloom) Inspection of Juvenile Case Files</p>	<p><i>Priority 1b</i></p>
	<p><i>Project Summary:</i> AB 1617 (Bloom; Stats. 2018, ch. 992) added section 827(a)(6) to the Welfare and Institutions Code to allow certain parties involved in an appeal to access the case file on appeal. The proposal to implement section 827(a)(6) is recommended be postponed until the next winter cycle. An ad hoc working group consisting of members from this committee and the Appellate Advisory Committee (AAC), convened after the comment period and addressed issues raised from commenters. The resolution of some of the issues raised cannot be addressed without recirculating due to the substantive nature of the recommended change.</p> <p><i>Status/Timeline:</i> Anticipated effective date of September 1, 2020.</p> <p><i>Fiscal Impact/Resources:</i> Legal Services; TCPJAC/CEAC JRS will review proposals for court operations impacts as necessary.</p> <p><i>Internal/External Stakeholders:</i> None</p> <p><i>AC Collaboration:</i> Appellate Advisory Committee</p>	
18.	<p>Court coordination and allegations of child abuse and neglect</p>	<p><i>Priority 2</i></p>
	<p><i>Project Summary:</i> A proposal to work collaboratively with Probate and Mental Health as well as the Advisory Committee on Providing Access and Fairness on issues related to court coordination and allegations of child abuse and neglect in guardianship cases.</p>	

#	Ongoing Projects and Activities	
	<p><i>Status/Timeline:</i> Ongoing</p> <p><i>Fiscal Impact/Resources:</i> None</p> <p><i>Internal/External Stakeholders:</i> None</p> <p><i>AC Collaboration:</i> Probate and Mental Health Advisory Committee</p>	
19.	Consider Mental Health Issues Implementation Task Force Referrals	Priority 1b
	<p><i>Project Summary:</i> Coordinate with Judicial Council staff and other advisory committees on developing and implementing recommendations to improve access and procedures in mental health proceedings, including review and consideration of implementation of select recommendations referred by the Judicial Council following the task force’s final report to the council. Recommend appropriate action within the committee’s purview. As referred by the council.</p> <p><i>Status/Timeline:</i> Ongoing</p> <p><i>Fiscal Impact/Resources:</i> Legal Services, Criminal Justice Services</p> <p><i>Internal/External Stakeholders:</i> None</p> <p><i>AC Collaboration:</i> Collaborative Justice Courts Advisory Committee, Criminal Law Advisory Committee, Family and Juvenile Law Advisory Committee</p>	
20.	Rules Modernization Project	Priority 1c
	<p><i>Project Summary:</i> Continue to assist Information Technology Advisory Committee (ITAC) in its Rules Modernization Project, a collaborative multi-year effort to comprehensively review and modernize statutes and rules so that they will be consistent with and foster modern e-business practices.</p> <p><i>Status/Timeline:</i> Ongoing</p>	

#	Ongoing Projects and Activities	
	<p><i>Fiscal Impact/Resources:</i> Committee staff</p> <p><i>Internal/External Stakeholders:</i> None</p> <p><i>AC Collaboration:</i> Information Technology Advisory Committee</p>	
21.	<p>Serve as subject matter resource for other advisory groups to avoid duplication of efforts and contribute to development of recommendations for council action.</p>	<p><i>Priority 1d</i></p>
	<p><i>Project Summary:</i> Such efforts may include providing family and juvenile law expertise and review to working groups, advisory committees, and subcommittees as needed.</p> <p><i>Status/Timeline:</i> Ongoing</p> <p><i>Fiscal Impact/Resources:</i> None</p> <p><i>Internal/External Stakeholders:</i> None</p> <p><i>AC Collaboration:</i> Respective advisory bodies</p>	
22.	<p>Juvenile Dependency: Court-Appointed-Counsel Workload</p>	<p><i>Priority 1e</i></p>
	<p><i>Project Summary:</i> As referred by the council, begin fulfilling the Judicial Council’s charge to “Consider a comprehensive update of the attorney workload data and time standards in the current workload model” by monitoring and assessing the impact of the new funding provided for court-appointed dependency counsel in the 2017-18 Budget Act..</p> <p><i>Status/Timeline:</i> Ongoing</p> <p><i>Fiscal Impact/Resources:</i> Budget Services</p> <p><i>Internal/External Stakeholders:</i> None</p>	

#	Ongoing Projects and Activities	
	<i>AC Collaboration:</i> None	
23.	Protective Order Forms: Self-Represented Litigants	Priority 1e
<p>Project Summary: As lead committee for Protective Orders Working Group (POWG), work with Civil Small Claims Advisory Committee to revise the protective order forms used in domestic violence and civil to ensure they are written in language that is comprehensible to non-attorneys, while maintaining legal accuracy.</p> <p>Status/Timeline: Anticipated effective date of January 1, 2021.</p> <p>Fiscal Impact/Resources: Legal Services</p> <p>Internal/External Stakeholders: California Department of Justice</p> <p>AC Collaboration: Civil and Small Claims Advisory Committee</p>		
24.	Court Coordination and Efficiencies	Priority 2
<p>Project Summary: Review promising practices that enhance coordination and increase efficient use of resources across case types involving families and children including review of unified court implementation possibilities, court coordination protocols, and methods for addressing legal mandates for domestic violence coordination to provide recommendations for education content and related policy efforts.</p> <p>Status/Timeline: Ongoing</p> <p>Fiscal Impact/Resources: None</p> <p>Internal/External Stakeholders: None</p> <p>AC Collaboration: None</p>		

#	Ongoing Projects and Activities	
25.	Minors and Nonminor Dependents	Priority 2
<p>Project Summary: Continue monitoring implementation, and recommend rule and form changes as necessary, to improve the handling of proceedings involving nonminor dependents. The Judicial Council was a cosponsor of Assembly Bill 12, the original legislation that authorized extended foster care for young adults ages 18 to 21, which was enacted in 2010, with most of its provisions effective January 1, 2012. The council has supported each of the subsequent cleanup bills to make changes to ensure smooth and effective implementation of Assembly Bill 12: Assembly Bill 212 in 2011, Assembly Bill 1712 in 2012, and Assembly Bill 787 (Stone; Stats. 2013, ch. 487) in 2013.</p> <p>Status/Timeline: Ongoing</p> <p>Fiscal Impact/Resources: Legal Services</p> <p>Internal/External Stakeholders: None</p> <p>AC Collaboration: None</p>		
26.	Rules and Forms: Miscellaneous Technical Changes	Priority 2
<p>Project Summary: Develop rule and form changes as necessary to correct technical errors meeting the criteria of rule 10.22(d)(2); “a nonsubstantive technical change or correction or a minor substantive change that is unlikely to create controversy....”.</p> <p>Status/Timeline: Ongoing</p> <p>Fiscal Impact/Resources: Legal Services</p> <p>Internal/External Stakeholders: None</p> <p>AC Collaboration: None</p>		
27.	Juvenile Law: Intercounty Transfers	Priority 2

#	Ongoing Projects and Activities	
	<p>Project Summary: Review requests under rule 5.610(g) to approve local collaborative agreements for alternative juvenile court transfer forms in lieu of JV-550. This project originated from the Judicial Council Delegations to the Administrative Director of the Courts (October 25, 2013).</p> <p>Status/Timeline: Ongoing</p> <p>Fiscal Impact/Resources: None</p> <p>Internal/External Stakeholders: None</p> <p>AC Collaboration: None</p>	
28.	Juvenile Law: Competency Issues	Priority 2
	<p>Project Summary: To enrich recommendations to the council and avoid duplication of effort, members of the committee will collaborate with members of the Collaborative Justice Courts Advisory Committee, and members serving on other advisory bodies with mental health expertise, to consider developing recommendations to the Judicial Council to ensure that there are adequate services to address the needs of juveniles with competency issues.</p> <p>Status/Timeline: January 1, 2021</p> <p>Fiscal Impact/Resources: Governmental Affairs</p> <p>Internal/External Stakeholders: Associations representing probation officers, prosecutors, and public defenders</p> <p>AC Collaboration: Collaborative Justice Courts Advisory Committee</p>	

III. LIST OF 2019 PROJECT ACCOMPLISHMENTS

#	Project Highlights and Achievements
1.	<p>Implementation of Legislative Changes from the 2017-2018 Legislative Session (Completed by September 1, 2019 or January 1, 2020)</p> <p>As directed by the Judicial Council, reviewed legislation identified by Governmental Affairs that may have an impact on family and juvenile law issues within the advisory committee’s purview. The committee reviewed the legislation below, and other identified legislation, and proposed rules and forms as appropriate for the council’s consideration.</p> <p><u>Family:</u></p> <ul style="list-style-type: none"> • Restraining Order Forms: Order on Request to Continue Hearing Effective January 1, 2020, in collaboration with the Civil Small Claims Advisory Committee revise two DV forms, two EA forms, two CH forms, and two GV forms to clarify whether the restrained person needs to be served for enforcement purposes. • Protective Orders: Alternative Service in Domestic Violence Prevention Act Cases Effective January 1, 2020 adopt one new form, approve one new information sheet, and revise one form to implement provisions that allow for alternative service in domestic violence restraining order cases when personal service has not been accomplished, despite diligent efforts. <ul style="list-style-type: none"> a. AB 2694 (Rubio) Domestic Violence: ex parte orders (<i>Ch. 219, Statutes of 2018</i>) Allows a person seeking a domestic violence restraining order to request to serve the party in a method other than personal service, after diligent attempts at personal service have been made. • Protective Orders: New INFO Form on Protecting Minor’s Information Effective January 1, 2020, adopt one new DV form and one new CH form to help litigants understand a new law that enables courts to make confidential certain information regarding a minor in civil harassment and domestic violence restraining order proceedings. <ul style="list-style-type: none"> a. AB 953 (Baker) Protective Orders: Personal Information of Minors (<i>Ch. 384, Statutes of 2017</i>) Authorizes a minor, or a minor’s legal guardian, to ask the court to make information about the minor confidential when a domestic violence or civil harassment restraining order is being issued. • Family Law: Rule and Forms for Minor to Marry or Establish a Domestic Partnership Effective January 1, 2020, adopt one rule and three forms to implement recent law changes on the required procedures for minors to seek court permission to marry or enter domestic partnerships as required by: <ul style="list-style-type: none"> a. SB 273 (Hill) Marriage and domestic partnership: minors (<i>Ch. 660, Statutes of 2018</i>) Creates additional requirements and court oversight before a minor may marry or establish a domestic partnership.

#	Project Highlights and Achievements
	<ul style="list-style-type: none"> <li data-bbox="201 204 1959 423"> <p>• Family Law: Legislative Addition of New Category of Child Custody Evaluator Effective January 1, 2020 amend one rule of court and revise two forms to include an additional category of licensed child custody evaluator.</p> <ul style="list-style-type: none"> <li data-bbox="247 318 1959 423"> <p>a. AB 2296 (Waldron) Licensed Professional Clinical Counselors: Licensed Clinical Social Workers (<i>Ch. 389, Statutes of 2018</i>) Adds the language “professional clinical counselor qualified to assess couples and families” to section 3110.5 of the Family Code.</p> <li data-bbox="201 464 1959 651"> <p>• Family Law: Changes to Parentage Rules and Forms Effective January 1, 2020, amend rules 5.350 and 5.635 and revise 25 family law forms to comply with amendments to the Family Code that replace the word “paternity” with “parentage” and made statues gender neutral, when possible</p> <ul style="list-style-type: none"> <li data-bbox="247 578 1959 651"> <p>a. AB 2684 (Bloom) Parent and Child Relationship (Ch. 876, Statutes of 2018) Replaces “paternity” with “parentage” and revises language to be gender neutral, when possible.</p> <li data-bbox="201 691 1959 829"> <p>• Family Law: Changes to Continuance Rules and Forms Effective January 1, 2020 adopt one new rule, amend four rules, approve four new forms, revise two forms, and revoke one form to implement new procedures for continuing a hearing in family court. The new procedures respond to concerns raised by court professionals related to the current continuance rules and forms.</p> <li data-bbox="201 870 1959 976"> <p>• Family Law: Miscellaneous Technical Changes Required by Sunsetting of Family Code section 4007.5 Effective January 1, 2020 revise 13 forms to remove references to relief currently available to child support obligors under Family Code section 4007.5, which sunsets on January 1, 2020.</p> <li data-bbox="201 1016 1959 1122"> <p>• Family Law: Notice of Registration of Out-of-State Support Order Effective January 1, 2020 adopt one new form and revise two forms to create a more consistent process for registering out of state child support orders, provide clear and understandable information to litigants, and to correct errors on the forms.</p> <li data-bbox="201 1162 1959 1235"> <p>• Family Law: Duty of Judge Hearing Matter Effective January 1, 2020 amend one rule to clearly define the role of the judge and the court at a title IV-D child support hearing.</p> <li data-bbox="201 1276 1959 1414"> <p><u>Indian Child Welfare Act (ICWA):</u></p> <ul style="list-style-type: none"> <li data-bbox="201 1317 1959 1414"> <p>• ICWA: Implementation of AB 3176 (Waldron) for Indian Children <i>Ch. 833, Statutes of 2018</i> Effective January 1, 2020, amend eight rules of court, adopt one new rule of court and three new ICWA forms, and revise 27 ICWA</p>

#	Project Highlights and Achievements
	<p>forms to comply with statutory changes set forth in AB 3176, as well as changes to the federal regulations and guidelines. These revisions also address concerns regarding ICWA rules and forms raised in several appellate court decisions.</p> <p><u>Juvenile Dependency:</u></p> <ul style="list-style-type: none"> <p>Juvenile Law: Update <i>Authorization to Release Health and Mental Health Information (Form JV-226)</i> Optional form JV-226 allows parents, guardians, and youth to provide authorization for medical and mental health providers to release information about the child but does not address the provisions of Civil Code section 56.106, which limits rights of a parent from whose custody the child has been removed.</p> <p>Determined no rules and forms necessary.</p> <p>AB 404 (Stone) Notice to Parties of Proposal to Place Child Out of County <i>Ch. 732, Statutes of 2017</i> Effective January 1, 2020, amend one rule and revise one form to implement Assembly Bill 404 (Stone; Stats. 2017, ch. 732), to conform to recent statutory changes regarding the circumstances that allow waiving the requirement for notice of the child welfare agency’s intent to place a child out of county, and the time frame for notice of, and objection to, the agency’s intent to move a foster child to a different county if that child is transitioning from a temporary placement facility.</p> <p>Juvenile Law: Legal Accuracy of Juvenile Forms Effective January 1, 2020, to comply with Senate Bill 190 (Mitchell; Stats. 2017, ch. 678) remove references to payment of fees from form JV-618, along with other sunsetted provisions. Effective January 1, 2020, to improve the legal accuracy of forms, revise two forms to include required title IV-E findings and to set forth the statutory process for reinstatement of reunification services.</p> <p>Juvenile Law: Advisement of Appellate Rights in Juvenile Law Effective January 1, 2020, amend one rule of court and adopt one new information sheet to clarify the duty to notice absent parents and to inform parents of their appellate rights.</p> <p><u>Juvenile Delinquency:</u></p> <ul style="list-style-type: none"> <p>Juvenile Law: Sealing of Records Effective January 1, 2020 proposed amended rule and form conform to recently enacted statutory provisions concerning the sealing of juvenile records. The proposal updated a recently adopted rule and form to implement:</p> <ol style="list-style-type: none"> AB 2952 (Stone) Juvenile records: sealed records: access (<i>Ch. 1002, Statutes of 2018</i>)

#	Project Highlights and Achievements
	<p>Authorizes a prosecuting attorney to access, inspect, or utilize a juvenile record that has been sealed under the automatic sealing process in order to meet a statutory or constitutional obligation to disclose favorable or exculpatory evidence to a defendant in a criminal case.</p> <p>a. SB 1281 (Stern) Juvenile records (<i>Ch. 793, Statutes of 2018</i>) Prohibits the destruction of a sealed juvenile record if an offense in that record has made the person subject to a firearms restriction until he or she turns 33 years of age, and authorizes a prosecuting attorney or the Department of Justice to inspect, to utilize those records for purposes related to the enforcement of that restriction, as specified.</p> <ul style="list-style-type: none"> • Juvenile Law: Transfer of Jurisdiction Effective January 1, 2020 proposed amended rules and forms to implement recent legislative changes restricting the age of those children whose cases can be transferred from juvenile to criminal court jurisdiction as required by: <ul style="list-style-type: none"> a. SB 1391 (Lara) Juveniles: fitness for juvenile court (<i>Ch. 1012, Statutes of 2018</i>) Repeals the authority of a prosecutor to make a motion to transfer a minor from juvenile court to adult criminal court in a case in which a minor is alleged to have committed a specified serious offense when he or she was 14 or 15 years of age, unless the individual was not apprehended prior to the end of juvenile court jurisdiction. • Juvenile Law: Competency Effective January 1, 2020 amend one rule, and amend and renumber one rule to comply with statutory changes that re-define the procedure related to restoration to competency that is implicated when there is a doubt about a child’s competency to proceed in Welfare and Institution Code section 602 proceedings. <ul style="list-style-type: none"> b. AB 1214 (Stone) Juvenile Proceedings: Competency (<i>Ch. 990, Statutes of 2018</i>) Expands duties and qualifications of experts in competency proceedings and clarifies procedure after a child is declared incompetent.
2.	<p>Rules Modernization Project and Implementation of AB 976 (Completed January 1, 2018)</p> <p>Each advisory committee was asked to include in their annual agendas for 2015 and 2016 an item providing for the drafting of proposed amendments to modernize the California Rules of Court related to their subject matter areas. This effort was undertaken in coordination with ITAC, which is responsible for developing and completing the overall rules modernization project.</p> <p>Implementation of council sponsored legislation (AB 976 (Berman) Electronic filing and service) that emerged from this project necessitated rule and form changes noted above.</p>
3.	<p>Provided technical assistance and position recommendations on family and juvenile related proposed legislation via numerous legislative review calls.</p>
4.	<p>Approved list of training providers for court connected child custody mediators, recommending counselors, and evaluators as directed by the Judicial Council.</p>

#	Project Highlights and Achievements
5.	AB 1058 Funding related activities: in addition to making recommendations to the council for ongoing funding allocations and midyear reallocations, the committee also provided members and a co-chair to the AB 1058 Funding Allocation Joint Subcommittee which continues to work on a new workload-based methodology for allocating funds for child support commissioners and family law facilitators.
6.	Provided recommendations to the Judicial Council for allocation of funding for the Access to Visitation Grant Program and submitted a report to the legislature on the grant program for council approval.
7.	Provided recommendations to the Judicial Council for allocation of funding for CASA programs, including a new CASA funding allocation methodology.
8.	Provided support for the activities and meetings of the Violence Against Women Education Program and hosted a statewide users forum for the California Courts Protective Order Registry.
9.	Began process of considering a comprehensive update of the attorney workload data and time standards in the current workload model by monitoring and assessing the impact of the new funding provided for court-appointed dependency counsel in the 2017-18 Budget Act.
10.	Provided technical assistance and position recommendations on family and juvenile related proposed legislation via numerous legislative review calls.
11.	Approved list of training providers for court connected child custody mediators, recommending counselors, and evaluators as directed by the Judicial Council.
12.	Family Law: Certification of Statewide Uniform Guideline Support Calculators

Family and Juvenile Law Advisory Committee

Effective September 14, 2019 (rev. 2/19/2020)

Hon. Jerilyn L. Borack, Co-Chair

Judge of the Superior Court of California,
County of Sacramento

Hon. Tari L. Cody

Judge of the Superior Court of California,
County of Ventura

Hon. Mark A. Juhas, Co-Chair

Judge of the Superior Court of California,
County of Los Angeles

Hon. Gregory J. Elvine-Kreis

Judge of the Superior Court of California
County of Humboldt

Hon. Craig E. Arthur

Judge of the Superior Court of California,
County of Orange

Ms. Kristen Erickson-Donadee

Assistant Chief Counsel
Intergovernmental Services
California Department of Child Support Services

Dr. Baljit Atwal

Psychology Assessment Resource Center

Hon. Ana L. España

Judge of the Superior Court of California
County of San Diego

Hon. Bunmi O. Awoniyi

Judge of the Superior Court of California,
County of Sacramento

Ms. Katherine Fogarty

Chief Dependency Attorney
Richard Ciummo & Associates – Alternate
Defense Office

Hon. John P. Bianco

Judge of the Superior Court of California,
County of Tulare

Hon. Michael Gassner

Commissioner of the Superior Court of California,
County of San Bernardino

Dr. Gena Castro Rodriguez

Chief of Victim Services Division
San Francisco District Attorney's
Victim Services Division

Hon. Suzanne Gazzaniga

Judge of the Superior Court of California,
County of Placer

Hon. Roger C. Chan

Judge of the Superior Court of California,
County of San Francisco

Hon. Donna L. Quigley Groman

Judge of the Superior Court of California
County of Los Angeles

Hon. Carol D. Codrington

Associate Justice of the Court of Appeal
Fourth Appellate District, Division Two

Ms. Stephanie M. Hansel

Court Executive Officer
Superior Court of California,
County of Sutter

Family and Juvenile Law Advisory Committee

Effective September 14, 2019 (rev. 2/19/2020)

Hon. Douglas Hatchimonji

Judge of the Superior Court of California,
County of Orange

Hon. Annemarie G. Pace

Judge of the Superior Court of California,
County of San Bernardino

Ms. Leslie Heimov

Executive Director
Children's Law Center of California

Ms. Sherry Peterson

Certified Family Law Specialist
Law Office of Sherry Peterson

Mx. Cory Hernandez

Staff Attorney
Family Violence Law Center

Mr. Brian J. Richart

Chief Probation Officer
El Dorado County Probation

Ms. Catherine Hohenwarter

Family Law Facilitator/Family Court Services
Manager
Superior Court of California,
County of Yolo

Ms. Cheryl Scott

Director of Family Court Services
Superior Court of California,
County of Fresno

Hon. Stephanie E. Hulsey

Judge of the Superior Court of California
County of Monterey

Ms. Nancy E. Smith

Supervising Deputy District Attorney
Sacramento County District Attorney's Office

Hon. David E. Knowles

Commissioner of the Superior Court of California
County of Inyo

Hon. Nannette J. Stomberg

Commissioner of the Superior Court of California
County of Shasta

Ms. Sharon M. Lawrence

Chief Executive Officer
California CASA Association

Ms. Shannon M. Sullivan

Assistant County Counsel IV
County of Santa Cruz Office of the County
Council

Ms. Patricia Lee

Managing Attorney
San Francisco Public Defender's Office

Hon. B. Scott Thomsen

Presiding Judge of the Superior Court of
California,
County of Nevada

Ms. Joan Miller

Deputy Director
Family and Children's Services Division
San Francisco County Human Services Agency

Family and Juvenile Law Advisory Committee

Effective September 14, 2019 (rev. 2/19/2020)

Hon. Daniel Zeke Zeidler
Judge of the Superior Court of California,
County of Los Angeles

ADVISORY MEMBER

Hon. Sue Alexander (Ret.)
Commissioner of Superior Court of California,
County of Alameda

CJER GOVERNING COMMITTEE LIAISON

Hon. Michael A. Knish
Judge of the Superior Court of California,
County of San Bernardino

TCPJAC LIAISON

Hon. B. Scott Thomsen
Presiding Judge of the Superior Court of
California, County of Nevada

GOVERNMENTAL AFFAIRS LIAISON

Ms. Andi Liebenbaum
Attorney
Governmental Affairs
Judicial Council of California

JUDICIAL COUNCIL STAFF TO THE COMMITTEE

Ms. Audrey Fancy (J), Lead Staff
Principal Managing Attorney
Center for Families, Children & the Courts
Judicial Council of California

Ms. Tracy Kenny (F), Lead Staff
Attorney
Center for Families, Children & the Courts
Judicial Council of California

Ms. Amanda Morris
Administrative Coordinator
Center for Families, Children & the Courts
Judicial Council of California

Summary of Court-Related Legislation

JUDICIAL COUNCIL OF CALIFORNIA • GOVERNMENTAL AFFAIRS



JUDICIAL COUNCIL
OF CALIFORNIA

NOVEMBER 2019

During the first year of the 2019–2020 Legislative Session, the Legislature and Governor enacted numerous bills that affect the courts or are of general interest to the legal community. Brief descriptions of the measures of greatest interest follow, arranged according to subject matter. Also included is a table summarizing new laws that create new crimes or expand existing crimes, as well as an index listing all the bills and the page numbers on which their descriptions can be found.

The effective date of legislation is stated with each measure. Urgency and budget measures normally take effect immediately upon enactment, and some other measures have delayed operative dates.

This *Summary* is intended to serve only as a guide to identify bills of interest; the bill descriptions are not a complete statement of statutory changes. Code section references are to the sections most directly affected by the bill; not all sections are necessarily cited.

Until the annual pocket parts are issued, bill texts can be examined in their chaptered form in *West's California Legislative Service* or *California Deering's Advance Legislative Service*, where they are published by chapter number. In addition, chaptered bills and legislative committee analyses can be accessed on the California Legislative Information website at <http://leginfo.ca.gov>. Individual chapters may be ordered directly from the Legislative Bill Room, State Capitol, 10th Street, Room B32, Sacramento, California 95814, 916-445-2323.

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ACCESS TO JUSTICE

AB 242 (KAMLAGER-DOVE), CH. 418

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

IMPLICIT BIAS TRAINING: COURTS AND ATTORNEYS

Clarifies that the Judicial Council may develop training on implicit bias. Specifically, the bill:

- Allows the Judicial Council to develop training on implicit bias;
- Requires any training developed to include the components listed in the bill; and
- Requires court staff who interact with the public on matters before the court to complete two hours of implicit bias training every two years as of January 1, 2022 (included in the existing requirements found in rule 10.474).

Note: Implicit bias training has been a component of the Judicial Council's Qualifying Ethics (QE) core course for judicial officers beginning with QE5, January 1, 2013, and continuing through QE7, which launched on January 1, 2019. (B&P 6070.5; GOV 68088)

AB 330 (GABRIEL), CH. 217

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

APPOINTED LEGAL COUNSEL IN CIVIL CASES

Increases funding for the Sargent Shriver Civil Counsel Act program (Shriver Program) by raising fees and permitting the Judicial Council to accept donations from public and private entities. Broadens the use of Shriver Program funds in child custody cases by eliminating consideration that the other party is represented by counsel. Increases, from \$25 to \$40, fees for the following:

- Issuing writs of attachment, mandate, execution, sale, possession, prohibition, or any other writ for the enforcement of any order or judgment;
- Issuing abstracts of judgment, certificates of satisfaction or judgment under Code of Civil Procedure section 724.100, certifying a copy of any paper, record, or proceeding on file in the office of the clerk of any court; taking an affidavit (except in criminal or adoption proceedings);
- The acknowledgment of any deed or other instrument including the certificate;

- Recording or registering a license or certificate in connection with a license required by law for which a charge is not otherwise prescribed; and
- Issuing a certificate for which the fee is not otherwise fixed. (GOV 68651, 70626)

AB 668 (GONZALEZ), CH. 787

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

COURTHOUSES: PRIVILEGE FROM CIVIL ARREST

Provides that no person shall be subject to civil arrest in a courthouse while attending a court proceeding or having legal business in the courthouse, except that the prohibition does not apply to arrests made pursuant to a valid judicial warrant. Also clarifies the power of judicial officers to prohibit activities that threaten access to courthouses, including protecting the privilege from civil arrest at a courthouse. (CIV 43.54; CCP 177)

AB 917 (REYES), CH. 576

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

VICTIMS OF CRIME: NONIMMIGRANT STATUS

Reduces the amount of time in which a certifying entity (which includes a court) shall process victim certification for purposes of obtaining a U-visa or T-visa to within 30 days of the request rather than 90, unless the noncitizen is in removal proceedings, in which case the certification must be processed in seven days, rather than the current 14 days. Requires the local law enforcement agency with whom the U-visa or T-visa applicant has filed a police report to provide a copy of the report to the victim, the victim's immigration attorney, or a representative fully accredited by the U.S. Department of Justice within seven days of the first business day following the day of the request. Allows a victim's immigration attorney to request the necessary certification of victim helpfulness for purposes of obtaining a U-visa or a T-visa. Defines "a representative fully accredited by the U.S. Department of Justice" as a person who is approved by the U.S. Department of Justice to represent individuals before the Board of Immigration Appeals, the immigration courts, or the Department of Homeland Security. Requires the representative to be a person who works for a specific nonprofit, religious, charitable, social service, or similar organization that has been recognized by the U.S. Department of Justice to represent those individuals, and whose accreditation is in good standing. (PEN 679.10, 679.11)

SB 164 (MCGUIRE), CH. 138

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

INFRACTIONS: COMMUNITY SERVICE

Authorizes a person who has been convicted of an infraction and is eligible to elect to perform community service in lieu of the total fine, to elect to perform that community service in the county in which the infraction violation occurred, the county of the person's residence, or any other county to which the person has substantial ties. Requires the court to retain jurisdiction until the community service has been verified as complete. (PEN 1209.5)

BUDGET: JUDICIAL BRANCH IMPACT

AB 74 (TING), CH. 23

**EFFECTIVE/OPERATIVE DATE: EFFECTIVE
IMMEDIATELY**

BUDGET ACT OF 2019

Among other things, allocates \$75 million to the Judicial Council to launch and evaluate two-year pretrial projects in local trial courts with the following goals: (1) increasing the safe and efficient release of arrestees before trial; (2) using the least restrictive monitoring practices possible while protecting public safety and ensuring court appearances; (3) validating and expanding the use of risk assessment tools; and (4) assessing any bias.

Adds 25 new judgeships statewide. Requires the Judicial Council to allocate the judgeships in a manner consistent with the goal of improving equal access to the trial courts and provides funding for associated support resources.

SB 94 (COMMITTEE ON BUDGET AND FISCAL REVIEW), CH. 25

**EFFECTIVE/OPERATIVE DATE: EFFECTIVE
IMMEDIATELY**

PUBLIC SAFETY: OMNIBUS

Among a variety of other provisions, establishes, within the Law Revision Commission, the Committee on Revision of the Penal Code, consisting of seven members appointed by the Legislature and the Governor. Requires the committee to study and make recommendations on revisions of the Penal Code to achieve certain objectives, including simplifying and rationalizing the substance of criminal law and establishing alternatives to incarceration.

Additionally, extends the operation of the organized retail theft crime and supporting grant program from January 1, 2021, to July 1, 2021. Establishes, commencing July 1, 2020, the Department of Youth and Community Restoration in the California Health and Human Services Agency and abolishes the Division of Juvenile Justice (DJJ) in the Department of Corrections and Rehabilitation. Vests the Department of Youth and Community Restoration with all the powers, functions, duties, responsibilities, obligations, liabilities, and jurisdiction of the DJJ, and makes conforming changes. Requires the DJJ, commencing July 1, 2019, and in coordination with the California Health and Human Services Agency and the Department of Corrections and Rehabilitation, to initiate the transfer process, and requires the transfer to be completed by July 1, 2020. (GOV 8280, 12838, 12838.1; PEN 490.4, 830.5, 2816; W&I 1703, 1710, 1711, 1712, 1731.5, 1731.7)

SB 95 (COMMITTEE ON BUDGET AND FISCAL REVIEW), CH. 36

EFFECTIVE/OPERATIVE DATE: JUNE 27, 2019
COURTS

Among other provisions, authorizes a trial court to carry over unexpended funds of up to three percent of the court's operating budget from the prior year, excluding the same specified revenue from the calculation of that percentage as previously authorized.

Clarifies that the 25 trial court judges added in the Budget Act of 2019 account for 25 of the 48 judgeships currently authorized in AB 159 (Stats. 2007, ch. 722); this reduces the number of judges to be allocated by AB 159 to 23. (GOV 69614.3, 77203)

SUPPLEMENTAL REPORT OF THE 2019–20 BUDGET ACT

Requires trial courts to provide data to the Legislature and the Department of State Hospitals on cases filed pursuant to mental health diversion programs set forth in Penal Code section 1001.36. If the data is available, courts must report (1) the number of petitions that were granted, (2) number of petitions denied because the defendant did not meet the statutory requirements for eligibility, (3) number of individuals who successfully completed the diversion program, and (4) number of individuals that were terminated from the program. Requires the Judicial Council to make this data available to the Legislature and the Department of State Hospitals on an annual basis starting July 1, 2020.

CHILD WELFARE

AB 175 (GIPSON), CH. 416

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

FOSTER CARE: RIGHTS OF YOUTH

Requires the California Department of Social Services (CDSS) to ensure that a facility licensed and a home certified or approved, by a foster family agency to provide foster care accords children and nonminor dependents in foster care their personal rights. Requires CDSS to adopt regulations to implement and enforce these rights. Provides that all children placed in foster care, either voluntarily or after being adjudged a ward or dependent of the juvenile court, shall have the rights set forth in the Foster Youth Bill of Rights. Provides that these rights also apply to nonminor dependents except when they conflict with nonminor dependents' retention of all their legal decisionmaking authority as an adult. Adds 14 additional rights to the Foster Youth Bill of Rights relating to foster youth placement, trauma-informed care, application of the Indian Child Welfare Act, provision of health services, and application of the child and family team, among others. Includes the right to choose, at 12 years of age or older, whenever feasible and in accordance with applicable law, their own health care provider for medical, dental, vision, mental health, and substance use disorder treatment, and sexual and reproductive healthcare. (H&S 1530.91; W&I 16001.9, 16164)

AB 686 (WALDRON), CH. 434

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

INDIAN CHILDREN

Provides that tribal home approvals, conducted in compliance with the Indian Child Welfare Act (ICWA) for Indian children, are not subject to resource family approval (RFA) requirements. Provides that when a tribe is not exercising its right to approve a home, the foster family agency shall apply the prevailing social and cultural standards of the Indian community to the RFA for that child, as required by ICWA. Requires the California Department of Social Services (CDSS) to engage in the tribal consultation process and develop regulations to implement provisions of the bill, and permits CDSS to provide guidance to counties and foster family agencies regarding consistent implementation of provisions of the bill through the issuance of written directives that have the same force and effect as regulations, until regulations

are adopted. Requires the Judicial Council, by July 1, 2021, to adopt rules of court to allow for telephonic or other remote appearance options by an Indian child's tribe in proceedings where ICWA applies, and prohibits the courts from charging fees for the use of telephonic or other remote appearance technology in these circumstances. (H&S 1517; W&I 224.2, 10553.12, 16519.5)

AB 718 (EGGMAN), CH. 438

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

DEPENDENT CHILDREN: DOCUMENTS

Makes changes to current law regarding information, documents, and services to be provided to foster youth at various points throughout their involvement with the child welfare system. Specifically, requires, at the first regularly scheduled review hearing after a dependent youth has turned 16 years of age, the county welfare department to submit a report verifying that certain documents, information, and services have been provided to the youth, including, among other things: the youth's social security card (temporarily and only for specified purposes); a copy of the youth's birth certificate; the youth's driver's license or identification card; and assistance as applicable with obtaining employment, financial aid, access to education and training, and financial literacy resources. (W&I 391)

AB 748 (GIPSON), CH. 682

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

NONMINOR DEPENDENTS

Requires the court to hold a dispositional proceeding for a youth 18 years of age if (1) the youth, prior to attaining 18 years of age, was determined to be within the jurisdiction of the court at a jurisdictional hearing and was continuously detained by the court; and (2) the youth has provided informed consent to the dispositional proceeding. Requires the court, in the event that the youth does not provide informed consent, or the court does not make certain findings, to vacate the temporary detention order, and prohibits dependency or general jurisdiction from being retained. Requires the Judicial Council, on or before July 1, 2020, to amend or adopt rules of court and develop or amend appropriate forms as necessary to implement the provisions of the bill. (W&I 358)

AB 1235 (CHU), CH. 341

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

YOUTH HOMELESSNESS PREVENTION CENTERS

Renames the community care facilities known as “runaway and homeless youth shelters” as “youth homelessness prevention centers.” Expands eligibility for receiving shelter and services at these facilities to include youth who are at risk of homelessness and youth who are exhibiting status offender behavior. Extends the maximum length of time these facilities can offer 24-hour nonmedical care, supervision, and personal services to youth who voluntarily enter one of these facilities from 21 to 90 consecutive days. Defines “youth at risk of homelessness” to mean a youth 12 to 17 years of age, inclusive, or 18 years of age if the youth is completing high school or its equivalent, and one or more specified circumstances apply. Defines “youth exhibiting status offender behavior” as a youth 12 to 17 years of age, inclusive, or 18 years of age if the youth is completing high school or its equivalent, who persistently or habitually refuses to obey the reasonable and proper orders or directions of their parents, guardian, or custodian, or who is beyond the control of that person, or who violates an ordinance of a city or county establishing a curfew based solely on age. (H&S 1502, 1502.35, 1507.6, 1522.44, 1530.8, 1536, 1538.7, 1538.8, 1538.9, 1548, 1562; W&I 319, 361.2, 450, 727, 11400)

AB 1735 (BAUER-KAHAN), CH. 197

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

EVIDENCE: PRIVILEGES: HUMAN TRAFFICKING CASEWORKER-VICTIM PRIVILEGE

Expands the scope of caseworker privilege to maintain confidential information about a human trafficking victim by allowing a human trafficking victim’s current caseworker to claim the privilege even if that caseworker was not the victim’s caseworker at the time the confidential communication was made. (EVID 1038, 1038.1, 1038.2, 1038.3)

SB 377 (MCGUIRE), CH. 547

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

JUVENILES: PSYCHOTROPIC MEDICATIONS: MEDICAL INFORMATION

Requires, by September 1, 2020, that the forms developed by the Judicial Council to effectuate the process for court oversight and approval of the administration of psychotropic medication to a ward or dependent child removed from their

parents, be updated to include a request for authorization by the child or the child’s attorney to release the child’s medical information to the Medical Board of California (MBC) to ascertain whether there is excessive prescribing of psychotropic medication that is inconsistent with the standard of care, as provided. Limits the authorization to medical information relevant to the investigation of the prescription of psychotropic medication, and the use of information to only be used for the MBC’s review. Requires the Judicial Council, in updating the forms, to consult with specified stakeholders to help ensure that the child and the child’s attorney are provided with sufficient information to understand the request for authorization to obtain the child’s medical information and the reasons for the request. Allows the Judicial Council to include in the form a requirement that the person completing the form affirm that the child or the child’s attorney has been asked about the authorization. Requires the MBC or its representative to request that any medical information obtained be sealed if the medical information is admitted as an exhibit in an administrative hearing. (W&I 369.5, 739.5)

SB 394 (SKINNER), CH. 593

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

CRIMINAL PROCEDURE: DIVERSION FOR PRIMARY CAREGIVERS OF MINOR CHILDREN

Authorizes the presiding judge of the superior court, in consultation with the presiding juvenile court judge and criminal court judges, and together with the prosecuting entity and the public defender, to agree in writing to establish and conduct a pretrial diversion program for primary caregivers wherein criminal proceedings are suspended without a plea of guilty for a period of between six months and 24 months. Specifies that the program may include, but not be limited to, education, counseling, treatment, and training programs. Authorizes referral of the defendant to supportive services and classes in already existing diversion programs and county outpatient services, as provided. Provides that the court may, after considering the positions of the defense and prosecution, grant pretrial diversion to a defendant if the defendant meets all requirements, as specified. Requires the provider of the pretrial diversion services to provide regular progress reports, and if it appears that the defendant is performing unsatisfactorily in the assigned program or if the defendant is subsequently convicted of a felony or any offense that reflects a propensity for violence, the prosecuting attorney or the probation department

may make a motion to reinstate criminal proceedings; the court may also reinstate criminal proceedings on its own motion. Requires the court, after notice to the defendant, to hold a hearing to determine whether to reinstate criminal proceedings after which the court may end the diversion program and order the resumption of criminal proceedings. Requires the court to dismiss the defendant's criminal charges. Provides that upon successful completion of diversion, if the court dismisses the charges, the arrest upon which the diversion was based shall be deemed to never have occurred and the court shall order access to the arrest record restricted, as specified. (PEN 1001.83)

CIVIL

AB 218 (GONZALEZ), CH. 861

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

DAMAGES: CHILDHOOD SEXUAL ASSAULT: STATUTE OF LIMITATIONS

Reclassifies "childhood sexual abuse" as "childhood sexual assault." Extends the time for commencing a civil action based on injuries resulting from childhood sexual assault to 22 years after the plaintiff reaches majority (i.e., until 40 years of age) or within five years of the date the plaintiff discovers or reasonably should have discovered that the psychological injury or illness occurring after the age of majority was caused by the abuse, whichever occurs later. Prohibits suits against third parties after the plaintiff's 40th birthday unless the person or entity knew or had reason to know, or was otherwise on notice, of any misconduct that created a risk of childhood sexual assault by an employee, volunteer, representative, or agent, or unless the entity failed to take reasonable steps, or to implement reasonable safeguards, to avoid acts of childhood sexual assault. Revives, for three years beginning on January 1, 2020, any actions for childhood sexual assault that have not been litigated to finality and that would otherwise be barred as of January 1, 2020, because of applicable statute of limitations, claims presentation deadline, or any other time limit. Allows a person to recover up to treble damages if the sexual assault is the result of a cover-up by the defendant of a sexual assault of a minor, with exceptions. Defines "cover-up" for these purposes. (CCP 340.1, 1002; GOV 905)

AB 304 (JONES-SAWYER), CH. 607

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

WIRETAPPING: AUTHORIZATION

Expands the scope of a crime by extending, until January 1, 2025, the laws establishing a procedure for a prosecutor to apply for, and the court to issue, an order authorizing law enforcement to intercept a wire or electronic communication, a violation of which is a crime. (PEN 629.98)

AB 602 (BERMAN), CH. 491

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

DEPICTION OF INDIVIDUAL USING DIGITAL OR ELECTRONIC TECHNOLOGY: SEXUALLY EXPLICIT MATERIAL

Provides a cause of action for the nonconsensual disclosure of sexually explicit material depicting individuals in realistic digitized performances. Specifically, permits revocation of consent to use sexually explicit material including related audiovisual material, as defined. Creates a cause of action against a person who does either of the following: (1) creates and intentionally discloses sexually explicit material if the person knows or reasonably should have known that the depicted individual in that material did not consent to its creation or disclosure; or (2) intentionally discloses sexually explicit material that the person did not create, and the person knows the depicted individual in that material did not consent to the creation of the sexually explicit material. Defines "depicted individual" for these purposes to mean "an individual who appears, as a result of digitization, to be giving a performance they did not actually perform or to be performing in an altered depiction." Authorizes prevailing plaintiffs in the above actions to recover damages as defined, including punitive damages, reasonable attorney's fees and costs, and any other available relief, including injunctive relief. Establishes a statute of limitations of three years from the date the plaintiff discovered, or should have discovered, the unauthorized creation, development, or disclosure. (CIV 1708.86)

AB 668 (GONZALEZ), CH. 787

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

COURTHOUSES: PRIVILEGE FROM CIVIL ARREST

Provides that no person shall be subject to civil arrest in a courthouse while attending a court proceeding or having legal business in the courthouse, except that the

prohibition does not apply to arrests made pursuant to a valid judicial warrant. Also clarifies the power of judicial officers to prohibit activities that threaten access to courthouses, including protecting the privilege from civil arrest at a courthouse. (CIV 43.54; CCP 177)

AB 669 (HOLDEN), CH. 97

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

ATTORNEY GENERAL: ASSURANCE OF VOLUNTARY COMPLIANCE

Specifies that the Attorney General is authorized to accept an assurance of voluntary compliance in lieu of a stipulated judgment, to resolve an action brought in the name of the people of the state. Requires an assurance of voluntary compliance accepted by the Attorney General to be filed with and subject to approval by the court, and requires an assurance of voluntary compliance filed with and approved by the court to be enforceable in the same manner, with the same remedies, and to the same extent, as a stipulated judgment or a permanent injunction. (GOV 12533)

AB 730 (BERMAN), CH. 493

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

ELECTIONS: DECEPTIVE AUDIO OR VISUAL MEDIA

Until January 1, 2023, prohibits a person, committee, or other entity, within 60 days of an election at which a candidate for elective office will appear on the ballot, from distributing with actual malice materially deceptive audio or visual media of the candidate with the intent to injure the candidate's reputation or to deceive a voter into voting for or against the candidate, unless the media includes a disclosure stating that the media has been manipulated. Also, until January 1, 2023, allows a candidate for elective office whose voice or likeness appears in audio or visual media in that manner to seek injunctive or other equitable relief prohibiting the distribution of the deceptive audio or visual media. Requires the court to place such petitions on the calendar in the order of their date of filing and to give them precedence. Authorizes a candidate whose voice or likeness appears in the deceptive audio or visual media to bring an action for general or special damages against the person, committee, or other entity that distributed the media. Authorizes the court to award a prevailing party reasonable attorney's fees and costs. (CIV 35; ELEC 20010)

AB 800 (CHU), CH. 439

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

CIVIL ACTIONS: CONFIDENTIALITY

Provides participants in the Safe at Home Program, which permits victims of domestic violence, stalking, sexual assault, human trafficking, and elder or dependent adult abuse to utilize confidential mailing addresses, the ability to proceed in all civil legal actions using a pseudonym. Provides that a person who is a participant in the Safe at Home Program and who is a party to a civil proceeding may proceed using a pseudonym for the true name of the party and may exclude or redact from all pleadings and documents filed in the action other identifying characteristics of the party. Provides that in a case in which a party is proceeding utilizing a pseudonym, all parties are subject to sanction if they fail to use the pseudonym in all pleadings, discovery documents, and other documents filed or served in the action, and at hearings, trial, and other court proceedings that are open to the public. Additionally, requires all parties to exclude or redact any identifying characteristics of the plaintiff. Provides that following the final disposition of the proceedings a party in possession of any pleading, discovery document, or other document containing confidential information of the protected person obtained in the course of the action shall treat the documents as a nonpublic consumer record. Authorizes the court, on its own motion or on motion of the plaintiff, to order a record to be filed under seal in accordance with rule 2.551 of the California Rules of Court. Requires the Judicial Council to coordinate with the Secretary of State to adopt or revise as appropriate rules and forms to implement the provisions of the bill, on or before January 1, 2021. (CCP 367.3)

AB 840 (DAHLE), CH. 355

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

ALCOHOLIC BEVERAGES: LICENSES: IMPORTS

Expands the definition of a crime by authorizing the Department of Alcoholic Beverage Control (ABC) to create and issue a special on-sale general license to a person who owns or operates a facility that is partially located in the County of Placer, California, and partially located in the County of Washoe, Nevada. Specifically, this bill allows the Cal Neva Resort, which is located on the California-Nevada state line north of Lake Tahoe, to obtain one alcohol license from the State of Nevada and ABC (rather than one from Nevada and one from

California), and still be considered a licensee subject to ABC's jurisdiction for purposes of enforcement of the provisions of this bill only. (B&P 23399.52, 23661)

AB 1254 (KAMLAGER-DOVE), CH. 766
EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

BOBCATS: TAKE PROHIBITION: HUNTING SEASON: MANAGEMENT PLAN

Expands the scope of a crime by making it unlawful to hunt, trap, or otherwise take a bobcat, except under specified circumstances, including under a depredation permit. Upon appropriation of funds by the Legislature, commencing January 1, 2025, authorizes the Fish and Game Commission to open a bobcat hunting season in any area determined by the commission to require a hunt, as specified. (F&G 4152, 4153, 4154, 4156, 4157, 4158, 4181)

AB 1292 (BAUER-KAHAN), CH. 110
EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

FIREARMS

Among other things, changes the definition of a crime by exempting a person, if the person gives prior notice to a law enforcement agency, from the prohibition of openly carrying a firearm in the following circumstances: (1) the person finds a handgun and is transporting the handgun in order to comply with the relevant California Civil Code "lost or unclaimed property" provisions; (2) the person finds a handgun and is transporting it to a law enforcement agency for disposition according to law; and (3) the person took the firearm from another person who was committing a crime against the person and is transporting it to a law enforcement agency for disposition according to law. (PEN 16960, 16990, 25570, 26392, 26406, 26582, 26589, 27920, 27922, 31700)

AB 1294 (SALAS), CH. 268
EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020
CRIMINAL PROFITEERING

Expands the definition of criminal forfeiture by amending the California Control of Profits of Organized Crime Act to include specified crimes within the definition of gambling including crimes connected to operating a lottery or any slot or card machine, contrivance, appliance, or mechanical device, for the purposes of these provisions. (PEN 186.2)

AB 1349 (OBERNOLTE), CH. 190
EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020
CIVIL ACTIONS: DISCOVERY

Requires a party propounding interrogatories or requests for admission, upon request by the responding party, to provide the interrogatories and requests for admission in an electronic format to the responding party within three court days of the request, unless they were not created in an electronic format. Requires a party responding to interrogatories or requests for admission, upon request by the propounding party, to provide the responses to interrogatories and requests for admission in an electronic format to the propounding party within three court days of the request, unless they were not created in an electronic format. Permits the parties to provide the propounded discovery requests or responses requested in electronic format in any format agreed upon by the parties. (If the parties are unable to agree on a format, the requests and responses are to be provided in plain text format; however, the parties may transmit them by any method agreed upon by the parties. If the parties are unable to agree on a method of transmission, requests and responses shall be transmitted by electronic mail to an email address provided by the requesting party.) Requires a responding party who has requested and received interrogatories or requests for admission in an electronic format to quote each discovery request in full immediately preceding the statement of any answer or objection thereto. (CCP 2030.210, 2033.210)

AB 1355 (CHAU), CH. 757
EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020
PERSONAL INFORMATION

Addresses various drafting errors and makes other clarifying changes in the California Consumer Privacy Act of 2018 (CCPA). Among other things, this bill includes various provisions to clarify the scope and application of the CCPA's Fair Credit Reporting Act exemption; clarify obligations of businesses around collecting and retaining personal information it would not otherwise collect or retain in the ordinary course of business; and address the application of the CCPA to business-to-business communications and transactions, as specified. Notably, until January 1, 2021, the bill exempts from various provisions of the CCPA personal information reflecting communications or transactions between a business and a consumer, where the latter is acting in their capacity as

an employee, owner, director, officer, or contractor of that business. Amends the private right of action provided in the CCPA to apply only to personal information that is nonencrypted and nonredacted. Authorizes the Attorney General to adopt additional regulations to establish rules and procedures on dealing with consumer requests for information relating to a household. (CIV 1798.100, 1798.110, 1798.115, 1798.120, 1798.125, 1798.130, 1798.140, 1798.145, 1798.150, 1798.185)

AB 1510 (REYES), CH. 462

EFFECTIVE/OPERATIVE DATE: EFFECTIVE IMMEDIATELY

SEXUAL ASSAULT AND OTHER SEXUAL MISCONDUCT: STATUTES OF LIMITATIONS ON CIVIL ACTIONS

Revives any claim seeking to recover more than \$250,000 in damages arising out of a sexual assault or other inappropriate contact, communication, or activity of a sexual nature by a physician occurring at a student health center between January 1, 1988, and January 1, 2017, that would otherwise be barred prior to January 1, 2020, solely because the applicable statute of limitations has or had expired. Provides that a cause of action may proceed if already pending in court or, if not filed, may be commenced between January 1, 2020, and December 31, 2020. Requires an attorney representing a claimant seeking to recover pursuant to this revival to file a declaration under penalty of perjury stating that the attorney has reviewed the facts of the case and consulted with a mental health practitioner, and that the attorney has concluded on the basis of this review and consultation that it is the attorney's good faith belief that the claim value is more than \$250,000, as specified.

Exempts from revival the following claims: (1) a claim that has been litigated to finality in a court of competent jurisdiction before January 1, 2020; (2) a claim that has been compromised by a written settlement agreement between the parties entered into before January 1, 2020; or (3) a claim brought against a public entity. (CCP 340.16)

AB 1818 (COMMITTEE ON JUDICIARY), CH. 637
EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020
REPORTS REGARDING THE COLLECTION OF COURT-ORDERED DEBT

Among other things, combines into one comprehensive report two existing reports regarding the collection of court-ordered fines and fees, and establishes an annual report due date to the Legislature of December 31. (GOV 50474.3, 50474.21, 50474.22, 68514; H&S 104113, 115800; PEN 1463.010)

SB 17 (UMBERG), CH. 836

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020
CIVIL DISCOVERY: SANCTIONS

Provides that within 45 days of an order of the court following stipulation by all parties to the action, other than unlawful detainer actions or those in the small claims division of the court, the parties shall, without awaiting a discovery request, provide to the other parties an initial disclosure including specified information. Requires a party to make the initial disclosures based on the information then reasonably available to it and to verify such disclosures under penalty of perjury. Does not excuse a party from making its initial disclosures because it has not fully investigated the case, because it challenges the sufficiency of another party's disclosures, or because another party has not made its disclosures. Requires a party that has made its initial disclosures or responded to a discovery request, to supplement or correct a disclosure or response in a timely manner if the party learns that in some material respect the disclosure or response is incomplete or incorrect and the additional or corrective information has not otherwise been made known to the other parties during the disclosure or discovery process, or as ordered by the court.

Authorizes these obligations to be enforced by a court on its own motion or the motion of a party to compel disclosure. Requires a court to impose a \$250 sanction, payable to the requesting party, person, or attorney if the court finds that certain specified conduct occurred. Allows a court to excuse the imposition of the sanction required by this bill if the court makes written findings that the subject of the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust. Authorizes a court to require an attorney who is sanctioned pursuant to these provisions to report

the sanction, in writing, to the State Bar within 30 days. Requires notice to the party, person, or attorney against whom the sanction is proposed to be imposed and opportunity for them to be heard before sanctions can be imposed. Establishes a rebuttable presumption, overcome by clear and convincing evidence, that a natural person acted in good faith if that person was not represented by an attorney in the action at the time the conduct that is sanctionable occurred. (CCP 2016.090, 2023.050)

SB 310 (SKINNER), CH. 591

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

JURY SERVICE

Permits a person with a felony conviction, who is not incarcerated in prison or jail, to serve on a jury. (CCP 203)

SB 393 (STONE), CH. 644

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

VESSELS: IMPOUNDMENT

Provides that the interest of any registered owner of a vessel that has been used in the crime of boating under the influence for which the owner was convicted and where the conduct resulted in the unlawful killing of a person is subject to impoundment. Allows the court to impound the vessel at the registered owner's expense for up to 30 days. Allows the court to consider, in the interests of justice, factors such as whether impoundment of the vessel would result in a loss of employment of the offender or the offender's family, or the loss of the vessel because of inability to pay impoundment fees, or would unfairly infringe upon community property rights or any other facts the court finds relevant, when making a determination on impoundment. Defines "vessel" for purposes of this bill, clarifies that a marina owner in possession of an impounded vessel is not liable for damage to the vessel while the vessel is being impounded, except for damage caused by the marina owner's acts or omissions constituting gross negligence or willful or wanton misconduct. (H&N 668.5)

SB 616 (WIECKOWSKI), CH. 552

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

**ENFORCEMENT OF MONEY JUDGMENTS:
EXEMPTIONS**

Gives an account holder subject to levy the following deadlines to file a claim of exemption: 15 days from personal service of the notice of levy or 20 days from

the date the notice of levy was deposited in the mail, if service of the notice is accomplished by mail. Gives a judgment creditor 15 days in which to file an objection to a claim of exemption. Declares that a claim of exemption is filed on the date mailed if it is assigned a tracking number; otherwise, the claim of exemption is filed on the date received by the levying officer. Establishes an automatic exemption for all funds in an account under the minimum basic standard of adequate care for a family of four, established by section 11452 of the Welfare and Institutions Code (currently \$1,724). States that an account holder would not receive this automatic exemption when the judgment is based on wages, or spousal or child support owed. Clarifies that, when a banking institution is required to apply other state or federal exemptions to the account, those other exemptions count toward the automatic exemption amount. Provides that if the other state or federal exemptions exceed the automatic exemption amount, then only the state or federal exemptions apply. Limits the automatic exemption to one bank account per debtor, as specified. Permits the judgment debtor to seek an order specifying to which account the exemption will apply. Does not create a cause of action against the judgment creditor for execution of the levy, or against the financial institution that carries out a levy in compliance with a court order. Delays operative date of these provisions until September 1, 2020. Exempts from levy all funds in a bank account provided to the account holder by the Federal Emergency Management Agency. (CCP 699.520, 699.540, 703.520, 703.550, 704.070, 704.220, 704.225, 704.230)

SB 645 (MONNING), CH. 212

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

CIVIL DISCOVERY: DEPOSITIONS

Provides, notwithstanding Code of Civil Procedure section 2025.290, in any civil action for injury or illness that results in mesothelioma or silicosis, a deposition examination of the plaintiff by all counsel, other than the plaintiff's counsel of record, shall be limited to seven hours of total testimony if a licensed physician attests in a declaration served on the parties that the deponent suffers from mesothelioma or silicosis, raising substantial medical doubt of the survival of the deponent beyond six months. Permits a defendant to request and a court to grant, in its discretion, additional time as follows: up to an additional three hours of deposition testimony for no more than 10 hours of total deposition conducted by the

defendants if there are more than 10 defendants appearing at the deposition; or, up to an additional seven hours of deposition testimony for no more than 14 hours of total deposition conducted by the defendants if there are more than 20 defendants appearing at the deposition. Provides that the court may grant the additional time provided above if it finds that it is in the interest of fairness, which includes consideration of the number of defendants appearing at the deposition, and determines that the health of the deponent does not appear to be endangered by the grant of additional time. (CCP 2025.295)

COURT OPERATIONS

AB 253 (STONE, MARK), CH. 419

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

REMOTE COURT REPORTING

Authorizes, until January 1, 2022, the Superior Court of Santa Clara County to conduct a pilot project to study the potential use of remote court reporting, as defined, to make the verbatim record of certain court proceedings, and prohibits the use of remote court reporting or the expenditure of any funds to purchase equipment or software to facilitate the use of remote court reporting outside of the pilot program. Provides that the pilot project must comply with all requirements, as specified. (GOV 69959, 69959.5)

AB 668 (GONZALEZ), CH. 787

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

COURTHOUSES: PRIVILEGE FROM CIVIL ARREST

Provides that no person shall be subject to civil arrest in a courthouse while attending a court proceeding or having legal business in the courthouse, except that the prohibition does not apply to arrests made pursuant to a valid judicial warrant. Also clarifies the power of judicial officers to prohibit activities that threaten access to courthouses, including protecting the privilege from civil arrest at a courthouse. (CIV 43.54; CCP 177)

SB 471 (STERN), CH. 851

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

SUBPOENAS: SERVICE

Authorizes delivery of a subpoena in a criminal action by electronic mail or facsimile transmission. Provides that delivery of a subpoena in this manner does not

apply to the delivery of a subpoena to a peace officer for events or transactions perceived or investigated in the course of the officer's duties, which is governed by other provisions of law. Expands the scope of a crime by applying the punishment of contempt to the failure to comply with a subpoena issued by electronic mail or facsimile transmission. Repeals the procedures that apply to the issuance of a telegraphic copy of a subpoena for a witness in a criminal proceeding by telegraph or teletype. (PEN 1328a, 1328b, 1328c, 1328d)

CRIMINAL LAW AND PROCEDURE

AB 46 (CARRILLO), CH. 9

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

INDIVIDUALS WITH MENTAL ILLNESS: CHANGE OF TERM

States the intent of the Legislature to enact legislation to replace derogatory terms with more culturally sensitive terms when referring to individuals with mental illness and makes those changes throughout various provisions of law. (H&N 4005; PEN 1026, 1367, 2625, 2960, 2962, 2966, 2968, 2970, 2972, 2974, 2978, 4011.6, 4497, 4497.10, 6102; PROB 6100.5; R&T 253; W&I 4242, 5213, 5300)

AB 189 (KAMLAGER-DOVE), CH. 674

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

CHILD ABUSE OR NEGLECT: AUTISM SERVICE PERSONNEL AS MANDATED REPORTERS

Expands the scope of a crime by requiring a qualified autism service provider, a qualified autism service professional, or a qualified autism service paraprofessional provider to report known or suspected child abuse and neglect for the purposes of the Child Abuse and Neglect Reporting Act. (PEN 11165.7)

AB 392 (WEBER), CH. 170

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

PEACE OFFICERS: USE OF DEADLY FORCE

Redefines the circumstances under which a homicide by a peace officer is deemed justifiable to include when the officer reasonably believes, based on the totality of the circumstances, that deadly force is necessary to defend

against an imminent threat of death or serious bodily injury to the officer or to another person, or to apprehend a fleeing person for a felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless the person is immediately apprehended. (PEN 196, 835a)

AB 397 (CHAU), CH. 610

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

VEHICLES: DRIVING UNDER THE INFLUENCE

Commencing January 1, 2022, requires the disposition report made by a court to the Department of Justice for a conviction for driving under the influence of cannabis to state that the conviction was due to cannabis. (VEH 23222, 23155)

AB 433 (RAMOS), CH. 573

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

PROBATION: NOTICE TO VICTIM

Provides that before an order terminating probation early may be made, a hearing shall be held in open court before the judge. Requires the prosecuting attorney to be given a two-day written notice and an opportunity to be heard on the matter. Requires the prosecuting attorney to provide notice to the victim if the victim has requested to be notified about the progress of the case. Requires the prosecuting attorney to request a continuance of the hearing if the victim advises the prosecuting attorney that there is an outstanding restitution order or restitution fine. (PEN 1203.3)

AB 484 (JONES-SAWYER), CH. 574

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

CRIMES: PROBATION

Authorizes instead of requires courts to impose the 180-day confinement condition that is currently required when a court grants a defendant probation after being convicted of furnishing or transporting specified controlled substances. (PEN 1203.076)

AB 597 (LEVINE), CH. 44

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

PROBATION AND MANDATORY SUPERVISION: FLASH INCARCERATION

Extends until January 1, 2023, the law that allows a court to authorize the use of flash incarceration to detain a person in county jail for not more than 10 days for a violation of the conditions of that person's probation or mandatory supervision. (PEN 1203, 1203.35, 4019)

AB 1076 (TING), CH. 578

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

CRIMINAL RECORDS: AUTOMATIC RELIEF

Among other things, commencing January 1, 2021, requires the Department of Justice (DOJ), on a monthly basis, to review the state summary criminal history repository to find individuals with felony, misdemeanor, and infraction convictions that may be eligible, except in limited circumstances, to have their case records withheld from public disclosure. Requires the DOJ to notify courts of eligible cases on a monthly basis. Allows prosecuting attorneys to file a motion to prohibit the DOJ from requesting that the court withhold the case from public release no later than 90 calendar days before the date of a person's eligibility for relief. If the court grants that motion, the case remains available to the public, but the person continues to be eligible to petition to have their case withheld through existing statutes. Requires a court, at the time of sentencing, to advise each defendant of their right to conviction relief. Makes the operation of some, but not all, provisions subject to an appropriation in the annual Budget Act. (B&P 480, 480.2, 11345.2; LAB 432.7; PEN 851.93, 1203.425, 11105; VEH 13555)

AB 1215 (TING), CH. 579

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

LAW ENFORCEMENT: FACIAL RECOGNITION AND OTHER BIOMETRIC SURVEILLANCE

Until January 1, 2023, prohibits a law enforcement agency or law enforcement officer from installing, activating, or using any biometric surveillance system in connection with an officer camera or data collected by an officer camera, and authorizes a person to bring an action for equitable or declaratory relief against a law enforcement agency or officer who violates that prohibition. Provides definitions for the purposes of these provisions, including definitions for "biometric data," "biometric surveillance system,"

“facial recognition or other biometric surveillance,” and “law enforcement agency,” among others. (PEN 832.19)

AB 1331 (BONTA), CH. 581

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

CRIMINAL JUSTICE DATA

Among other things, requires courts to include Criminal Investigation and Identification numbers and court document numbers in the criminal case disposition information courts are required to report to the Department of Justice. (PEN 13150, 13151, 13202)

AB 1421 (BAUER-KAHAN), CH. 111

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

SUPERVISED RELEASE: REVOCATION

Prohibits the revocation of supervision for failure of a person to pay fines, fees, or assessments, unless the court determines that the defendant has willfully failed to pay and has the ability to pay. (PEN 1203.2)

AB 1423 (WICKS), CH. 583

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

TRANSFERS TO JUVENILE COURT

Provides that in any case in which a person is transferred from juvenile court to criminal court, upon conviction or entry of a plea, the person may request the criminal court to return the case to the juvenile court for disposition in the following circumstances:

- If the person is convicted at trial in criminal court solely of a misdemeanor or misdemeanors; or
- If any of the allegations in the juvenile court petition that were the basis for transfer involved specified serious and/or violent felony offenses (W&I 707(b) offenses), and the person pleads guilty to or is convicted at trial in criminal court only of non-W&I 707(b) offenses, the court has the discretion to return the case to juvenile court for further proceedings.

In determining whether the case should be returned to juvenile court, or whether to approve the agreement that the person should be returned to juvenile court, requires the court to make a finding by a preponderance of the evidence and noted in the minute order, that a juvenile disposition is in the interests of justice and the welfare of the person. Requires the court, upon determining that the case will be returned to the juvenile court, to return

the entire case to the juvenile court and to calendar the case within two court days. Requires the juvenile court to order the probation department to prepare a study on the questions of the proper disposition, and mandates that the case proceed to disposition as set forth in existing law. Requires that a conviction or guilty plea that is returned to juvenile court be considered an adjudication or admission before the juvenile court for all purposes. Imposes specified requirements on the clerks of both the criminal and juvenile court. (W&I 707.5)

AB 1600 (KALRA), CH. 585

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

DISCOVERY: PERSONNEL RECORDS: PEACE OFFICERS AND CUSTODIAL OFFICERS

Requires a written motion for discovery of peace officer personnel records or information from those records, to be served and filed at least 10 court days before the hearing, by the party seeking the discovery in a criminal matter. Requires all papers opposing the motion to be filed with the court at least five court days, and all reply papers at least two court days, before the hearing. Requires proof of service of the notice to the agency in possession of the records, to be filed no later than five court days before the hearing. Creates an exception to the prohibition on release of records of officers who were not present during an arrest, had no contact with the party seeking disclosure, or were not present at the time of contact by permitting the disclosure of records of a supervisorial officer if the supervisorial officer issued command directives or had command influence over the circumstances at issue and had direct oversight of a peace officer or a custodial officer who was present during the arrest, had contact with the party seeking disclosure from the time of the arrest until the time of booking, or was present at the time the conduct at issue is alleged to have occurred within a jail facility. (CCP 1005; EVID 1043, 1047)

AB 1618 (JONES-SAWYER), CH. 586

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

PLEA BARGAINING: BENEFITS OF LATER ENACTMENTS

Makes any provision of a plea bargain that requires a defendant to generally waive future benefits of legislative enactments, initiatives, appellate decisions, or other changes in the law that may retroactively apply after the date of the plea, void as against public policy. (PEN 1016.8)

AB 1638 (OBERNOLTE), CH. 196
EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020
SEARCH WARRANTS: VEHICLE RECORDING DEVICES

Authorizes a search warrant to be issued on the grounds that the property or things to be seized are data, from a recording device installed by the manufacturer of a motor vehicle, that constitutes evidence that tends to show the commission of a felony or misdemeanor offense involving a motor vehicle, resulting in death or serious bodily injury, as defined, to any person. (PEN 1524)

AB 1735 (BAUER-KAHAN), CH. 197
EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020
EVIDENCE: PRIVILEGES: HUMAN TRAFFICKING CASEWORKER-VICTIM PRIVILEGE

Expands the scope of caseworker privilege to maintain confidential information about a human trafficking victim by allowing a human trafficking victim's current caseworker to claim the privilege even if that caseworker was not the victim's caseworker at the time the confidential communication was made. (EVID 1038, 1038.1, 1038.2, 1038.3)

AB 1801 (COMMITTEE ON AGRICULTURE), CH. 324
EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020
CATTLE: INSPECTIONS

Changes the definition of a crime by (1) amending the California Meat and Poultry Supplemental Inspection Act, a violation of which is a crime, to provide that the act does not apply to a mobile slaughter operator who provides services to an owner of cattle if the slaughter occurs on the premises of a person who raised the cattle and who is not the owner of the cattle; (2) requiring the person who raised the cattle and the mobile slaughter operator to maintain certain records for a period of one year; and (3) requiring those records to be made available upon request to a department inspector, investigator, or peace officer. (F&A 10511, 19020, 21283, 21283.5, 21285, 21288, 21288.5, 21563, 21563.5, 65071)

SB 8 (GLAZER), CH. 761
EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020
STATE PARKS: STATE BEACHES: SMOKING BAN

Makes it an infraction punishable by a fine of up to \$25 for a person to smoke on a state beach, as defined, or

in a unit of the state park system, as defined, except as provided, or to dispose of used cigar or cigarette waste on a state beach or in a unit of the state park system unless the disposal is made in an appropriate waste receptacle. (PRC 5008.10)

SB 36 (HERTZBERG), CH. 589
EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020
PRETRIAL RELEASE: RISK ASSESSMENT TOOLS

Requires each pretrial services agency that uses a pretrial risk assessment tool to validate the tool by January 1, 2021, and on a regular basis thereafter, but no less frequently than once every three years, and to make specified information regarding the tool, including validation studies, publicly available. (PEN 1320.35)

See Appendix A for a full description of the bill.

SB 136 (WIENER), CH. 590
EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020
SENTENCING

Narrows the one-year sentence enhancement for each prior prison or county jail felony term that applies to a defendant sentenced on a new felony by only imposing the one-year sentence enhancement on a defendant who has a prior conviction for a sexually violent offense. (PEN 667.5)

SB 192 (HERTZBERG), CH. 204
EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020
POSSE COMITATUS

Repeals the law that makes an able-bodied person 18 years of age or older who neglects or refuses to join the posse comitatus or power of the county, by neglecting or refusing to aid and assist in making an arrest, retaking into custody a person who has escaped from arrest or imprisonment, or preventing a breach of the peace or the commission of any criminal offense, after being lawfully required by a uniformed peace officer or a judge, guilty of a misdemeanor. (PEN 150, 1550)

SB 233 (WIENER), CH. 141
EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020
IMMUNITY FROM ARREST

Prohibits the arrest of a person for a misdemeanor violation of the California Uniform Controlled Substances Act or specified sex work crimes, if that person is reporting that they are a victim of, or a witness to, specified sex work

crimes. Provides that possession of condoms in any amount does not provide a basis for probable cause for arrest for specified sex work crimes. Provides that possession of a condom is not admissible as evidence in the prosecution of specified sex crimes. (EVID 782.1, 1162; PEN 647.3)

SB 273 (RUBIO), CH. 546

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

DOMESTIC VIOLENCE

Provides, for crimes committed on or after January 1, 2020, and for crimes for which the statute of limitations has not run as of January 1, 2020, that prosecution for a violation of felony domestic violence may be commenced within five years of the crime. Additionally, creates specific requirements and authorizations for mandated training for law enforcement officers in the handling of domestic violence complaints and guidelines for officer response to domestic violence including, among other things:

- That the training that peace officers receive include a brief, current, and historical context on communities of color impacted by incarceration and violence;
- That the domestic violence experts included in trainings may include victims of domestic violence and people who have committed domestic violence, and have been or are in the process of being rehabilitated;
- That the training include the types of techniques for handling incidents of domestic violence that minimize the likelihood of injury to the officer and promote the safety of the victim, and must include, but are not limited to, the following: (1) methods for ensuring victim interviews occur in a venue separate from the alleged perpetrator, and with appropriate sound barriers to prevent the conversation from being overheard; and (2) specified questions and information for the victim;
- That officers are trained to recognize criminal conduct including but not limited to “coercion,” as described, false imprisonment, extortion, and the use of fear, identity theft, impersonation through an internet website or by other electronic means, false personation, mail theft, stalking, and nonconsensual pornography.
- That one representative of an organization working to advance criminal justice reform and one representative of an organization working to advance racial justice be added to the groups and individuals with whom

the Commission on Peace Officer Standards and Training must consult in developing domestic violence training for law enforcement officers. (PEN 803.7, 13519)

SB 304 (HILL), CH. 206

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

CRIMINAL PROCEDURE: PROSECUTORIAL JURISDICTION IN MULTIJURISDICTIONAL ELDER ABUSE CASES

Allows specified elder and dependent adult abuse offenses that occur in different jurisdictions to be consolidated in a single trial if all district attorneys in the counties with jurisdiction agree. Specifically provides that when more than one violation of felonious theft, embezzlement, forgery, fraud, or identity theft occurs against an elder or dependent adult in more than one jurisdictional territory, jurisdiction for any of those offenses and any other properly joinable offenses may be in any jurisdiction where at least one of the offenses occurred if all district attorneys in the counties with jurisdiction over any of the offenses agree. (PEN 784.8)

SB 310 (SKINNER), CH. 591

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

JURY SERVICE

Permits a person with a felony conviction, who is not incarcerated in prison or jail, to serve on a jury. (CCP 203)

SB 389 (HERTZBERG), CH. 209

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

MENTAL HEALTH SERVICES ACT

Amends the Mental Health Services Act (MHSA) to authorize counties to use MHSA funds to provide services to persons who are participating in a presentencing or postsentencing diversion program or who are on parole, probation, postrelease community supervision, or mandatory supervision. (W&I 5813.5)

SB 394 (SKINNER), CH. 593

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

CRIMINAL PROCEDURE: DIVERSION FOR PRIMARY CAREGIVERS OF MINOR CHILDREN

Authorizes the presiding judge of the superior court, in consultation with the presiding juvenile court judge and criminal court judges, and together with the prosecuting

entity and the public defender, to agree in writing to establish and conduct a pretrial diversion program for primary caregivers wherein criminal proceedings are suspended without a plea of guilty for a period of between six months and 24 months. Specifies that the program may include, but not be limited to, education, counseling, treatment, and training programs. Authorizes referral of the defendant to supportive services and classes in already existing diversion programs and county outpatient services, as provided. Provides that the court may, after considering the positions of the defense and prosecution, grant pretrial diversion to a defendant if the defendant meets all requirements, as specified. Requires the provider of the pretrial diversion services to provide regular progress reports, and if it appears that the defendant is performing unsatisfactorily in the assigned program or if the defendant is subsequently convicted of a felony or any offense that reflects a propensity for violence, the prosecuting attorney or the probation department may make a motion to reinstate criminal proceedings. The court may also reinstate criminal proceedings on its own motion. Requires the court, after notice to the defendant, to hold a hearing to determine whether to reinstate criminal proceedings after which the court may end the diversion program and order the resumption of criminal proceedings. Requires the court to dismiss the defendant's criminal charges. Provides that upon successful completion of diversion, if the court dismisses the charges, the arrest upon which the diversion was based shall be deemed to never have occurred and the court shall order access to the arrest record restricted, as specified. (PEN 1001.83)

SB 459 (GALGIANI), CH. 646

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

CRIMES: RAPE: GREAT BODILY INJURY

Makes the five-year sentence enhancement for the infliction of great bodily injury applicable to rape committed against a victim who is the perpetrator's spouse and was prevented from resisting by any intoxicating or anesthetic substance, or a controlled substance. (PEN 12022.8)

SB 471 (STERN), CH. 851

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

SUBPOENAS: SERVICE

Authorizes delivery of a subpoena in a criminal action by electronic mail or facsimile transmission. Provides

that delivery of a subpoena in this manner does not apply to the delivery of a subpoena to a peace officer for events or transactions perceived or investigated in the course of the officer's duties, which is governed by other provisions of law. Expands the scope of a crime by applying the punishment of contempt to the failure to comply with a subpoena issued by electronic mail or facsimile transmission. Repeals the procedures that apply to the issuance of a telegraphic copy of a subpoena for a witness in a criminal proceeding by telegraph or teletype. (PEN 1328a, 1328b, 1328c, 1328d)

SB 485 (BEALL), CH. 505

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

DRIVING PRIVILEGE: SUSPENSION OR DELAY

Repeals the ability of the court and the Department of Motor Vehicles (DMV) to delay, suspend, or revoke a person's driving privilege as a result of a conviction for various offenses. Specifically, provides that notwithstanding any other law, and to the extent permitted by federal law, the court and DMV shall not suspend or delay a person's driving privilege based on that person's conviction of a criminal offense not involving a violation of the Vehicle Code, unless the offense involved the use, or attempted use, of a vehicle, and the suspension and delay is otherwise authorized by law. Clarifies that this provision is not intended to affect any order or determination made by the court or the DMV before January 1, 2020, to suspend, delay, or otherwise restrict the driving privilege of a person. (B&P 25658, 25658.4, 25658.5, 25661, 25662; PEN 529.5, 647; VEH 1808, 13201.5, 13202, 13202.4, 13202.5, 13202.6, 23224)

SB 557 (JONES), CH. 251

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

CRIMINAL PROCEEDINGS: MENTAL COMPETENCE: EXPERT REPORTS

Makes presumptively confidential, except as otherwise provided by law, a document submitted to a court related to a defendant's competence proceedings and requires the court to retain such documents in the confidential portion of the court's file. Provides that the defendant, counsel for the defendant, and the prosecution may inspect, copy, or utilize the documents, and any information contained in the documents, without an order from the court for purposes related to the defense, prosecution, treatment, and safety of the defendant, and for the safety

of the public. Provides that the court may consider a motion, application, or petition to access the documents in accordance with subdivision (h) of rule 2.551 of the California Rules of Court. (PEN 1369.5)

SB 620 (PORTANTINO), CH. 650

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

**CRIMINAL OFFENDER RECORD INFORMATION:
REFERRAL OF PERSONS ON SUPERVISED
RELEASE**

Authorizes local law enforcement agencies to furnish, after notification and consent of the affected person, limited information about persons on supervised release within their jurisdiction to a county, city, city and county, or nonprofit organization that provides transitional services to persons on supervised release. Requires the law enforcement agency, prior to releasing any information, to contact the supervising agency, as specified, to verify whether the person has opted-in, and, in the case of persons on probation, to subsequently notify the probation department of any referral given to a service provider. (PEN 13350, 13351, 13352)

SB 651 (GLAZER), CH. 483

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

DISCOVERY: POSTCONVICTION

Clarifies that the right to postconviction discovery applies to any case in which a person was convicted of a serious or violent felony resulting in a sentence of 15 years or more without regard to when that conviction occurred, and further clarifies that a provision of law requiring attorneys to keep their files for the term of the client's incarceration is meant to apply prospectively. (PEN 1054.9)

SB 781 (COMMITTEE ON PUBLIC SAFETY), CH. 256

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

PUBLIC SAFETY OMNIBUS

Among other things, authorizes the Department of Justice to receive copies of juvenile case files to carry out its duties as a repository for sex offender registration and notification in California and makes technical and conforming changes to various provisions of law relating to public safety. (B&P 4830.5; CCP 1208.5; F&A 30652; GOV 1031.1; H&S 25988; PEN 136.2, 285.6, 597f, 993, 1000.7, 1170.05, 2604, 29805; W&I 827)

FAMILY LAW

AB 330 (GABRIEL), CH. 217

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

APPOINTED LEGAL COUNSEL IN CIVIL CASES

Increases funding for the Sargent Shriver Civil Counsel Act program (Shriver Program) by raising fees and permitting the Judicial Council to accept donations from public and private entities. Broadens the use of Shriver Program funds in child custody cases by eliminating consideration that the other party is represented by counsel. Increases, from \$25 to \$40, fees for the following:

- Issuing writs of attachment, mandate, execution, sale, possession, prohibition, or any other writ for the enforcement of any order or judgment;
- Issuing abstracts of judgment, certificates of satisfaction of judgment under Code of Civil Procedure section 724.100, or certifying a copy of any paper, record, or proceeding on file in the office of the clerk of any court;
- Taking an affidavit (except in criminal or adoption proceedings);
- The acknowledgment of any deed or other instrument including the certificate;
- Recording or registering a license or certificate in connection with a license required by law for which a charge is not otherwise prescribed; and
- Issuing a certificate for which the fee is not otherwise fixed. (GOV 68651, 70626)

AB 630 (ARAMBULA), CH. 229

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

BOARD OF BEHAVIORAL SCIENCES

Excludes from application of the Licensed Marriage and Family Therapist (LMFT) Act, the Licensed Clinical Social Worker (LCSW) Practice Act, and the Licensed Professional Clinical Counselor (LPCC) Act an unlicensed or unregistered employee or volunteer working in a governmental entity, a school, a college, a university, or an institution that is both nonprofit and charitable if both the work of the employee or volunteer is performed solely under the supervision of the entity, and, on and after July 1, 2020, the employee or volunteer provides a client, prior to initiating psychotherapy

services, as specified disclaimer. Requires an LMFT or MFT registrant, a licensed educational psychologist, an LCSW or clinical social worker registrant, or an LPCC or professional clinical counselor registrant, on and after July 1, 2020, to provide a client with a specified notice. Deletes the exemption for persons working in a recognized training program from specified application of the LCSW Practice Act. Prohibits a graduate student from performing clinical social work in a private practice. (B&P 4980.01, 4996.14, 4996.15, 4999.22)

AB 677 (CHOI), CH. 805

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

INTERCOUNTRY ADOPTION FINALIZED IN A FOREIGN COUNTRY

Revises the process by which certain intercountry adoptions are recognized in California. Specifically provides, among other things, the following:

- That a foreign adoption be set for readoption in California within a set period of time in order to establish a record to prove the facts of a foreign adoption.
- Each state resident who has finalized an intercountry adoption in a foreign country, within the earlier of 60 days of the adoptee's entry into the United States or the adoptee's 16th birthday, must file a petition to readopt the child, as specified.
- That the adoption agency that facilitated the adoption must file a petition within 90 days of the child's entry into the United States. If a parent, who adopted a child through an intercountry adoption finalized in the foreign country, fails to file a petition to readopt within the required time period or fails to provide a copy of that petition to the adoption agency, provides that the adoptive parent is liable to the adoption agency for all costs and fees incurred as a result of good faith actions taken by the agency to fulfill these requirements.
- That the Department of Social Services (DSS) may, if the adoption agency fails to file the required petition, take appropriate disciplinary action against the adoption agency if the agency is licensed in California, as specified.
- The court shall, if it finds that the child may be subject to human trafficking or may be at risk of abuse or neglect, notify appropriate authorities.

- That the court clerk shall, within 10 business days of the order granting a petition to readopt, submit the order to the State Registrar, who shall then issue a delayed registration of birth, listing the adoptive parent as the child's legal parent.
- That a licensed adoption agency shall, in an intercountry adoption finalized in a foreign country, provide any postadoption services that have been contracted and paid for pursuant to a written agreement.
- That an intercountry adoption agency shall, within 14 days, report to DSS the arrival of an adoptee whose adoption was finalized in another country and, if the adoption agency fails to do so, allow DSS to take appropriate discipline action against the adoption agency if it is licensed in California. (FAM 8904, 8919, 8919.5)

AB 800 (CHU), CH. 439

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

CIVIL ACTIONS: CONFIDENTIALITY

Provides participants in the Safe at Home Program, which permits victims of domestic violence, stalking, sexual assault, human trafficking, and elder or dependent adult abuse to utilize confidential mailing addresses, the ability proceed in all civil legal actions using a pseudonym. Provides that a person who is a participant in the Safe at Home Program and who is a party to a civil proceeding may proceed using a pseudonym for the true name of the party and may exclude or redact from all pleadings and documents filed in the action other identifying characteristics of the party. Provides that in a case in which a party is proceeding utilizing a pseudonym, all parties are subject to sanction if they fail to use the pseudonym in all pleadings, discovery documents, and other documents filed or served in the action, and at hearings, trial, and other court proceedings that are open to the public. Additionally, requires all parties to exclude or redact any identifying characteristics of the plaintiff. Provides that following the final disposition of the proceedings a party in possession of any pleading, discovery document, or other document containing confidential information of the protected person obtained in the course of the action shall treat the documents as a nonpublic consumer record. Authorizes the court, on its own motion or on motion of the plaintiff, to order a record to be filed under seal in accordance with rule 2.551 of the California Rules of

Court. Requires the Judicial Council to coordinate with the Secretary of State to adopt or revise as appropriate rules and forms to implement the provisions of the bill, on or before January 1, 2021. (CCP 367.3)

AB 1165 (BAUER-KAHAN), CH. 823
EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020
CHILD CUSTODY: SUPERVISED VISITATION

Revises requirements for professional providers of supervised visitation services in child custody matters. Requires that professional supervised visitation providers, beginning January 1, 2021, be registered as TrustLine providers under the Health and Safety Code, which requires successful completion of a criminal background check. Prohibits persons from being professional supervised visitation providers if either they are denied TrustLine registration by the Department of Social Services or their TrustLine registration is revoked. Revises the required training for professional supervised visitation providers to require the training be completed prior to providing supervised visitation services, at least 12 of the 24 required hours of instruction be provided as classroom instruction, and, at least three hours of training be on the screening, monitoring, and termination of visitation; at least three hours be on the developmental needs of children; at least three hours be on issues relating to substance abuse, child abuse, sexual abuse, and domestic violence; and, at least one hour be on basic knowledge of family law. Requires completion, on and after January 1, 2021, of an online training course required for mandated reporters, as provided. (FAM 3200.5; H&S 1596.60, 1596.657)

AB 1179 (RUBIO, BLANCA), CH. 127
EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020
CHILD CUSTODY: ALLEGATIONS OF ABUSE: REPORT

Requires the Judicial Council, on or before January 1, 2021, to adopt a form that must be used for all evaluations, investigations, or assessments made pursuant to Family Code section 3118. Requires the form to provide a standardized template for all information necessary to provide a full and complete analysis of the allegations raised in the proceeding. Provides that the evaluator report must address the safety of the child, and requires, on and after January 1, 2021, that the evaluation be prepared on the form developed by Judicial Council. (FAM 3118)

AB 1380 (OBERNOLTE), CH. 193
EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020
PREMARITAL AGREEMENTS: ENFORCEMENT

Clarifies that the version of a premarital agreement requiring that a party be given seven days to sign must be the final agreement, excluding nonsubstantive amendments to the agreement. Finds and declares that this provision is declaratory of existing law. Requires, for premarital agreements executed between January 1, 2002, and January 1, 2020, that the final agreement be presented to the party against whom enforcement is sought at least seven days before the agreement is signed, regardless of whether the party is represented by independent legal counsel. Finds and declares that these changes are intended to supersede the holding of *In re Marriage of Cadwell-Faso & Faso* (2011) 191 Cal.App.4th 945, 960 (in which the court held that the seven-day period applies only to unrepresented parties) on a prospective basis. (FAM 1615)

SB 495 (DURAZO), CH. 551
EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020
CHILD CUSTODY

Prohibits a court from considering sex, gender identity, gender expression, or the sexual orientation of a parent, legal guardian, or relative in making a best interest determination for purposes of awarding child custody or visitation rights. (FAM 3011, 3020, 3040)

JUVENILE JUSTICE

AB 1390 (STONE, MARK), CH. 129
EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020
DEFERRED ENTRY OF JUDGMENT PILOT PROGRAM

Expands eligibility for the youth-deferred entry of judgment pilot program (authorized to operate until January 1, 2022, in Alameda, Butte, Napa, Nevada, Santa Clara, and Ventura Counties) to defendants who are older than 21 years of age but under 25 years of age at the time of the offense with approval of the multidisciplinary team established by the county. (PEN 1000.7)

AB 1394 (DALY), CH. 582

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

JUVENILES: SEALING OF RECORDS

Prohibits a superior court or probation department from charging an applicant a fee for filing a petition to seal records. (W&I 781.1)

AB 1423 (WICKS), CH. 583

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

TRANSFERS TO JUVENILE COURT

Provides that in any case in which a person is transferred from juvenile court to criminal court, upon conviction or entry of a plea, the person may request the criminal court to return the case to the juvenile court for disposition in the following circumstances:

- If the person is convicted at trial in criminal court solely of a misdemeanor or misdemeanors; or
- If any of the allegations in the juvenile court petition that were the basis for transfer involved a specified serious and/violent felony offenses (W&I 707(b) offenses), and the person is pleads guilty to or is convicted at trial in criminal court only of non-W&I 707(b), the court has the discretion to return the case to juvenile court for further proceedings.

In determining whether the case should be returned to juvenile court, or whether to approve the agreement that the person should be returned to juvenile court, requires the court to make a finding by a preponderance of the evidence and noted in the minute order, that a juvenile disposition is in the interests of justice and the welfare of the person. Requires the court, upon determining that the case will be returned to the juvenile court, to return the entire case to the juvenile court and to calendar the case within two court days. Requires the juvenile court to order the probation department to prepare a study on the questions of the proper disposition, and mandates that the case proceed to disposition as set forth in existing law. Requires that a conviction or guilty plea that is returned to juvenile court be considered an adjudication or admission before the juvenile court for all purposes. Imposes specified requirements on the clerks of both the criminal and juvenile court. (W&I 707.5)

AB 1537 (CUNNINGHAM), CH. 50

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

JUVENILE RECORDS: INSPECTION

Allows a prosecutor to access, inspect, or use the sealed criminal records, as specified, of minors in the following circumstances:

- A minor who was arrested for a misdemeanor and subsequently no charges were brought against the minor;
- The sealed records of a minor who performed satisfactorily in a deferred entry of judgment program in which the proceedings were dismissed; or
- The minor was acquitted of the charge, in order to meet a statutory or constitutional obligation to disclose favorable or exculpatory evidence to a defendant in a criminal case in which the prosecuting attorney has reason to believe that access to the record may be necessary to meet the disclosure obligation.

Requires that a prosecutor's request to access information in the sealed juvenile record to include the prosecutor's rationale for believing that access to the information in the record may be necessary to meet the disclosure obligation, and the date by which the records are needed. Requires the juvenile court to approve the prosecutor's request to the extent that the court has, upon review of the relevant records, determined that access to a specific sealed record or portion of a sealed record is necessary to enable the prosecuting attorney to comply with the disclosure obligation. Provides that a ruling to allow the prosecuting attorney to access, inspect, or utilize a sealed juvenile record in order to meet its disclosure obligation does not affect whether the information is admissible in a criminal or juvenile proceeding, and clarifies that the provisions related to a prosecuting attorney's disclosure obligation do not impose any discovery obligations on a prosecuting attorney that do not already exist. (PEN 851.7; W&I 781, 786, 793)

SB 94 (COMMITTEE ON BUDGET AND FISCAL REVIEW), CH. 25

EFFECTIVE/OPERATIVE DATE: EFFECTIVE IMMEDIATELY

PUBLIC SAFETY: OMNIBUS

Among other things, establishes, commencing July 1, 2020, the Department of Youth and Community Restoration in the California Health and Human

Services Agency and abolishes the Division of Juvenile Justice (DJJ) in the Department of Corrections and Rehabilitation. Vests the Department of Youth and Community Restoration with all the powers, functions, duties, responsibilities, obligations, liabilities, and jurisdiction of the DJJ, and makes conforming changes. Requires the DJJ, commencing July 1, 2019, and in coordination with the California Health and Human Services Agency and the Department of Corrections and Rehabilitation, to initiate the transfer process, and requires the transfer to be completed by July 1, 2020. (GOV 8280, 12838, 12838.1; PEN 490.4, 830.5, 2816; W&I 1703, 1710, 1711, 1712, 1714, 1731.5, 1731.7)

SB 394 (SKINNER), CH. 593

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

CRIMINAL PROCEDURE: DIVERSION FOR PRIMARY CAREGIVERS OF MINOR CHILDREN

Authorizes the presiding judge of the superior court, in consultation with the presiding juvenile court judge and criminal court judges, and together with the prosecuting entity and the public defender, to agree in writing to establish and conduct a pretrial diversion program for primary caregivers wherein criminal proceedings are suspended without a plea of guilty for a period of between six months and 24 months. Specifies that the program may include, but not be limited to, education, counseling, treatment, and training programs. Authorizes referral of the defendant to supportive services and classes in already existing diversion programs and county outpatient services, as provided. Provides that the court may, after considering the positions of the defense and prosecution, grant pretrial diversion to a defendant if the defendant meets all requirements, as specified. Requires the provider of the pretrial diversion services to provide regular progress reports, and, if it appears that the defendant is performing unsatisfactorily in the assigned program or if the defendant is subsequently convicted of a felony or any offense that reflects a propensity for violence, the prosecuting attorney or the probation department may make a motion to reinstate criminal proceedings. The court may also reinstate criminal proceedings on its own motion. Requires the court, after notice to the defendant, to hold a hearing to determine whether to reinstate criminal proceedings after which the court may end the diversion program and order the resumption of criminal proceedings. Requires the court to dismiss the defendant's criminal charges. Provides that upon

successful completion of diversion, if the court dismisses the charges, the arrest upon which the diversion was based shall be deemed to never have occurred and the court shall order access to the arrest record restricted, as specified. (PEN 1001.83)

SB 419 (SKINNER), CH. 279

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

PUPIL DISCIPLINE: SUSPENSIONS: WILLFUL DEFIANCE

Prohibits, until July 1, 2025, a pupil enrolled in a charter school in sixth through eighth grade from being suspended on the basis of having disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties. Encourages, rather than only authorizes, a superintendent of the school district or principal to provide alternatives to suspension or expulsion, using a research-based framework with strategies that improve behavioral and academic outcomes, are age appropriate, and designed to address and correct the pupil's specific misbehavior. Retains the authority for teachers to suspend pupils from class for the day and the following day who disrupt school activities or otherwise willfully defy valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties. States that it is the intent of the Legislature that the Multi-Tiered System of Supports, which includes restorative justice practices, trauma-informed practices, social and emotional learning, and schoolwide positive behavior interventions and support, may be used to help pupils gain critical social and emotional skills, receive support to help transform trauma-related responses, understand the impact of their actions, and develop meaningful methods for repairing harm to the school community. (ED 48900, 48901.1)

SB 781 (COMMITTEE ON PUBLIC SAFETY), CH. 256

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

PUBLIC SAFETY OMNIBUS

Among other things, authorizes the Department of Justice to receive copies of juvenile case files to carry out its duties as a repository for sex offender registration and notification in California and makes technical and conforming changes to various provisions of law relating to public safety. (PEN 1000.7, 1170.05; W&I 827)

LABOR AND EMPLOYMENT

AB 5 (GONZALEZ), CH. 296

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

WORKER STATUS: EMPLOYEES AND INDEPENDENT CONTRACTORS

Among other things, states the intent of the Legislature to codify *Dynamex Operations West, Inc. v. Superior Court* (2018) 4 Cal.5th 903. Provides that the “ABC” test be applied to determine the status of a worker as an employee or independent contractor unless another definition or specification of “employee” is provided. Exempts specified professions from these provisions and instead substitutes the test adopted in *S.G. Borello & Sons, Inc. v. Department of Industrial Relations* (1989) 48 Cal.3d 341 to determine the employment relationship. (LAB 3351, 2750.3; UIC 606.5, 621)

SB 229 (HERTZBERG), CH. 721

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

DISCRIMINATION: COMPLAINTS: ADMINISTRATIVE REVIEW

Expands the appeal and enforcement mechanisms currently available when the Labor Commissioner issues a citation to an employer for violations of the Labor Code’s antiretaliation provisions. Among other things, establishes procedures and deadlines for the Labor Commissioner, the court, and affected employers to follow when adjudicating and contesting a citation. Requires the Commissioner, in an action to judicially enforce an administrative citation for workplace retaliation, to file a certified copy of the citation with the clerk of the superior court, as specified. Provides that judgment in favor of the state and against the person being assessed shall be entered immediately by the court clerk for the total monetary amount shown on the citation. Authorizes the Commissioner to file a petition in superior court for an order to show cause why any injunctive and other nonmonetary relief should not be ordered and requires the court to schedule a hearing on the matter. Specifies that, absent a showing of an abuse of discretion, the court shall enter judgment for the state against the respondent for the injunctive and other nonmonetary relief. (LAB 98.74)

PROBATE AND MENTAL HEALTH

AB 46 (CARRILLO), CH. 9

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

INDIVIDUALS WITH MENTAL ILLNESS: CHANGE OF TERM

States the intent of the Legislature to enact legislation to replace derogatory terms with more culturally sensitive terms when referring to individuals with mental illness and makes those changes throughout various provisions of law. (H&N 4005; PEN 1026, 1367, 2625, 2960, 2962, 2966, 2968, 2970, 2972, 2974, 2978, 4011.6, 4497, 4497.10, 6102; PROB 6100.5; R&T 253; W&I 4242, 5213, 5300)

AB 303 (CERVANTES), CH. 606

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

MENTAL HEALTH: SEXUALLY VIOLENT PREDATORS: TRIAL: CONTINUANCES

Establishes procedures for requesting and granting continuances in trials relating to the civil commitment of an individual as a sexually violent predator as specified. (W&I 6603)

See Appendix B for a full description of the bill.

AB 473 (MAIENSCHIN), CH. 122

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

DISPOSITION OF ESTATE WITHOUT ADMINISTRATION

Among other things, increases the threshold value of small estates and portions of estates that may be administered outside of probate, and decreases (from 10 percent to 7 percent) the interest applicable if a recipient of property under these provisions must provide restitution to the rightful recipient of the property. Reduces the interest that a surviving spouse must pay to anyone with a superior right by testate succession for the deceased spouse’s half of the community property and quasi-community property that the surviving spouse disposed of from the rate payable on a money judgment. Allows a court, if it finds that the surviving spouse acted reasonably and in good faith under the circumstances known to the surviving spouse, to waive the interest payment, in whole or in part. Requires the Judicial Council, beginning April 1,

2022, and every three years thereafter, to determine the amount of adjustment, based on the change in the U.S. city average of the “Consumer Price Index for All Urban Consumers” for the previous 40 months, for the various maximum amounts for small estate administration under the Probate Code, rounded to the nearest \$25, and to publish a list of the current dollar amounts of the various figures set forth herein. Provides that the adjustments do not apply if the decedent dies before the date of adjustment. (PROB 6602, 6609, 13050, 13100, 13101, 13111, 13112, 13117, 13151, 13152, 13154, 13200, 13206, 13207, 13211, 13562, 13563, 13565, 13600, 13601, 13602)

AB 1396 (OBERNOLTE), CH. 628

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

PROTECTIVE ORDERS: ELDER AND DEPENDENT ADULTS

Allows a court, when issuing a protective order for elder abuse involving physical abuse, neglect, abandonment, isolation, abduction, other treatment with resulting physical harm, pain, or mental suffering, or deprivation of goods or services that are necessary to avoid physical harm or mental suffering, to, after notice and a hearing, also issue an order requiring the restrained party to attend mandatory clinical counseling or anger management courses provided by a counselor, psychologist, psychiatrist, therapist, clinical social worker, or other mental or behavioral health professional licensed in the state to provide those services, when appropriate. Requires the Judicial Council to revise or promulgate forms as necessary to effectuate the provisions herein, by January 1, 2021. (W&I 15657.03)

SB 40 (WIENER), CH. 467

EFFECTIVE/OPERATIVE DATE: EFFECTIVE IMMEDIATELY

CONSERVATORSHIP: SERIOUS MENTAL ILLNESS AND SUBSTANCE USE DISORDERS

Amends and expands the process for establishing a housing conservatorship for a person suffering from a serious mental illness and a substance use disorder in the pilot programs authorized for Los Angeles, San Diego, and San Francisco Counties as follows:

- Stipulates that a person only qualifies for a housing conservatorship if the court determines by clear and convincing evidence, based on clinical evaluations conducted throughout a temporary conservatorship,

that the person is incapable of caring for their own health and well-being due to a serious mental illness and substance use disorder, and that conservatorship is the least restrictive alternative needed for the protection of the person;

- Provides that the establishment of a housing conservatorship is subject to a finding by the court that either the county health director or director’s designee previously attempted to obtain a court order authorizing assisted outpatient treatment (AOT) and the petition was denied or AOT was insufficient to treat the person’s mental illness, or the director or designee recommends, and the court finds by clear and convincing evidence, that the person does not meet the criteria described for AOT or that AOT would be insufficient to treat the person;
- Shortens the maximum length of a conservatorship from one year to six months;
- Provides that if a person has been detained eight or more times in a 12-month period for evaluation and treatment pursuant to a 72-hour “5150 hold” under the Lanterman-Petris-Short Act, the court may establish a temporary conservatorship up to 28 days based on the report of the officer providing conservatorship investigation or on the basis of an affidavit of the professional person who recommended conservatorship stating the reasons for that recommendation; and
- Expands the evaluation of the housing conservatorship pilot program. (W&I 5451, 5452, 5453, 5456, 5462, 5463, 5465.5, 5555)

SB 303 (WIECKOWSKI), CH. 847

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

GUARDIANS AND CONSERVATORS: COMPENSATION: RESIDENCE OF CONSERVATEE

Specifically provides that, in any hearing to determine if removal of a conservatee from their personal residence is appropriate, the presumption that the residence is the least restrictive appropriate residence may only be overcome by clear and convincing evidence. Authorizes the sale of a conservatee’s present or former personal residence only if the court finds that the conservator demonstrated a compelling need to sell the residence for the benefit of the conservatee by clear and convincing evidence. Prevents a conservator from committing any significant resources to the proposed sale of a conservatee’s present or former

residence before the conservator notifies the court that the residence of the conservatee is proposed to be sold, unless the conservator can establish that either the conservatee has the capacity to consent, and unequivocally consents to the sale, or there are exigent circumstances that require the conservator to commit resources to the sale prior to court approval. Adds to the requirement that a conservator, when seeking an order to sell a conservatee's personal residence, demonstrate to the court that the terms of the sale are in the best interest of the conservatee, the estimated capital gains income and tax consequences, and the impact on access to government benefits. Prohibits compensation to a guardian, conservator, or attorney from any government benefits program funds unless deemed by the court as necessary to sustain the support and maintenance of the ward or conservatee, as specified. (PROB 2352.5, 2540, 2541.5, 2591, 2591.5, 2640, 2641)

PROTECTIVE ORDERS

AB 12 (IRWIN), CH. 724

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

FIREARMS: GUN VIOLENCE RESTRAINING ORDERS

Authorizes a law enforcement officer to file a petition for a gun violence restraining order (GVRO) in the name of the law enforcement agency in which the officer is employed. Changes the duration of the GVRO and the renewal of the GVRO from one year to between one and five years, subject to earlier termination or renewal by the court. Requires a court, in determining the duration of the gun violence restraining order, to consider the length of time that the threat of personal injury is likely to continue, and to issue the order based on that determination. Authorizes a person subject to a GVRO to submit one written request per year for a hearing to terminate the restraining order. (PEN 18109, 18120, 18160, 18170, 18175, 18180, 18185, 18190, 18197)

AB 61 (TING), CH. 725

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

GUN VIOLENCE RESTRAINING ORDERS

Commencing September 1, 2020, authorizes the following individuals to file a petition for an ex parte, one-year, or renewed gun violence restraining order: (1) an employer, a coworker who has substantial and regular interactions with a person and with approval of their employer; or

(2) an employee or teacher of a secondary or postsecondary school, with approval of a school administrator or a school administration staff member with a supervisory role, if the subject of the petition has attended the school in the last 6 months. (PEN 18150, 18170, 18190)

AB 339 (IRWIN), CH. 727

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

GUN VIOLENCE RESTRAINING ORDERS: LAW ENFORCEMENT PROCEDURES

Requires law enforcement agencies to develop and adopt written policies and standards regarding the use of gun violence restraining orders. (PEN 18108)

AB 925 (GLORIA), CH. 294

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

PROTECTIVE ORDERS: CONFIDENTIAL INFORMATION REGARDING MINORS

Expands the circumstances in which it is permissible to disclose a minor's confidential information contained in certain protective orders. Specifically, permits a court, if it is in the minor's best interests, to authorize disclosure of any portion of the confidential information regarding a minor that the court has otherwise deemed confidential to any other person upon that person's petition. Requires the court to afford the party who originally requested confidentiality an opportunity to contest this disclosure. Clarifies that information regarding a minor protected by a confidentiality order shall be included in the notice sent to the restrained party to the extent necessary for enforcement of the confidentiality order, and that the restrained party must comply with and respond to the protective order. Alters the requirements of that notice to specifically identify the confidential information. Applies to the disclosure of a minor's confidential information in family, child welfare, and juvenile justice cases in which protective orders, as specified, are issued. (CCP 527.6; FAM 6301.5)

AB 1493 (TING), CH. 733

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

GUN VIOLENCE RESTRAINING ORDER: PETITION

Commencing September 1, 2020, authorizes the subject of a petition for a gun violence restraining order (GVRO) to file a form with the court relinquishing the subject's firearm rights and stating that the subject is not contesting the petition. If the subject files that form, requires the

court to issue the GVRO and to provide notice of the order to all parties. (PEN 18115, 18175)

REDISTRICTING

AB 849 (BONTA), CH. 557

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

ELECTIONS: CITY AND COUNTY REDISTRICTING

Revises and standardizes the criteria and process to be used by counties and cities when they adjust the boundaries of the electoral districts that are used to elect members of the jurisdictions' governing bodies. Requires the chief legal officer of a local government agency, if an entity fails to adopt district boundaries by the deadline, to petition the court for an order adopting district boundaries. Permits a resident to petition the court if the legal officer fails to do so within five days after the deadline. Requires the court to adopt boundaries using specified criteria. Permits the court to order the adjustment of deadlines as necessary to implement the new boundaries. Authorizes the court to appoint a special master to assist the court with adopting the boundaries and requires the county to pay the cost for the special master and associated costs. Requires the court or the special master to hold one or more public hearings before adopting the district boundaries. Subject to the approval of the court, authorizes the special master to employ redistricting experts or other consultants or counsel, independent experts in the field of redistricting and computer technology, and other necessary personnel to assist them in their work. Authorizes the special master to seek the full cooperation of the city or county in producing and using whatever data, computer models and programs, and technical assistance that was made available to them, and personnel who are knowledgeable in the mechanics of drafting redistricting legislation. Authorizes the court to assist the special master in securing the necessary personnel and the physical facilities required for their work, and to prepare for the prompt submission to the local agency of a request for county funding for the necessary expenses of the special master and the special master's staff. (Various codes)

STATE BAR/PRACTICE OF LAW

AB 242 (KAMLAGER-DOVE), CH. 418

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

IMPLICIT BIAS TRAINING: COURTS AND ATTORNEYS

Clarifies that the Judicial Council may develop training on implicit bias. Specifically, the bill:

- Allows the Judicial Council to develop training on implicit bias;
- Requires any training developed to include the components listed in the bill; and
- Requires court staff who interact with the public on matters before the court to complete two hours of implicit bias training every two years as of January 1, 2022 (included in the existing requirements found in rule 10.474).

Note: Implicit bias training has been a component of the Judicial Council's Qualifying Ethics (QE) core course for judicial officers beginning with QE5, January 1, 2013, and continuing through QE7, which launched on January 1, 2019. (B&P 6070.5; GOV 68088)

TRAFFIC

AB 47 (DALY), CH. 603

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

DRIVER RECORDS: POINTS: DISTRACTED DRIVING

Requires the Department of Motor Vehicles to assess a point on a person's driving record for any conviction of operating a handheld wireless communications device that occurs within 36 months of a prior conviction of the same offense after July 1, 2021. (VEH 12810.3)

AB 317 (DIEP), CH. 608

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

DEPARTMENT OF MOTOR VEHICLES: UNLAWFUL SALE OF APPOINTMENTS

Prohibits a person (defined under existing law as a natural person, firm, limited liability company, or corporation) from selling, or offering to sell, an appointment with the

Department of Motor Vehicles. Defines “appointment” to mean an arrangement to receive a government service at a specific time. Provides that a violation of this section is an infraction. (VEH 1680)

AB 391 (VOEPEL), CH. 609

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

**LEASED AND RENTED VEHICLES:
EMBEZZLEMENT AND THEFT**

Decreases from five days to 72 hours following the expiration of an auto-rental agreement or lease for the presumption of embezzlement to apply. Sunsets these provisions on January 1, 2024. (VEH 10500, 10855)

AB 1266 (RIVAS, ROBERT), CH. 221

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

TRAFFIC CONTROL DEVICES: BICYCLES

Allows a person operating a bicycle to travel straight through a right- or left-hand turn lane when an official traffic control device indicates that the movement is permitted. Requires the California Department of Transportation to develop standards for lane striping, pavement markings, and signage to implement this provision. (VEH 22101)

SB 164 (MCGUIRE), CH. 138

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

INFRACTIONS: COMMUNITY SERVICE

Authorizes a person who has been convicted of an infraction and is eligible to elect to perform community service in lieu of the total fine, to elect to perform that community service in the county in which the infraction violation occurred, the county of the person’s residence, or any other county to which the person has substantial ties. Requires the court to retain jurisdiction until the community service has been verified as complete. (PEN 1209.5)

SB 485 (BEALL), CH. 505

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

DRIVING PRIVILEGE: SUSPENSION OR DELAY

Repeals the ability of the court and the Department of Motor Vehicles (DMV) to delay, suspend, or revoke a person’s driving privilege as a result of a conviction for various offenses. Specifically, provides that notwithstanding any other law, and to the extent permitted by federal law, the court and DMV shall not

suspend or delay a person’s driving privilege based on that person’s conviction of a criminal offense not involving a violation of the Vehicle Code, unless the offense involved the use, or attempted use, of a vehicle, and the suspension and delay is otherwise authorized by law. Clarifies that this provision is not intended to affect any order or determination made by the court or the DMV before January 1, 2020, to suspend, delay, or otherwise restrict the driving privilege of a person. (B&P 25658, 25658.4, 25658.5, 25661, 25662; PEN 529.5, 647; VEH 1808, 13201.5, 13202, 13202.4, 13202.5, 13202.6, 23224)

APPENDIX A

CRIMINAL LAW AND PROCEDURE LEGISLATION

SB 36 (HERTZBERG), CH. 589

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

PRETRIAL RELEASE: RISK ASSESSMENT TOOLS

Requires each pretrial services agency that uses a pretrial risk assessment tool to validate the tool by January 1, 2021, and on a regular basis thereafter, but no less frequently than once every three years, and to make specified information regarding the tool, including validation studies, publicly available.

Requires the Judicial Council to maintain a list of pretrial services agencies that have satisfied those validation requirements and complied with those transparency requirements. Additionally, requires the Judicial Council, beginning on December 31, 2020, and on or before December 31 of each year thereafter, to publish a report on its website with data related to outcomes and potential biases in pretrial release. Requires pretrial services agencies, the Department of Justice, courts, and local governments that elect to use risk assessment tools to work with the Judicial Council to provide the data necessary for this report. Ensures the privacy of individuals whose information is found in the data by restricting the Judicial Council from sharing any individual-level data unless the council has entered into a contract for research purposes in which privacy protections, as specified, are established.

To ensure that there is sufficient funding for the data collection, analysis, and reporting requirements, those provisions solely apply to agencies receiving funding, as follows:

- Pretrial services agencies that have a contractual agreement with one of the Pretrial Pilot Program courts (funded with the Budget Act of 2019 appropriation of \$75 million for the pilots);
- Agencies otherwise funded by the state to perform risk assessments (e.g., if SB 10 (Hertzberg; Stats. 2018, ch. 244) goes into effect or the state chooses to expand or continue the pilot projects. Referendum 1856 (18-0009), *Referendum to Overturn a 2018 Law That Replaced Money Bail System with a System Based on Public Safety Risk*, qualified for the November 2020 ballot after being certified by the Secretary of State on January 16, 2019. Qualification of the referendum has the effect of staying SB 10); and
- Other agencies that perform risk assessments, but only if sufficient funding is provided to the Judicial Council, the courts, and pretrial services agencies to ensure their ability to meet the data reporting requirements and standards as set forth by the Judicial Council.

Requires the Judicial Council, on or before July 1, 2022, to provide a report to the courts and the Legislature containing recommendations to mitigate bias and disparate effects in pretrial decisionmaking. (PEN 1320.35)

APPENDIX B

CIVIL LEGISLATION

AB 303 (CERVANTES), CH. 606

EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2020

MENTAL HEALTH: SEXUALLY VIOLENT PREDATORS: TRIAL: CONTINUANCES

Establishes procedures for requesting and granting continuances in trials relating to the civil commitment of an individual as a sexually violent predator. Specifically, this bill:

- Requires that all moving and supporting papers be served and filed at least 10 court days before the hearing, except that if the written notice is served by mail, extends the 10-day period of notice before the hearing as follows: (a) five calendar days if the place of mailing and the place of address are within the State of California; (b) 10 calendar days if either the place of mailing or the place of address is outside the State of California, but within the United States; (c) 20 calendar days if either the place of mailing or the place of address is outside the United States; and (d) two calendar days if the notice is served by facsimile transmission, express mail, or another method of delivery providing for overnight delivery.
- Requires all papers opposing a continuance motion to be filed with the court and a copy to be served on each party at least four court days before the hearing. Requires all reply papers to be served on each party at least two court days before the hearing.
- Permits a party to waive the right to have documents served in a timely manner after receiving actual notice of the request for continuance.
- If a party makes a motion for a continuance that does not comply with these requirements, requires the court to hold a hearing on whether there is good cause for the failure to comply with those requirements. Requires the court to make a finding whether good cause has been shown and, if it finds that there is good cause, state on the record the facts proved that justify its finding. If the moving party is unable to show good cause for the failure to give notice, the motion for continuance shall not be granted.
- Provides that continuances shall be granted only upon a showing of good cause and that a court shall not find good cause solely based on the convenience of the parties or a stipulation of the parties. Requires the court to make a finding whether good cause has been shown and, if it finds that there is good cause, state on the record the facts proved that justify its finding.
- Requires the court, when determining good cause, to consider the general convenience and prior commitments of all witnesses and the general convenience and prior commitments of each witness in selecting a continuance date if the motion is granted.
- Except as specified, a continuance shall be granted only for the time shown to be necessary by the evidence considered at the hearing on the motion. If a continuance is granted, requires the court to state on the record the facts proved that justify the length of the continuance.
- Provides “good cause” includes, but is not limited to, those cases in which the attorney assigned to the case has another trial or probable cause hearing in progress and that a continuance granted under those circumstances cannot exceed 10 court days after the conclusion of that trial or hearing. (W&I 6603)

APPENDIX C

2019-20 LEGISLATION AFFECTING CALIFORNIA APPELLATE PROCEDURE

BILL NUMBER AND CHAPTER, EFFECTIVE DATE, AND TITLE	STATUS as of October 16, 2019	SUMMARY DESCRIPTION OF NEW LAW
<p>AB 685 (Reyes) 2-year bill Juveniles: Indian tribes: counsel</p>	<p>Senate Judiciary Committee</p>	<p>Requires the State Bar of California to administer grants to qualified legal services projects and support centers for the purpose of providing legal services to Indian tribes in child welfare matters under the Indian Child Welfare Act (ICWA). Requires adoption of training requirements that include instruction on ICWA. Requires the Court of Appeal to appoint separate counsel for a child's tribe, at the request of the tribe, in any appellate proceeding involving an Indian child. [As introduced.]</p>
<p>AB 1820 (Committee on Judiciary), CH. 834 <i>Effective/Operative Date: January 1, 2020</i> Personal rights: civil liability and enforcement</p>	<p>Signed into law</p>	<p>The California Fair Employment and Housing Act protects and safeguards the right and opportunity of all persons to seek, obtain, and hold employment without discrimination, abridgment, or harassment on account of various personal characteristics. Under existing law, the Department of Fair Employment and Housing is responsible for receiving, investigating, conciliating, mediating, and prosecuting complaints alleging violations of specified civil rights, including sexual harassment claims. Additionally, clarifies that the department may bring civil actions for violations of title VII of the Civil Rights Act, the federal Americans with Disabilities Act, and the federal Fair Housing Act.</p>
<p>SB 25 (Caballero) 2-year bill California Environmental Quality Act: expedited review: projects funded by qualified opportunity zone funds or other public funds</p>	<p>Assembly Natural Resources Committee</p>	<p>Until January 1, 2025, requires, to the extent feasible, a 270-day expedited judicial review, including any potential appeals, of the environmental review and approvals granted for an undefined number of projects that are at least partially funded by a qualified opportunity zone fund. [As amended April 30, 2019.]</p>
<p>SB 621 (Glazer) 2-year bill California Environmental Quality Act: expedited judicial review: affordable housing projects</p>	<p>Assembly Natural Resources Committee</p>	<p>Until January 1, 2025, requires the Judicial Council, on or before July 1, 2020, to adopt a rule of court applicable to actions or proceedings brought pursuant to the California Environmental Quality Act seeking judicial review of environmental review documents and approvals granted for certain affordable housing projects. Requires these actions or proceedings, including any appeals therefrom, to be resolved, to the extent feasible, within 270 days of the filing of the certified record of proceedings with the court. [As amended June 17, 2019.]</p>

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APPENDIX D

2019-20 LEGISLATION RESPONDING TO CALIFORNIA APPELLATE AND SUPREME COURT DECISIONS

BILL NUMBER AND CHAPTER, EFFECTIVE DATE, AND TITLE	STATUS as of October 16, 2019	SUMMARY DESCRIPTION OF NEW LAW
<p>AB 5 (Gonzalez), CH. 296</p> <p><i>Effective/Operative Date: January 1, 2020</i></p> <p>Worker status: employees and independent contractors</p>	Signed into law	<p>Among other things, states the intent of the Legislature to codify <i>Dynamex Operations West, Inc. v. Superior Court</i> (2018) 4 Cal.5th 903. Provides that the “ABC” test be applied to determine the status of a worker as an employee or independent contractor unless another definition or specification of “employee” is provided. Exempts specified professions from these provisions and instead substitutes the test adopted in <i>S.G. Borello & Sons, Inc. v. Department of Industrial Relations</i> (1989) 48 Cal.3d 341 to determine the employment relationship.</p>
<p>AB 71 (Melendez)</p> <p>2-year bill</p> <p>Employment standards: independent contractors and employees</p>	Assembly Labor and Employment Committee	<p>Among other things, seeks to abrogate the California Supreme Court’s holding in <i>Dynamex Operations West, Inc. v. Superior Court</i> (2018) 4 Cal.5th 903 by requiring, instead, a determination of whether a person is an employee or an independent contractor to be based on a specific multifactor test, including whether the person to whom service is rendered has the right to control the manner and means of accomplishing the result desired, and other identified factors. [As amended February 25, 2019.]</p>
<p>AB 227 (Jones-Sawyer)</p> <p>2-year bill</p> <p>Crimes: assessments: restitution: ability to pay</p>	Assembly Appropriations Committee—suspense file	<p>Makes a defendant’s inability to pay a fine a compelling and extraordinary reason for a court to not impose a restitution fine upon a conviction for a misdemeanor or felony. Requires the court to impose the court facility and court operation assessments unless the court determines that the defendant does not have the ability to pay. Codifies the decision of <i>People v. Dueñas</i> (2019) 30 Cal.App.5th 1157. [As introduced.]</p>
<p>AB 233 (Cooley)</p> <p>2-year bill</p> <p>Insurance: independent contractors</p>	Senate Insurance Committee	<p>Clarifies the application of <i>Dynamex Operations West, Inc. v. Superior Court</i> (2018) 4 Cal.5th 903 to persons licensed by the Department of Insurance to transact insurance in specified capacities by providing that those persons are not employees when they have entered into a written agreement with an insurer or organizational licensee that includes specified provisions, including that the worker is classified as an independent contractor, that each party has the right to terminate the agreement upon notice to the other party, and that the worker is responsible for the payment of necessary expenditures and applicable taxes. Allows the parties to the agreement to classify the worker as either an employee or an independent contractor, but prohibits a worker from being classified as an independent contractor unless the agreement contains specified provisions. [As amended April 11, 2019.]</p>

BILL NUMBER AND CHAPTER, EFFECTIVE DATE, AND TITLE	STATUS as of October 16, 2019	SUMMARY DESCRIPTION OF NEW LAW
<p>AB 303 (Cervantes), CH. 606</p> <p><i>Effective/Operative Date:</i> <i>January 1, 2020</i></p> <p>Mental health: sexually violent predators: trial: continuances</p>	Signed into law	<p>Establishes procedures and timelines for requesting, responding to, and granting continuances in sexually violent predator (SVP) civil trial proceedings. This legislation is in response to <i>People v. Superior Court (Vasquez)</i> (2018) 27 Cal.App.5th 36, in which an SVP petition against George Vasquez was dismissed for due process violations based on the lengthy delay in bringing the case to trial. Mr. Vasquez was detained in state hospitals for over 17 years awaiting trial on the petition, as a series of six appointed attorneys slowly moved his case toward trial. The court applied a due process balancing test established by the U.S. Supreme Court and concluded that under the balancing test Mr. Vasquez had suffered prejudice due to the excessive delay and that the delay was caused by the state. In reaching that holding, the appellate court stated, “[t]he ultimate responsibility for bringing a person to trial on an SVP petition at a ‘meaningful time’ rests with the government.” (<i>Id.</i> at p. 58.)</p>
<p>AB 1380 (Oberholte), CH. 193</p> <p><i>Effective/Operative Date:</i> <i>January 1, 2020</i></p> <p>Premarital agreements: enforcement</p>	Signed into law	<p>Requires that the party against whom enforcement of a premarital agreement is sought be advised to seek independent legal counsel, and that advisement shall be made at least seven days before the final agreement is signed. States that this provision is declaratory of existing law. Provides that, with respect to premarital agreements executed on or after January 1, 2020, the agreement may not be deemed voluntary unless the party against whom enforcement is sought had at least seven days between being first presented with the final agreement and signing the agreement, regardless of whether the party is represented by legal counsel. States that subparagraph (B) of paragraph (2) of subdivision (c) of section 1615 of the Family Code is intended to supersede, on a prospective basis, the holding in <i>In re Marriage of Cadwell-Faso & Faso</i> (2011) 191 Cal.App.4th 945.</p>
<p>AB 1618 (Jones-Sawyer), CH. 586</p> <p><i>Effective/Operative Date:</i> <i>January 1, 2020</i></p> <p>Plea bargaining: benefits of later enactments</p>	Signed into law	<p>States that a provision of a plea bargain that requires a defendant to generally waive future benefits of legislative enactments, initiatives, appellate decisions, or other changes in the law that may retroactively apply after the date of the plea is void as against public policy. Appears to be in response to <i>People v. Wright</i> (2019) 31 Cal.App.5th 749, which ruled that “[i]f parties to a plea agreement want to insulate the agreement from future changes in the law they should specify that the consequences of the plea will remain fixed despite amendments to the relevant law,” and <i>People v. Barton</i> (2019) 32 Cal.App.5th 1088, which held that when a defendant negotiates a plea for a stipulated sentence and waives the right to appeal the sentence, the defendant cannot seek to change their sentence after a favorable sentencing law is later enacted.</p>

BILL NUMBER AND CHAPTER, EFFECTIVE DATE, AND TITLE	STATUS as of October 16, 2019	SUMMARY DESCRIPTION OF NEW LAW
AB 1798 (Levine) 2-year bill California Racial Justice Act: death penalty	Assembly Appropriations Committee—suspense file	Prohibits a person from being executed pursuant to a judgment that was either sought or obtained on the basis of race if the court makes a finding that race was a significant factor in seeking or imposing the death penalty. Provides that a finding that race was a significant factor would include statistical evidence or other evidence that death sentences were sought or imposed significantly more frequently upon persons of one race than upon persons of another race or that race was a significant factor in decisions to exercise peremptory challenges during jury selection. Codifies the holding in <i>People v. Wheeler</i> (1978) 22 Cal.3d 258, which held that the practice of excusing jurors from the jury pool on the basis of race was unconstitutional. [As amended March 21, 2019.]
SB 145 (Wiener) 2-year bill Sex offenders: relief from registration	Assembly Appropriations Committee—suspense file	Exempts a person convicted of certain offenses involving minors from the duty to register as a sex offender if the person is not more than 10 years older than the minor. Seeks to abrogate the decision of the California Supreme Court in <i>Johnson v. California Department of Justice</i> (2015) 60 Cal.4th 871. [As amended July 11, 2019.]
SB 238 (Grove) 2-year bill Worker status: factors for determination of employee status	Senate Labor, Public Employees and Retirement Committee	Among other things, seeks to abrogate the California Supreme Court's holding in <i>Dynamex Operations West, Inc. v. Superior Court</i> (2018) 4 Cal.5th 903. Requires, for purposes of claims for wages and benefits arising under wage orders, an analysis as to whether the worker is economically dependent on the hiring entity to determine whether that worker is an employee based on the economic reality of the relationship with the hiring entity. Requires this analysis to be based solely on enumerated factors that are similar to those used as a part of the economic realities test in the federal Fair Labor Standards Act of 1938. In addition, provides legislative findings and declarations in support of these provisions, and states in the findings and declarations that it is the intent of the Legislature that the test under these provisions be applied retroactively to claims filed on and after April 30, 2018. [As amended March 28, 2019.]

BILL NUMBER AND CHAPTER, EFFECTIVE DATE, AND TITLE	STATUS as of October 16, 2019	SUMMARY DESCRIPTION OF NEW LAW
<p>SB 707 (Wieckowski), CH. 870</p> <p><i>Effective/Operative Date: January 1, 2020</i></p> <p>Arbitration agreements: enforcement</p>	Signed into law	<p>Among other things, specifies that in an employment or consumer arbitration that requires, either expressly or through application of state or federal law or the rules of the arbitration administrator, the drafting party to pay certain fees and costs before the arbitration can proceed, if the fees or costs to initiate an arbitration proceeding are not paid within 30 days of their due date, the drafting party is in material breach of the arbitration agreement, is in default of the arbitration, and waives its right to compel arbitration under Code of Civil Procedure section 1281.2. States the intent of the Legislature in enacting this measure to affirm the decisions in <i>Armendariz v. Foundation Health Psychcare Services, Inc.</i> (2000) 24 Cal.4th 83, <i>Brown v. Dillard's, Inc.</i> (2005) 430 F.3d 1004, and <i>Sink v. Aden Enterprises, Inc.</i> (2010) 352 F.3d 1197, that a company's failure to pay arbitration fees pursuant to a mandatory arbitration provision constitutes a breach of the arbitration agreement and allows the nonbreaching party to bring a claim in court. Specifies that sanctions shall be monetary sanctions on the drafting party that impartially breaches an arbitration agreement and would authorize the court to impose other sanctions as specified in an employment or consumer arbitration, regardless of whether the drafting party, as defined, is required to pay certain fees and costs before the arbitration can proceed, or during the pendency of the arbitration proceeding.</p>

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APPENDIX E

2019 NEW AND EXPANDED CRIMES

BILL NUMBER AND CHAPTER, EFFECTIVE DATE, AND TITLE	CODE SECTION(S)	SUMMARY DESCRIPTION OF NEW LAW
<p>AB 128 (Gloria), CH. 765 <i>Effective/Operative Date:</i> <i>January 1, 2020</i> Equines: protection</p>	<p>CIV 1834.8; F&G 24106</p>	<p>Requires a written bill of sale or written instrument to be provided when any person purchases, consigns, sells, or accepts the donation of an animal at a public or private auction. Expands the crime of perjury by requiring a person who purchases an animal in these circumstances to sign a sworn statement, under penalty of perjury, acknowledging and agreeing to comply with the Prohibition of Horse Slaughter and Sale of Horsemeat for Human Consumption Act of 1998.</p>
<p>AB 164 (Cervantes), CH. 726 <i>Effective/Operative Date:</i> <i>January 1, 2020</i> Firearms: prohibited persons</p>	<p>PEN 29825</p>	<p>Expands the scope of an existing crime by prohibiting any person subject to a valid restraining order, injunction, or protective order issued out-of-state from possessing, receiving or purchasing, or attempting to possess, receive, or purchase a firearm in this state if the out-of-state order is equivalent in the prohibition against possessing, receiving, or purchasing a firearm.</p>
<p>AB 169 (Lackey), CH. 604 <i>Effective/Operative Date:</i> <i>January 1, 2020</i> Guide, signal, and service dogs: injury or death</p>	<p>PEN 600.2, 600.5</p>	<p>Changes the definition of a crime by deleting the requirement that the guide, signal, or service dog be in discharge of its duties when the injury or death occurs from certain crimes against guide, signal, or service dogs. Requires a defendant convicted of these crimes to also make restitution to the person for medical or medical-related expenses, or for loss of wages or income.</p>
<p>AB 189 (Kamlager-Dove), CH. 674 <i>Effective/Operative Date:</i> <i>January 1, 2020</i> Child abuse or neglect: mandated reporters: autism service personnel</p>	<p>PEN 11165.7</p>	<p>Expands the scope of a crime by providing that a qualified autism service provider, a qualified autism service professional, or a qualified autism service paraprofessional provider is a mandated reporter of known or suspected child abuse and neglect for the purposes of the Child Abuse and Neglect Reporting Act.</p>
<p>AB 267 (Chu), CH. 283 <i>Effective/Operative Date:</i> <i>January 1, 2020</i> Employment of infants: entertainment industry</p>	<p>LAB 1286, 1308.8</p>	<p>Expands the scope of a crime by requiring the certification requirements for infants to cover any employment in the entertainment industry.</p>

BILL NUMBER AND CHAPTER, EFFECTIVE DATE, AND TITLE	CODE SECTION(S)	SUMMARY DESCRIPTION OF NEW LAW
<p>AB 273 (Gonzalez), CH. 216 <i>Effective/Operative Date:</i> <i>January 1, 2020</i></p> <p>Fur-bearing and nongame mammals: recreational and commercial fur trapping: prohibition</p>	<p>F&G 3003.1, 3039, 4001, 4004, 4005, 4007, 4008, 4009.5, 4150, 12002</p>	<p>Creates a new crime by prohibiting the trapping of any fur-bearing mammal or nongame mammal for purposes of recreation or commerce in fur and the sale of the raw fur of any fur-bearing mammal or nongame mammal otherwise lawfully taken.</p>
<p>AB 304 (Jones-Sawyer), CH. 607 <i>Effective/Operative Date:</i> <i>January 1, 2020</i></p> <p>Wiretapping: authorization</p>	<p>PEN 629.98</p>	<p>Extends until January 1, 2025, the laws establishing a procedure for a prosecutor to apply for, and the court to issue, an order authorizing law enforcement to intercept a wire or electronic communication. A violation of these provisions is punishable as a misdemeanor or as a felony.</p>
<p>AB 391 (Voepel), CH. 609 <i>Effective/Operative Date:</i> <i>January 1, 2020</i></p> <p>Leased and rented vehicles: embezzlement and theft</p>	<p>VEH 10500, 10855</p>	<p>Decreases the five-day period following the expiration of an auto-rental agreement or lease for the presumption of embezzlement to apply to 72 hours. Expands the scope of a crime by, among other things, requiring the owner of an embezzled vehicle to attempt to contact the other party to the lease or rental agreement who has failed to return the vehicle using the contact method specified in the lease or rental agreement. Sunsets these provisions on January 1, 2024.</p>
<p>AB 454 (Kalra), CH. 349 <i>Effective/Operative Date:</i> <i>January 1, 2020</i></p> <p>Migratory birds: California Migratory Bird Protection Act</p>	<p>F&G 3513</p>	<p>Expands the scope of a crime by making it unlawful to take or possess any migratory nongame bird, or any part of a migratory nongame bird, as designated in the federal Migratory Bird Treaty Act (MBTA) before January 1, 2017, or that may be designated under the federal MBTA after January 1, 2017.</p>
<p>AB 611 (Nazarian), CH. 613 <i>Effective/Operative Date:</i> <i>January 1, 2020</i></p> <p>Sexual abuse of animals</p>	<p>PEN 286.5, 597.9</p>	<p>Expands the scope of a crime by prohibiting sexual contact, as defined, with any animal. Authorizes the seizure of an animal used in the violation of this provision. Makes it a misdemeanor for persons convicted of animal sexual contact to own, possess, maintain, care for, reside with, or have custody of an animal for a specified period of time after conviction.</p>
<p>AB 814 (Chau), CH. 16 <i>Effective/Operative Date:</i> <i>January 1, 2020</i></p> <p>Vehicles: unlawful access to computer systems</p>	<p>PEN 502</p>	<p>Changes the definition of a crime by clarifying that, for purposes of the prohibition against unlawfully accessing a computer system, a computer system includes devices or systems that are located within, connected to, or integrated with, a motor vehicle.</p>

BILL NUMBER AND CHAPTER, EFFECTIVE DATE, AND TITLE	CODE SECTION(S)	SUMMARY DESCRIPTION OF NEW LAW
AB 840 (Dahle), CH. 355 <i>Effective/Operative Date:</i> <i>January 1, 2020</i> Alcoholic beverages: licenses: imports	B&P 23399.52, 23661	Authorizes the Department of Alcoholic Beverage Control to create and issue a special on-sale general license to a person who owns or operates a facility that is partially located in the County of Placer, California, and partially located in the County of Washoe, Nevada, thereby expanding the definition of a crime because the violation of a provision of a license is punishable as a misdemeanor.
AB 879 (Gipson), CH. 730 <i>Effective/Operative Date:</i> <i>January 1, 2020</i> Firearms	PEN 16170, 16531, 16532, 18010, 27585, 30400– 30495, 30800	Requires, among other things, commencing July 1, 2024, that the sale of firearms precursor parts be conducted through a licensed firearms precursor part vendor. Provides that a person prohibited from owning or possessing a firearm shall not own or possess, or have under their custody or control a firearm precursor part and prohibits the selling or giving of a firearm precursor part to a person under 21 years of age. Makes violations of these provisions a crime.
AB 880 (Oberholte), CH. 618 <i>Effective/Operative Date:</i> <i>January 1, 2020</i> Transportation network companies: participating drivers: criminal background checks	PUC 5445.2	Expands the scope of a crime by prohibiting a transportation network company from contracting with, employing, or retaining a driver if the driver has been convicted of human trafficking offenses.
AB 949 (Medina), CH. 266 <i>Effective/Operative Date:</i> <i>January 1, 2020</i> Unsafe used tires: installation	B&P 9889.30	Expands the scope of a crime by prohibiting an automotive repair dealer from installing an unsafe used tire, as defined, on a motor vehicle for use on a highway.
AB 973 (Irwin), CH. 184 <i>Effective/Operative Date:</i> <i>January 1, 2020</i> Pharmacies: compounding	B&P 4126.8	Expands the scope of a crime by requiring the compounding of drug preparations by a pharmacy for furnishing, distribution, or use to be consistent with standards established in the pharmacy compounding chapters of the current version of the United States Pharmacopeia–National Formulary, including relevant testing and quality assurance.
AB 1032 (Quirk), CH. 105 <i>Effective/Operative Date:</i> <i>January 1, 2020</i> Ticket sellers: equitable ticket-buying process: use or sale of services	B&P 22505.5	Changes the definition of a crime by making it unlawful for a person to intentionally use or sell services to circumvent a security control or measure that is used to ensure an equitable ticket-buying process for event attendees.

BILL NUMBER AND CHAPTER, EFFECTIVE DATE, AND TITLE	CODE SECTION(S)	SUMMARY DESCRIPTION OF NEW LAW
<p>AB 1165 (Bauer-Kahan), CH. 823</p> <p><i>Effective/Operative Date: January 1, 2020</i></p> <p>Child custody: supervised visitation</p>	<p>FAM 3200.5; H&S 1596.60</p>	<p>Revises requirements for professional providers of supervised visitation services in child custody matters. Specifically, requires that professional supervised visitation providers, beginning January 1, 2021, be registered as TrustLine providers, which requires successful completion of a criminal background check, thereby expanding the scope of a crime for failure to register. Revises the required training for professional supervised visitation providers to require the following:</p> <ul style="list-style-type: none"> • The training be completed prior to providing supervised visitation services, at least 12 of the 24 required hours of instruction be provided as classroom instruction, and, at least three hours of training be on the screening, monitoring, and termination of visitation; • At least three hours be on the developmental needs of children; • At least three hours be on issues relating to substance abuse, child abuse, sexual abuse, and domestic violence; • At least one hour be on basic knowledge of family law.
<p>AB 1254 (Kamlager-Dove), CH. 766</p> <p><i>Effective/Operative Date: January 1, 2020</i></p> <p>Bobcats: take prohibition: hunting season: management plan</p>	<p>F&G 4152, 4153, 4154, 4156, 4157, 4158, 4181</p>	<p>Expands the scope of a crime by making it unlawful to hunt, trap, or otherwise take a bobcat, except under specified circumstances, including under a depredation permit.</p>
<p>AB 1292 (Bauer-Kahan), CH. 110</p> <p><i>Effective/Operative Date: January 1, 2020</i></p> <p>Firearms</p>	<p>PEN 16960, 16990, 25570, 26392, 26406, 26582, 26589, 27920, 27922, 31700</p>	<p>Among other things, changes the definition of a crime by exempting a person, if the person gives prior notice to a law enforcement agency, from the prohibition of openly carrying a firearm in the following circumstances: (1) the person finds a handgun and is transporting the handgun in order to comply with the relevant California Civil Code "lost or unclaimed property" provisions; (2) the person finds a handgun and is transporting it to a law enforcement agency for disposition according to law; or (3) the person took the firearm from another person who was committing a crime against the person and is transporting it to a law enforcement agency for disposition according to law.</p>
<p>AB 1294 (Salas), CH. 268</p> <p><i>Effective/Operative Date: January 1, 2020</i></p> <p>Criminal profiteering</p>	<p>PEN 186.2</p>	<p>Expands the definition of criminal forfeiture by amending the California Control of Profits of Organized Crime Act to include specified crimes within the definition of gambling.</p>

BILL NUMBER AND CHAPTER, EFFECTIVE DATE, AND TITLE	CODE SECTION(S)	SUMMARY DESCRIPTION OF NEW LAW
<p>AB 1328 (Holden), CH. 772</p> <p><i>Effective/Operative Date:</i> <i>January 1, 2020</i></p> <p>Oil and gas: notice of intention to abandon well: study of fugitive emissions from idle, idle-deserted, and abandoned wells</p>	PRC 3206.2, 3229	<p>Requires oil and gas operators with wells selected for purposes of specified sampling to do the following: (1) make reasonable efforts to permit access to the wells to the division and the independent experts contracted to undertake the study if adequate notice is provided to the operator to ensure appropriate safety precautions are taken at the well site; and (2) submit to the division a certification stating that no action was taken to reduce emissions from the sampling site within 72 hours of the sampling taking place so as to reduce the value of measurements taken. A violation of these requirements is a crime.</p>
<p>AB 1482 (Chiu), CH. 597</p> <p><i>Effective/Operative Date:</i> <i>January 1, 2020</i></p> <p>Tenant Protection Act of 2019: tenancy: rent caps</p>	CIV 52.6, 1947.13	<p>Expands the scope of the crime of perjury by requiring an owner of an assisted housing development to demonstrate compliance with specified provisions.</p>
<p>AB 1563 (Santiago), CH. 831</p> <p><i>Effective/Operative Date:</i> <i>January 1, 2020</i></p> <p>Census: interference with the census: California Census Bill of Rights and Responsibilities</p>	GOV 12172.8; PEN 529.6	<p>Makes it a misdemeanor for any person to falsely represent themselves as a census taker or to falsely assume some or all of the activities of a census taker with the intent to interfere with the operation of the census or with the intent to obtain information or consent to an otherwise unlawful search or seizure.</p>
<p>AB 1669 (Bonta), CH. 736</p> <p><i>Effective/Operative Date:</i> <i>January 1, 2020</i></p> <p>Firearms: gun shows and events</p>	PEN 27205, 27210, 27220, 27225, 27235, 27240, 27305, 27310, 27315, 27320, 27340, 27345, 28225, 28233, 28235, 28240	<p>Among other things, expands the scope of a crime by requiring ammunition vendors who participate in gun shows to follow the same regulations that are currently required of firearms dealers who participate in gun shows.</p>
<p>AB 1801 (Committee on Agriculture), CH. 324</p> <p><i>Effective/Operative Date:</i> <i>January 1, 2020</i></p> <p>Cattle: inspections</p>	F&A 10511, 19020, 21283, 21283.5, 21285, 21288, 21288.5, 21563, 21563.5, 65071	<p>Changes the definition of a crime by amending the California Meat and Poultry Supplemental Inspection Act, a violation of which is a crime, to provide that the act does not apply to a mobile slaughter operator who provides services to an owner of cattle if the slaughter occurs on the premises of a person who raised the cattle and who is not the owner of the cattle. Requires the person who raised the cattle and the mobile slaughter operator to maintain specified records and requires those records to be made available upon request to a department inspector, investigator, or peace officer.</p>

BILL NUMBER AND CHAPTER, EFFECTIVE DATE, AND TITLE	CODE SECTION(S)	SUMMARY DESCRIPTION OF NEW LAW
<p>SB 8 (Glazer), CH. 761</p> <p><i>Effective/Operative Date:</i> <i>January 1, 2020</i></p> <p>State parks: state beaches: smoking ban</p>	PRC 5008.10	<p>Makes it an infraction punishable by a fine of up to \$25 for a person to smoke on a state beach, as defined, or in a unit of the state park system, as defined, except as provided, or to dispose of used cigar or cigarette waste on a state beach or in a unit of the state park system unless the disposal is made in an appropriate waste receptacle.</p>
<p>SB 61 (Portantino), CH. 737</p> <p><i>Effective/Operative Date:</i> <i>January 1, 2020</i></p> <p>Firearms: transfers</p>	PEN 26835, 27510, 27535, 27540, 27590	<p>Expands the scope of a crime by (1) prohibiting the sale of a semiautomatic centerfire rifle to any person under 21 years of age; and (2) beginning July 1, 2021, prohibiting a person from making an application to purchase more than one semiautomatic centerfire rifle in any 30-day period.</p>
<p>SB 62 (Dodd), CH. 137</p> <p><i>Effective/Operative Date:</i> <i>January 1, 2020</i></p> <p>Endangered species: accidental take associated with routine and ongoing agricultural activities: state safe harbor agreements</p>	F&G 2087, 2089.26	<p>Extends the duration of a crime by extending the sunset date on the authority for accidental take of listed species in the course of otherwise lawful and routine agricultural activities until January 1, 2024. Requires the reporting of known instances of accidental take to the Department of Fish and Wildlife, and extends the California State Safe Harbor Agreement Program Act indefinitely. A violation of either of these requirements is a crime.</p>
<p>SB 71 (Leyva), CH. 564</p> <p><i>Effective/Operative Date:</i> <i>January 1, 2020</i></p> <p>Political Reform Act of 1974: campaign expenditures: limitations</p>	GOV 85304, 85304.5, 89513	<p>Amends the Political Reform Act of 1974, a violation of which is a crime, to (1) prohibit the expenditure of funds in a legal defense fund campaign account to pay or reimburse a candidate or elected officer for a penalty, judgment, or settlement related to a claim of sexual assault, sexual abuse, or sexual harassment filed against the candidate or elective officer in any civil, criminal, or administrative proceeding; and (2) prohibit the expenditure of campaign funds to pay or reimburse a candidate or elected officer for a penalty, judgment, or settlement related to a claim of sexual assault, sexual abuse, or sexual harassment in any civil, criminal, or administrative proceeding.</p>
<p>SB 94 (Committee on Budget and Fiscal Review), CH. 25</p> <p><i>Effective/Operative Date:</i> <i>Effective Immediately</i></p> <p>Public safety: omnibus</p>	Various codes	<p>Among other things, extends the operation of the crime of organized retail theft and the supporting grant program to reduce recidivism of high-risk misdemeanor probationers from January 1, 2021, to July 1, 2021.</p>

BILL NUMBER AND CHAPTER, EFFECTIVE DATE, AND TITLE	CODE SECTION(S)	SUMMARY DESCRIPTION OF NEW LAW
<p>SB 159 (Wiener), Senate Enrolled</p> <p><i>Effective/Operative Date: January 1, 2020</i></p> <p>HIV: preexposure and postexposure prophylaxis</p>	Various codes	<p>Amends the Pharmacy Law, a violation of which is a crime, to authorize a pharmacist to furnish preexposure prophylaxis and postexposure prophylaxis in specified amounts and requires a pharmacist to furnish those drugs if certain conditions are met. Requires a pharmacist, before furnishing preexposure prophylaxis or postexposure prophylaxis, to complete a training program approved by the board.</p> <p>Amends the Knox-Keene Health Care Service Plan Act of 1975, a violation of which is a crime, to prohibit health care plans and insurers from subjecting antiretroviral drugs, including preexposure prophylaxis or postexposure prophylaxis, to prior authorization or step therapy. Prohibits plans and insurers from prohibiting, or allowing a pharmacy benefit manager to prohibit, a pharmacy provider from providing preexposure prophylaxis or postexposure prophylaxis and from covering preexposure prophylaxis that has been furnished by a pharmacist in excess of specified amounts.</p>
<p>SB 172 (Portantino), CH. 840</p> <p><i>Effective/Operative Date: January 1, 2020</i></p> <p>Firearms</p>	Various codes	<p>Expands the scope of and creates new crimes by, among other things: (1) making the crime of criminal storage applicable to the storage of an unloaded firearm and making it a crime for a person who has been convicted of this crime to own a firearm for a period of 10 years; (2) making the crime to keep a handgun within a premises with knowledge that a child or person prohibited from possessing a firearm is likely to gain access applicable to any firearm; and (3) requiring the Department of Social Services to promulgate regulations prescribing the procedures for a firearm and ammunition to be centrally stored in a locked gun safe within community care facilities for adults, residential care facilities for persons with chronic life-threatening illness, and residential care facilities for the elderly if the facility permits licensees, residents, or clients to possess firearms on its premises. Makes a violation of these requirements by a facility a crime.</p>
<p>SB 224 (Grove), CH. 119</p> <p><i>Effective/Operative Date: January 1, 2020</i></p> <p>Grand theft: agricultural equipment</p>	PEN 487k, 489	<p>Among other things, changes the definition of the crime of grand theft by including a person who steals, takes, or carries away tractors, all-terrain vehicles or other agricultural equipment, or any portion thereof, used in the acquisition or production of food for public consumption that are of a value exceeding \$950.</p>

BILL NUMBER AND CHAPTER, EFFECTIVE DATE, AND TITLE	CODE SECTION(S)	SUMMARY DESCRIPTION OF NEW LAW
<p>SB 276 (Pan), CH. 278 <i>Effective/Operative Date:</i> <i>January 1, 2020</i></p> <p>Immunizations: medical exemptions</p>	<p>H&S 120370, 120372, 120372.05, 120375, 120440</p>	<p>Among other things, requires the state Department of Public Health, by January 1, 2021, to develop and make available for use by licensed physicians and surgeons an electronic, standardized, statewide medical exemption request that would be transmitted using the California Immunization Registry (CAIR), and which, commencing January 1, 2021, would be the only documentation of a medical exemption that a governing authority may accept. Requires certain information to be included in the medical exemption form, including a certification under penalty of perjury that the statements and information contained in the form are true, accurate, and complete.</p>
<p>SB 496 (Moorlach), CH. 272 <i>Effective/Operative Date:</i> <i>January 1, 2020</i></p> <p>Financial abuse of elder or dependent adults</p>	<p>W&I 15630.2, 15633, 15633.5, 15640, 15655.5</p>	<p>Among other things, expands the category of mandated reporters of suspected financial abuse of elders to include a broker, dealer, or investment advisor, as specified, and expands the scope of a crime by extending confidentiality requirements to a report of known or suspected financial abuse of an elder or dependent adult by a broker-dealer or investment adviser.</p>
<p>SB 552 (Archuleta), CH. 481 <i>Effective/Operative Date:</i> <i>January 1, 2020</i></p> <p>Hazardous waste: household hazardous waste: door-to-door collection programs: residential pickup services</p>	<p>H&S 25160.8, 25218.1, 25218.5, 25404</p>	<p>Among other things, expands the scope of a crime by extending indefinitely the law that (1) authorizes a registered hazardous waste transporter operating a door-to-door household hazardous waste collection program or household hazardous waste residential pickup service to use a specified manifesting procedure for transporting household hazardous waste, as specified; and (2) requires a transporter that uses the specified manifesting procedure to submit quarterly reports to the Department of Toxic Substances.</p>
<p>SB 583 (Jackson), CH. 482 <i>Effective/Operative Date:</i> <i>January 1, 2020</i></p> <p>Clinical trials</p>	<p>H&S 1370.6; INS 10145.4</p>	<p>Expands the scope of a crime by amending the Knox-Keene Health Care Service Plan Act of 1975, a violation of which is a crime, to conform California law relating to health plan and insurer coverage requirements for participants in clinical trials to incorporate federal requirements enacted as part of the Affordable Care Act, which includes expanding the type of clinical trials to include life-threatening diseases or conditions.</p>
<p>SB 677 (Allen), CH. 254 <i>Effective/Operative Date:</i> <i>January 1, 2020</i></p> <p>Retail food safety: nonlatex gloves</p>	<p>H&S 113961, 113973</p>	<p>Expands the scope of a crime by revising standards enforced by local health agencies prohibiting the use of latex gloves in food facilities and retail food establishments and requiring food employees to use nonlatex utensils, including nonlatex gloves.</p>
<p>SB 698 (Leyva), CH. 508 <i>Effective/Operative Date:</i> <i>January 1, 2020</i></p> <p>Employee wages: payment</p>	<p>LAB 204</p>	<p>Expands the scope of a crime relating to pay dates requiring Regents of the University of California to pay their employees on a regular payday. Requires those university employees who are paid on a monthly basis to be paid no later than five days after the close of the monthly payroll period, as specified.</p>

BILL NUMBER AND CHAPTER, EFFECTIVE DATE, AND TITLE	CODE SECTION(S)	SUMMARY DESCRIPTION OF NEW LAW
SB 717 (Jones), CH. 671 <i>Effective/Operative Date:</i> <i>January 1, 2020</i> Advertising	B&P 25503.6	Expands the definition of a crime by amending the Alcoholic Beverage Control Act to authorize a craft distiller to purchase advertising space from, or on behalf of, an on-sale retail licensee subject to specified conditions including that the advertising is conducted pursuant to a written contract with the on-sale licensee.
SB 726 (Caballero), CH. 485 <i>Effective/Operative Date:</i> <i>January 1, 2020</i> Hazardous waste: public agencies: materials exchange program	H&S 25217, 25218.1, 25218.5, 25218.5.1, 25218.11.5, 25218.12	Expands the scope of crimes by amending certain hazardous waste control laws, a violation of which is a crime, to (1) define "materials exchange program" to mean a program conducted at a household hazardous waste collection facility that makes reusable household hazardous products or materials available to recipients; (2) authorize a public agency's contractor to conduct a materials exchange program, as specified; (3) revise the requirements for the preparation and implementation of a quality assurance plan to require, among other things, a quality assurance plan prepared by a public agency, or its contractor, be implemented at each household hazardous waste collection facility operated by the public agency, or its contractor, at which a materials exchange program is operated; (4) require a recipient of a reusable household hazardous product or material to use the product or material as directed; (5) impose additional requirements on certain recipients that are commercial entities, including, among other requirements, that those commercial entities sign a statement certifying the accuracy of certain information under penalty of perjury; (6) authorize a permanent household hazardous waste collection facility to transport hazardous waste; (7) prohibit an individual from transporting reusable household hazardous products or materials that exceed the above-mentioned maximum volume or weight; and (8) require transportation of a reusable household hazardous product or material by a public agency or its contractor, or by a recipient, to be in compliance with all applicable shipping requirements of the U.S. Department of Transportation.

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Summary of
Court-Related Legislation

JUDICIAL COUNCIL OF CALIFORNIA • GOVERNMENTAL AFFAIRS

NOVEMBER 2019

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JUDICIAL COUNCIL OF CALIFORNIA

***Chief Justice of California and
Chair of the Judicial Council***

Tani G. Cantil-Sakauye

Administrative Director

Martin Hoshino

GOVERNMENTAL AFFAIRS

Director

Cory T. Jasperson

Contributing Writers

Andi Liebenbaum
Mark Neuburger
Sharon Reilly
Nichole Rocha

Contributing Editors

Leily Arzy
Jenniffer Herman

JUDICIAL COUNCIL SUPPORT

Editing and Graphics

Copy Editor

Marcus Gonzalez

Proofreader

Patricia Valentine

Design and Production

Yelena Bondarenko



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REPORT TO THE JUDICIAL COUNCIL

For business meeting on November 14, 2019

Title	Agenda Item Type
Judicial Council: 2020 Legislative Priorities	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
None	November 14, 2019
Recommended by	Date of Report
Policy Coordination and Liaison Committee	October 28, 2019
Hon. Marla O. Anderson, Chair	Contact
	Cory T. Jasperson, 916-323-3121
	cory.jasperson@jud.ca.gov

Executive Summary

Each year, the Judicial Council authorizes sponsorship of legislation to further key council objectives and establishes priorities for the upcoming legislative year. In past years, the council's legislative priorities have focused on implementing efficiencies in the courts, investing in the judicial branch, and securing critically needed judgeships. Staff recommends that the Policy Coordination and Liaison Committee recommend to the Judicial Council a similar approach for the 2020 legislative year.

Recommendation

The Policy Coordination and Liaison Committee (PCLC) recommends that the Judicial Council approve the following legislative priorities for 2020:

1. Advocate for:
 - a. Continued investment in the judicial branch to include a method for stable and reliable funding for courts to address annual cost increases in baseline operations and plan for the future, and

- b. Sufficient additional resources to improve physical access to the courts by keeping courts open, to expand access by increasing the ability of court users to conduct branch business online, to restore programs and services that were reduced over the past few years, and to continue to implement innovations in programs and services;
2. Increase the number of judgeships and judicial officers in superior courts with the greatest need by:
 - a. Seeking funding for the remaining¹ authorized but unfunded judgeships, to be allocated to the courts with the greatest need based on the most recently approved Judicial Needs Assessment;
 - b. Advocating for legislative ratification of the Judicial Council's authority to convert vacant subordinate judicial officer (SJO) positions to judgeships in eligible courts;
3. Seek legislative authorization, if needed and authorized by the Judicial Council in 2020, for the disposition of unused courthouses in a fair-market-value transaction, with the proceeds to be directed to the Immediate and Critical Needs Account (ICNA) of the State Court Facilities Construction Fund established by Senate Bill 1407 (Perata; Stats, 2008, ch. 311) or any other Judicial Council facilities fund authorized by the Legislature;
4. Continue to sponsor or support legislation to improve judicial branch operational efficiencies, including cost savings and cost recovery measures;
5. Advocate for legislation to implement pretrial detention reform; and
6. Delegate to PCLC the authority to take positions or provide comments on behalf of the Judicial Council on proposed legislation (state and federal), administrative rules or regulations, and proposals by other bodies or agencies after evaluating input from council advisory bodies, council staff, and the courts, provided that the input is consistent with the council's established policies and precedents.

Relevant Previous Council Action

The council has taken a variety of actions over the past years related to the above recommendations. A description of recent key actions in these areas follows.

Budget

In 2009 and 2010, the council adopted as a key legislative priority for the following year advocating to secure sufficient funding for the judicial branch to allow the courts to meet their constitutional and statutory obligations and provide appropriate and necessary services to the

¹ The Budget Act of 2019 (Assem. Bill 74; Stats. 2019, ch. 23) provided \$30.4 million in funding for 25 judgeships, leaving the remaining 23 of the 50 judgeships authorized in 2007 (Assem. Bill 159 [Jones]; Stats. 2007, ch. 722.) unfunded.

public. In December 2011, the council adopted as a key legislative priority for 2012 advocating against further budget reductions and for sufficient resources to allow trial courts to be in a position to reopen closed courts and restore critical staffing, programs, and services that were reduced or eliminated in the preceding several years. Another key legislative priority for 2012 was to advocate for a combination of solutions to provide funding restorations for a portion of the funding eliminated from the branch budget since 2008.

In 2013, the council adopted a key legislative priority of advocating to achieve budget stability for the judicial branch, including advocating against further budget reductions and for sufficient resources to allow courts to be in a position to reopen closed courthouses; restore court facility construction and maintenance projects; and restore critical staff, programs, and services that were reduced or eliminated in the preceding four years. Annually, since 2014, the council has included similar priorities to achieve budget stability for the judicial branch, including advocating for (1) sufficient fund balances to allow courts to manage cash flow challenges; (2) a method for stable and reliable funding for courts to address annual cost increases in baseline operations; (3) sufficient additional resources to allow courts to improve physical access to the courts by keeping courts open and to expand access by increasing the ability of court users to conduct branch business online; and (4) restoration of programs and services that were reduced or eliminated in the preceding few years.

Judgeships and SJO conversions

The Judicial Council has sponsored numerous bills to authorize and fund additional judgeships. In 2005, the council sponsored Senate Bill 56 (Dunn; Stats. 2006, ch. 390), which authorized the first 50 of the 150 critically needed judgeships. Full funding was provided in the 2007 Budget Act, and judges were appointed to each of the 50 judgeships created by SB 56.

In 2007, the council secured the second set of 50 new judgeships (Assem. Bill 159 [Jones]; Stats. 2007, ch. 722), with funding to have allowed appointments to begin in June 2008. However, because of budget constraints, the funding was delayed until July 2009, allowing the state to move the fiscal impact from fiscal year (FY) 2007–08 to FY 2009–10. The Governor included funding for the second set of judgeships in the proposed 2009 Budget Act, but the funding ultimately was made subject to what has been called the “federal stimulus trigger.” This trigger was “pulled,” and the funding for the new judgeships and the various other items made contingent on the trigger was not provided.

Almost every year since then, the Judicial Council has sponsored one or more bills to authorize funding for new judgeships (see the table below).

Judicial Council–Sponsored Legislation to Authorize or Fund Additional Judgeships

Year	Bill No.	Author	Purpose	Result
2008	SB 1150	Corbett	Authorize third set of new judgeships	Held in Senate Appropriations Committee
2009	SB 377	Corbett	Authorize third set of new judgeships	Held in Senate Appropriations Committee
2011, 2012	AB 1405	Committee on Judiciary	Authorize third set of new judgeships	Did not move forward
2014	SB 1190	Jackson	Authorize third set of new judgeships*	Held in Senate Appropriations Committee
2015	SB 229	Roth	Fund 12 of 50 previously authorized judgeships [†]	Vetoed by Governor Brown
2016	SB 1023	Committee on Judiciary	Fund 12 of 50 previously authorized judgeships [†]	Held in Senate Appropriations Committee
2016	AB 2341	Obernolte	Reallocate judgeships [‡]	Held in Senate Appropriations Committee
2017	SB 38	Roth	Authorize judgeships	Held in Assembly Appropriations
2017	SB 39	Roth	Reallocate judgeships	Held in Senate Appropriations Committee
2017	AB 414	Medina	Reallocate judgeships	Did not move forward
2019	SB 16	Roth	Fund 25 of 50 previously authorized judgeships	Held in Senate Appropriations Committee

* SB 1190 also sought to secure funding for the second set of 50 new judgeships approved in 2007 but not yet funded.

[†] SB 229 sought to appropriate \$5 million for the funding.

[‡] Specifically, AB 2341 sought to reallocate up to five vacant judgeships from courts with more authorized judgeships than their assessed judicial need to courts with fewer judgeships than their assessed judicial need. The allocation of the vacant judgeships would be based on a methodology approved by the Judicial Council and under criteria contained in Government Code section 69614(b).

With regard to subordinate judicial officer conversions, existing law allows the Judicial Council to convert a total of 162 SJO positions, upon vacancy, to judgeships. The statute caps the number that may be converted each year at 16 and requires the council to seek legislative ratification to exercise its authority to convert positions in any given year. For the past five years, that legislative ratification took the form of language included in the annual Budget Act. The council converted the maximum 16 positions in each fiscal year from 2007 through 2011; 20 in FY 2011–12²; 13 in FY 2012–13; 11 in FY 2013–14; 9 in FY 2014–15; 11 in FY 2015–16; 6 in both FY 2016–17 and FY 2017–18; and 15 in FY 2018–19. So far in FY 2019–20, no positions have been converted.

Additionally, legislation enacted in 2010 (Assem. Bill 2763; Stats. 2010, ch. 690) expedites conversions by authorizing up to 10 additional conversions per year, if the conversion results in a

² The total conversions in FY 2011–12 exceed 16 because of the enactment of SB 405 (Stats. 2011, ch. 705), which increased the number of allowable conversions in specific circumstances for this fiscal year.

judge's being assigned to a family or juvenile law assignment previously presided over by an SJO. This legislation requires that the ratification for these additional 10 positions be secured through legislation separate from the budget. Since 2011, the Judicial Council has sponsored legislation to secure legislative ratification of these additional SJO conversions:

Senate Bill 405 (Stats. 2011, ch. 705)	Assembly Bill 1519 (Stats. 2015, ch. 416)
Assembly Bill 1403 (Stats. 2013, ch. 510)	Assembly Bill 2882 (Stats. 2016, ch. 474)
Assembly Bill 2745 (Stats. 2014, ch. 311)	Assembly Bill 1692 (Stats. 2017, ch. 330)

In total, 155 SJO positions have been converted, leaving only 7 of the total 162 positions that remain to be converted.

Disposition of vacant courthouses

In December 2015, the Judicial Council approved sponsorship of a proposal to authorize the disposition of the San Pedro Courthouse as nonsurplus property, with proceeds of its sale to be placed in the Immediate and Critical Needs Account of the State Court Facilities Construction Fund.

In February 2016, the Judicial Council authorized and approved the sale of the Corning Courthouse to Tehama County and the Chico Courthouse to Butte County in fair-market-value transactions, with proceeds from those sales treated in the same manner as in the final form of legislative authorization for disposition of the San Pedro Courthouse. The Judicial Council sponsored the legislation authorizing disposition of the San Pedro Courthouse (Assem. Bill 1900 [Jones-Sawyer]; Stats. 2016, ch. 510, codified at Gov. Code, § 70395).

In December 2016, the Judicial Council authorized and approved the sale of the Clovis, Firebaugh, and Reedley Courthouses in Fresno County and the Avenal and Corcoran Courthouses in Kings County as nonsurplus properties, with proceeds from those sales directed to ICNA. The Judicial Council sponsored Senate Bill 403 (Canella; Stats. 2017, ch. 358) authorizing the sale of the Avenal, Chico, Clovis, Corcoran, Corning, Firebaugh, and Reedley Courthouses.

Most recently, the Judicial Council authorized the sale of the West Los Angeles Courthouse and the Mental Health Courthouse in Los Angeles, with proceeds from those sales directed to ICNA. The authorizing legislation, Assembly Bill 2309 (Bloom; Stats. 2018, ch. 536), was signed by the Governor on September 19, 2018.

Efficiencies

To address the budget crisis faced by the branch, in April 2012, the Judicial Council approved for sponsorship 17 legislative proposals for trial court operational efficiencies, cost recovery, and new revenue. An additional six efficiency proposals were approved for sponsorship in April 2013. Several noncontroversial and relatively minor measures were successfully enacted into

law, while several remaining efficiencies were rejected by the Legislature,³ including one seeking to eliminate the requirement that courts destroy infraction records relating to possession or transport of marijuana.⁴ The 2019 Budget Act includes \$13.901 million in FY 2019–20 and \$2.929 million in FY 2020–21 to support increased workload for the trial courts as a result of the enactment of Assembly Bill 1793 (Stats. 2018, ch. 993), which requires sentence modification of past cannabis conviction cases under the Control, Regulate, and Tax Adult Use of Marijuana Act of 2016, also known as Proposition 64.

The California Rules of Court⁵ authorizes PCLC to act for the council by:

(1) Taking a position on behalf of the council on pending legislative bills, after evaluating input from the council advisory bodies and Judicial Council staff, and any other input received from the courts, provided that the position is consistent with the council’s established policies and precedents;

(2) Making recommendations to the council on all proposals for council-sponsored legislation and on an annual legislative agenda after evaluating input from council advisory bodies and Judicial Council staff, and any other input received from the courts; and

(3) Representing the council’s position before the Legislature and other bodies or agencies and acting as liaison with other governmental entities, the bar, the media, the judiciary, and the public regarding council-sponsored legislation, pending legislative bills, and the council’s legislative positions and agendas.

(Cal. Rules of Court, rule 10.12(a).)

Analysis/Rationale

Policy implications

The mission of the Judicial Council includes providing leadership for improving the quality and advancing the consistent, independent, impartial, and accessible administration of justice.

Among the guiding principles underlying this mission is a commitment to meet the needs of the public, which includes reinvestment in our justice system to preserve and improve access to justice, which Californians expect and deserve.

Further, Chief Justice Tani G. Cantil-Sakauye has proposed a framework to increase public access to the courts. Her vision, entitled Access 3D, combines strategies from the courts—actions that will ensure greater public access—with a reasonable reliance on funds reinvested

³ See Attachment A for a list of efficiency and cost-recovery measures approved and rejected by the Legislature.

⁴ Health & Saf. Code, § 11361.5.

⁵ See www.courts.ca.gov/cms/rules/index.cfm?title=ten&linkid=rule10_12.

into the judicial branch. Access 3D is a multidimensional approach to ensuring that Californians have access to the justice system they demand and deserve. The three dimensions of access are:

- Improved physical access, by keeping courts open and operating during hours that benefit the public;
- Increased remote access, by increasing the ability of court users to conduct branch business online; and
- Enhanced equal access, by serving people of all languages, abilities, and needs, reflecting California's diversity.

The proposed 2020 legislative priorities continue to support the goals of Access 3D.

Comments

This proposal did not circulate for public comment.

Alternatives considered

No alternatives were considered.

Fiscal and Operational Impacts

The public expects and deserves access to California's courts. Providing timely access to high-quality justice is the cornerstone of Access 3D. The key to the success of Access 3D is a robust reinvestment in the courts. Adoption of the proposed legislative priorities will allow Judicial Council staff to support the goals of Access 3D.

The recommendations support many of the council's strategic plan goals, including Goal I, Access, Fairness, and Diversity, by seeking to secure funding to provide access to the courts for all Californians; Goal II, Independence and Accountability, by seeking to secure sufficient judicial branch resources to ensure accessible, safe, efficient, and effective services to the public; and Goal IV, Quality of Justice and Service to the Public, by seeking funding to continue critical programs to meet the needs of court users.

Attachments and Links

1. Attachment A: *Efficiencies and Cost-Recovery Proposals Approved or Rejected by the Legislature*

Efficiencies and Cost-Recovery Proposals Approved or Rejected by the Legislature

Approved by the Legislature

Senate Bill 75 (Stats. 2013, ch. 31), a trailer bill of the Budget Act of 2013, includes the following efficiency/cost-recovery proposals:

- Increase the statutory fee from \$10 to \$15 for a clerk mailing service of a claim and order on a defendant in small claims actions.
- Prohibit the Franchise Tax Board (FTB) and the State Controller from conditioning submission of court-ordered debt to the Tax Intercept Program on the court's or county's providing the defendant's social security number, while still allowing the social security number to be released if FTB believes it would be necessary to provide accurate information.
- Increase the fee from \$20 to \$50 for exemplification of a record or other paper on file with the court.
- Modify the process for evaluating the ability of a parent or guardian to reimburse the court for the cost of court-appointed counsel in dependency matters.

Assembly Bill 619 (Stats. 2013, ch. 452) revised the formula for assessing interest and penalties for delinquent payments to the State Court Facilities Construction Fund to conform to the existing statute governing interest and penalties for late payments to the Trial Court Trust Fund by using the Local Agency Investment Fund rate.

Assembly Bill 648 (Stats. 2013, ch. 454) clarified language from the prior year that created a new \$30 fee for court reporters in civil proceedings lasting one hour or less.

Assembly Bill 1004 (Stats. 2013, ch. 460) allowed magistrates' signatures on arrest warrants to be in the form of digital signatures.

Assembly Bill 1293 (Stats. 2013, ch. 382) established a new \$40 probate fee for filing a request for special notice in certain proceedings.

Assembly Bill 1352 (Stats. 2013, ch. 274) streamlined court records retention provisions.

Senate Bill 378 (Stats. 2013, ch. 150) provided that an electronically digitized copy of an official record of conviction is admissible to prove a prior criminal act.

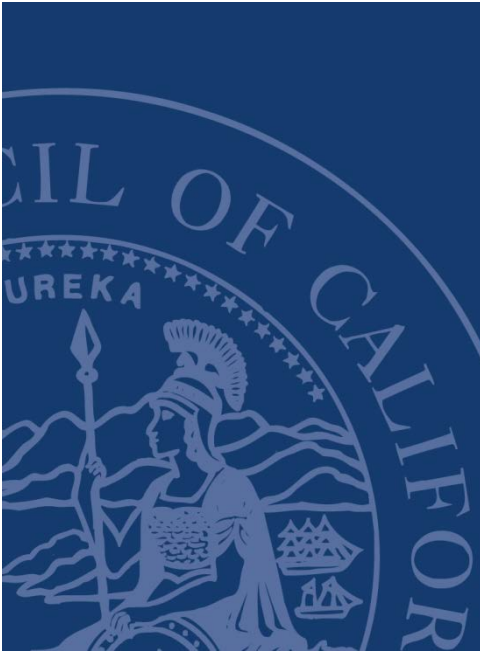
Senate Bill 843 (Stats. 2016, ch. 33), commencing January 1, 2017, and until January 1, 2021, granted a defendant six peremptory challenges in a criminal case if the offense charged is punishable with a maximum term of imprisonment of one year or less, and reduced the number of peremptory challenges that may be exercised separately by a defendant who is jointly tried from four to two in cases in which the maximum term of imprisonment is one year or less. Required the Judicial Council to conduct a study and, on or before January 1, 2020, submit a report to the Legislature on the reduction in the number of peremptory challenges.

Assembly Bill 2232 (Stats. 2016, ch. 74) corrected drafting errors in the rules governing retention of court files regarding certain misdemeanor traffic offenses.

Rejected by the Legislature

- **Administrative assessment for maintaining records of convictions under the Vehicle Code:** Clarify that courts are required to impose the \$10 administrative assessment for *each conviction* of a violation of the Vehicle Code, not just upon a “subsequent” violation.
- **Audits:** Defer required audits until trial courts and the Judicial Council receive specified funding to cover the cost of the audits.
- **Bail bond reinstatement:** Authorize courts to charge a \$65 administrative fee to reinstate a bail bond after it has been revoked.
- **Collections:** Allow courts to retain and distribute collections rather than transferring collected funds to county treasuries with distribution instructions.
- **Court costs for deferred entry of judgment:** Clarify that the court can recoup its costs in processing a request or application for diversion or deferred entry of judgment.
- **Court reporter requirement in nonmandated case types (Sen. Bill 1313; 2014 [Nielsen]):** Repeal Government Code sections 70045.1, 70045.2, 70045.4, 70045.75, 70045.77, 70045.8, 70045.10, 70046.4, 70050.6, 70056.7, 70059.8, 70059.9, and 70063 to eliminate the unfunded mandate that the enumerated courts (Butte, El Dorado, Lake, Mendocino, Merced, Modoc, Mono, Monterey, Nevada, San Luis Obispo, Solano, Tehama, Trinity, and Tuolumne Counties) use court reporters in specified nonmandated case types.
- **Destruction of records relating to possession or transportation of marijuana:** Eliminate the requirement that courts destroy infraction records relating to possession or transport of marijuana.
- **File search fee for commercial purposes:** Allow courts to charge a \$10 fee to commercial enterprises, except media outlets that use the information for media purposes, for any file, name, or information search request.
- **Marijuana possession infractions:** Amend Penal Code section 1000(a) to exclude marijuana possession, per Health and Safety Code section 11357(b), from eligibility for deferred entry of judgment.
- **Notice of mediation:** Amend Family Code section 3176 to eliminate the requirement for service by certified, return-receipt-requested, postage-prepaid mail for notice of mediation, and clarify that the court is responsible for sending the notice.
- **Notice of subsequent DUI:** Repeal Vehicle Code section 23622(c) to eliminate the court’s responsibility to provide notification of a subsequent DUI to courts that previously convicted the defendant of a DUI.
- **Penalty assessments:** Revise and redirect the \$7 penalty assessment from court construction funds to the State Court Facilities Construction Fund.
- **Preliminary hearing transcripts:** Clarify that preliminary hearing transcripts must be produced only when a defendant is held to answer the charge of homicide.

- **Sentencing report deadlines (Assem. Bill 1214; 2015 [Achadjian]/Assem. Bill 2129; 2016 [Lackey]):** Amend Penal Code section 1203 to require courts to find good cause before continuing a sentencing hearing for failure by the probation department to provide a sentencing report by the required deadlines.
- **Trial by written declaration (Assem. Bill 2871; 2016 [Obernolte]):** Eliminate the trial de novo option when the defendant in a Vehicle Code violation has not prevailed on his or her trial by written declaration.
- **Monetary sanctions against jurors (Assem. Bill 2101; 2016 [Gordon]):** Amend Code of Civil Procedure section 177.6 to add jurors to the list of persons subject to sanctions.



2019 Legislative Policy Summary

HISTORICAL SUMMARY OF
LEGISLATIVE ACTIVITY



JUDICIAL COUNCIL
OF CALIFORNIA

GOVERNMENTAL AFFAIRS

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JUDICIAL COUNCIL OF CALIFORNIA
GOVERNMENTAL AFFAIRS
HISTORICAL SUMMARY OF LEGISLATIVE ACTION

November 2019

Governmental Affairs monitors legislative activity and represents the Judicial Council before the Legislature, the Governor’s Office, and executive branch agencies and departments. The following summarizes council action regarding court-related legislative proposals. The summary is organized by policy area and includes how the actions further the objectives of the seven goals of [*Justice in Focus: The Strategic Plan for California’s Judicial Branch, 2006–2016*](#). The table that follows each policy area shows actions that are taken on legislation and that illustrate the policy. The table does not include every bill on which a council position was taken.

This document is updated annually. The electronic version of this document contains hyperlinks for viewing the text of the bills.

GENERAL PRINCIPLES

The Judicial Council supports the integrity and independence of the judicial branch and seeks to ensure that judicial procedures enhance efficiency and access to the courts. The council generally takes no position on bills involving substantive law. However, it may take a position on an apparent issue of substantive law if issues of procedure and substance are so inextricably intertwined that they directly affect court administration or judicial discretion or negatively affect existing judicial services by imposing unrealistic burdens on the system.

LEGISLATIVE ACTIVITY

I. COURT OPERATIONS

A. COURT STRUCTURE

The council supports a structure of general jurisdiction to improve court efficiency and flexibility in the use of judicial resources. For specialty calendars (e.g., drug courts, dependency drug courts, domestic violence courts) established in the trial courts, the council supports evaluation and development of best practices.

BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
AB 515	Dickinson	2013	Oppose, but direct staff to continue discussions with the author to explore possible alternatives that are more workable for the courts.	Mandates the creation of new California Environmental Quality Act (CEQA) compliance court divisions of the superior court in specified counties and vests these divisions with original jurisdiction over actions or proceedings brought under CEQA and joined matters related to land use and environmental laws. Requires a CEQA compliance division judge to issue a preliminary decision in each of these cases before the opportunity for oral argument is granted. Requires the Judicial Council to adopt rules for establishing, among other things, protocols to govern the administration and efficient operation of the divisions, so that those judges assigned to the divisions will be able to hear and quickly resolve those actions or proceedings.	II	
SB 123	Corbett	2013	Oppose; courts need the flexibility to manage their own calendars. Bill is not necessary due to existing CEQA calendar preference and special judge training requirements.	Requires the Judicial Council to direct the creation of an environmental and land use division “within two or more superior courts within each of the appellate districts of the state” (i.e., a minimum of 12 new divisions) to process all civil proceedings brought pursuant to the California Environmental Quality Act or in specified subject areas, including air quality, biological resources, climate change, hazards and hazardous materials, land use planning, and water quality. Specifies that such an action may be filed at a superior court within the county in which the underlying claim arises, but requires the proceeding to be transferred to the nearest superior court within the same appellate district that has established an environmental and land use division pursuant to the bill’s provisions. Creates new funding scheme utilizing specified fees for environmental license plates to supplement funding for the operation of the new environmental and land use divisions.	II	

JUDICIAL COUNCIL OF CALIFORNIA—GUIDING PRINCIPLES

Goal I – Access, Fairness, and Diversity

Goal II – Independence and Accountability

Goal III – Modernization of Management and Administration

Goal IV – Quality of Justice and Service to the Public

Goal V – Education for Branchwide Professional Excellence

Goal VI – Branchwide Infrastructure for Service Excellence

Goal VII – Adequate, Stable, and Predictable Funding for a Fully Functioning Branch

BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
SB 848	Emmerson	2011	Oppose	Reorganizes the Court of Appeal into seven districts by removing the counties of Riverside, San Bernardino, and Inyo (currently Division Two) from the Fourth Appellate District and creating a new Seventh Appellate District consisting of those counties.	III	
AB 1925	Salas	2010	No position	Authorizes superior courts to develop and implement veterans courts for eligible veterans of the United States military.	N/A	Outside Judicial Council purview.
SB 851	Steinberg	2007	Oppose unless amended. Neutral if amended.	Authorizes superior courts to establish and implement mental health courts, which may operate a pre-guilty plea program or a deferred entry of judgment program. Authorizes the California Department of Corrections and Rehabilitation to contract with a superior court and county to use mental health courts as a program for parolees with serious mental illnesses who either violate the terms of parole or receive new terms, as an alternative to custody. As proposed to be amended, a parolee's participation in the mental health court program would be voluntary, and the parolee would be required to sign a waiver indicating agreement that participation in the program is in lieu of parole revocation proceedings. Parolees would remain under legal custody of the Department of Corrections and Rehabilitation.	II	Inappropriately creates shared jurisdiction over parolees.
ACA 38	DeVore	2006	Oppose	Provides that the Supreme Court has original jurisdiction, and no other state court has jurisdiction, in any civil action challenging the facial validity of any statewide initiative measure or referendum placed on the ballot by signature petition of the voters and approved by the voters at a statewide election. Requires the Supreme Court to issue its decision within 90 days of the filing of the action, and establishes a 90-day statute of limitations for civil actions challenging the facial validity of this type of initiative measure or referendum.	II	
AB 1453	Daucher	2005	Oppose	Creates new water courts to adjudicate cases involving the production of groundwater.	II	Interferes with court administration.
SCA 16	Runner, George	2005	Oppose	Provides that Los Angeles County shall be divided into judicial districts established by three special masters appointed by the Supreme Court within 30 days after the effective date of the measure. Provides that each district must be geographically compact and contiguous to the extent practicable, and consist of no more than 36 superior court judges. The districts must also comply with the federal Voting Rights Act.	I, III, IV	

JUDICIAL COUNCIL OF CALIFORNIA—GUIDING PRINCIPLES

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Goal VI – Branchwide Infrastructure for Service Excellence

Goal VII – Adequate, Stable, and Predictable Funding for a Fully Functioning Branch

BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
AB 2472/ SB 1424	Wolk/ Burton	2004 2004	Oppose unless amended; neutral if amended.	Creates the California Tax Court, which would replace the State Board Equalization (BOE) as the forum that would hear and determine certain tax appeals. Provides that a taxpayer's option to file an appeal with the California Tax Court would be in lieu of filing an appeal in the California Superior Court. The bills provide further that, within 90 days of the date a determination by the California Tax Court becomes final, a taxpayer or the applicable state agency may appeal the determination of the California Tax Court to the Court of Appeal.	II	Amendments sought to eliminate use of terms "court" and "judge" and to allow review by extraordinary writ only.

B. COURT FUNDING

The council supports funding of the courts at a level that will ensure an adequate and stable source of necessary resources. The council generally opposes funding the courts by fees or fines, but departs from this general position in certain circumstances.

1. *Budget*

BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
AB 2458	Obernolte	2016	Support	Repeals the 1 percent cap on amounts trial courts are authorized to carry over from one fiscal year to another. Restores language to match pre-cap language.	VII	
AB 2629	Roger Hernández	2016	Oppose, unless amended to remove subsection (c) relating to folio rates and funded.	Raises the fee for original transcripts and additional copies provided by official court reporters and court reporters pro tempore, except those fees established by local courts that were in effect on January 1, 2012, will continue to be in effect.	II, VII	Unfunded additional burden on branch during period of chronic underfunding.
AB 619	Garcia	2013	Sponsor	Revises the formula for assessing interest and penalties for delinquent payments to the State Court Facilities Construction Fund. Makes this provision consistent with statute governing interest and penalties for late payments to the Trial Court Trust Fund. Authorizes the Controller to permit a county, city and county, or court to pay the interest or penalty amounts under a payment schedule if the interest or penalty amount causes a hardship to that entity.	III	This bill contains one of the 6 efficiency proposals approved for Judicial Council sponsorship in April 2013. See SB 539.

JUDICIAL COUNCIL OF CALIFORNIA—GUIDING PRINCIPLES

Goal I – Access, Fairness, and Diversity

Goal II – Independence and Accountability

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Goal VI – Branchwide Infrastructure for Service Excellence

Goal VII – Adequate, Stable, and Predictable Funding for a Fully Functioning Branch

BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
AB 655	Quirk-Silva	2013	Oppose	Allows trial courts to establish a Reporters' Salary Fund, which shall be a revolving fund, to be used solely to contribute to the salaries and benefits of official court reporters.	II	Places pressure on the trial courts to create a special fund that needlessly treats a particular class of employees differently.
SB 539	Margett	2007	Support	Establishes a tiered interest and penalty structure for late and underpayments to the Trial Court Trust Fund that reduce the retroactive penalty to the amount that the revenue would have earned had it been receiving the Local Agency Investment Fund (LAIF) rate so long as the court or county remits the revenue within 30 to 45 days, as specified, from the time the error is discovered; establishes that the higher penalty rate applies only from the date 30 days after the date of the issuance by the Controller of the final audit report concerning the failure to pay; and requires the entity found in error to make the payment directly to the state.	III	
AB 750	Mullin	2005	Oppose	Authorizes San Mateo County to reduce the amount it is required to remit to the state for funding court operations by 10% for three years beginning on July 1, 2005.	IV	
SB 93	Florez	2005	Neutral	Allows Tulare County to pay any interest and penalties owed to the Trial Court Trust Fund and the Trial Court Improvement Fund over a period of 10 years.	III	
SB 324	Florez	2003	Oppose unless amended	Forgives nonremittance of revenues by Tulare County to the Trial Court Trust Fund.	III	Amendment sought to add an appropriation to reimburse the Trial Court Improvement Fund.
SB 1343	Torlakson	2002	Neutral	Forgives retroactive repayment of MOE amounts to the Trial Court Trust Fund.	IV	
SB 1396	Dunn	2002	Support	Clarifies allowable and unallowable costs for court security.	IV	
SB 1153	Johannessen	2001	Oppose	Provides that costs related to court security in counties with a population of less than 103,000 shall be paid by the state.	IV	
AB 2459	Wiggins	2000	No position	Requires the council to adopt rules to provide for public access to budget allocation and expenditure information.	II, IV	

JUDICIAL COUNCIL OF CALIFORNIA—GUIDING PRINCIPLES

Goal I – Access, Fairness, and Diversity

Goal II – Independence and Accountability

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Goal VI – Branchwide Infrastructure for Service Excellence

Goal VII – Adequate, Stable, and Predictable Funding for a Fully Functioning Branch

2. *Fees, fines, penalties*

BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
AB 1531	Berman	2018	Support	Specifies that if a duplicate payment is made to a court by a party or an electronic service provider by credit card or other electronic means for, among other things, court filing fees, the court must issue any appropriate refund to the entity that made the most recent payment. Allows an electronic filing service provider—if an electronic filing is made to the court via an electronic filing service provider acting as the agent of the court for purposes of collecting and remitting filing fees, and fees owed to the electronic filing service provider remain unpaid for a period of five days after notice to the attorney of record, and the filing was made by the attorney of record and not an unrepresented party—to notify the clerk that fees remain unpaid despite notice to the attorney of record. Allows the clerk to notify the attorney of record that the attorney may be sanctioned by the court for nonpayment of fees, and allows the court to sanction that attorney if the fees remain unsatisfied 20 days after the clerk’s notice.	IV	
AB 2244	Gatto	2016	Support	Authorizes an electronic filing service provider to impose a fee, subject to Judicial Council approval, for the use of a credit or debit card or electronic funds transfer in collecting payment of filing or other court fees on behalf of the court.	I, III	
AB 648	Jones-Sawyer	2013	Sponsor	Specifies that the \$30 court reporter fee is for proceedings lasting one hour or less; the moving party is responsible for the fee; the court may collect the fee at a time specified by the court, but not later than the conclusion of each day’s court session; the fee is refundable only if the court fails to provide a court reporter at the scheduled hearing; the fee will be charged once per case for all proceedings conducted within the same hour; the fee shall be waived for parties that have been granted a fee waiver; and the funds shall be deposited in the Trial Court Trust Fund and then returned to the court in which the funds were collected.	II, III	
AB 1293	Bloom	2013	Sponsor	Adds a probate fee of \$40 for the filing of a request for special notice in decedents’ estate, guardianship, conservatorship, or trust proceedings to help courts cover the costs incurred and to ensure proper service of notice and other documents to all persons who have requested special notice. Sunsets on January 1, 2019.	I, IV	

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BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
SB 221	Simitian	2011	Support	Increases small claims court jurisdiction for actions brought by natural persons from \$7,500 to \$10,000. Delays, until January 1, 2015, operation of jurisdictional increase for bodily injury claims resulting from vehicle accidents.	I	
AB 1826	Beall	2008	Sponsor	Clarifies that the filing fee for filing an action seeking return of seized property in connection with controlled substance offenses is the same as the first paper filing fee in unlimited civil actions.	III	
AB 367	De León	2007	Sponsor	Establishes a task force on criminal court-ordered fines and penalties that will make recommendations for simplifying California's criminal fine and penalty assessment, collection, and distribution system. Reduces the minimum fine required by the Franchise Tax Board Court-Ordered Debt Collection Program from \$250 to \$100 and expands the program to include collections for registration, pedestrian, and bicycle violations.	III	
AB 1248	Evans	2007	Sponsor	Makes technical and clarifying changes to the Uniform Civil Fees and Standard Fee Schedule Act of 2005, clarifies the fine for production of documents pursuant to demand for production, increases the cap on habeas investigations costs paid by the Supreme Court, allows the courts to collect bail forfeitures in installment payments without requiring the individual to make an appearance in court, and changes the date when the Judicial Council must adjust the amount a parent or guardian may be liable for minors' actions.	III, IV	
AB 145	Committee on Budget	2005	Sponsor	Establishes statewide uniform first-paper and first-response paper fees at three graduated levels: the filing fee for limited civil cases where the demand is less than or equal to \$10,000 is \$180, the filing fee for limited civil cases where the demand is greater than \$10,000 but less than \$25,000 is \$300, and the filing fee for unlimited civil cases is \$320.	II, III, IV	
SB 246	Escutia	2004	Sponsor	Allows courts, in addition to counties, to refer delinquent fines to the Franchise Tax Board.	II, III	
AB 934	Reyes	2003	Oppose	Adds a \$25 filing fee for deposit in the Child Abduction Prevention Fund established in the office of the district attorney in Fresno County.	II	
SB 940	Escutia	2003	Sponsor	Requires the Judicial Council to adopt guidelines for a comprehensive collection program, establish a collaborative court-county working group on collections, and report on the effectiveness of collection programs.	II, III	

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BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
AB 1819	Pacheco, Robert	2002	Support	Removes the \$100 minimum requirement to identify and collect delinquent fines and forfeitures with or without a warrant and provides that any county or court may establish a minimum base fine or forfeiture amount for inclusion in the program.	II, III	
AB 2690	Cardoza	2002	Oppose	Requires each court to submit to the Bureau of State Audits an annual financial statement showing outstanding delinquent fines.	II, III	

C. COURT FACILITIES

The council seeks ways to fund necessary courthouse construction projects on a statewide basis.

BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
AB 2309	Bloom	2018	Sponsor	Authorizes the Judicial Council to sell the West Los Angeles Courthouse and the Los Angeles Mental Health Courthouse, as specified, if the sale complies with certain requirements applicable to the disposal of court facilities and if the Judicial Council consults with, and first offers the right to purchase the property to, the County of Los Angeles. Requires the net proceeds from the sale of the courthouses to be deposited into the Immediate and Critical Needs Account of the State Court Facilities Construction Fund.	VI	
AB 581	Gomez	2015	Support	Asks voters to approve a \$2 billion general obligation bond measure to fund deferred maintenance projects in state facilities. Provides that the funds shall only be used to address deferred maintenance projects on state-owned property and shall be made available for expenditure only upon appropriation by the Legislature in the annual Budget Act. Defines a state agency as “any state agency, department, office, division, bureau, board, commission, district, agricultural association, the California State University, the University of California, and the Judicial Council.”	VI	
AB 314	Gorell	2012	Oppose	Requires that contracts pertaining to the acquisition and construction of court facilities be subject to the provisions of the Public Contract Code.	II	
AB 2442	Williams	2012	Oppose unless amended	Establishes the California Hope Public Trust and authorizes it to control state-owned real property the trust determines it should control, including court facilities.	IV	
SBX2 12	Steinberg	2009	Sponsor	Provides for the continuous appropriation of revenue created by SB 1407 (Stats. 2008, ch. 311) to support courthouse construction projects. Creates an expedited authority process for trial court construction projects.	I, II, III, VI	

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BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
SB 1407	Perata	2008	Sponsor	Authorizes a \$5 billion program for the construction, rehabilitation, renovation, and replacement of court facilities. Increases civil first-paper filing fees and criminal and traffic fees and penalties to generate the revenue to fund future revenue bonds.	I, III, VI	
SB 10	Dunn	2006	Cosponsor	Revises the Trial Court Facilities Act of 2002 to allow buildings with a seismic level V rating to transfer to the state so long as counties remain liable for earthquake-related damage, replacement, injury, and loss to the same extent that they would have been liable if the responsibility for court facilities had not transferred to the state.	I, III	
SB 1375	Lowenthal	2006	Support if amended	Requires the state to become a party to any public-private partnership agreement entered into by a county that involves a capital lease for construction of replacement court facilities and to become the lessee.	II, III	Amendment sought to remove requirement that the state participate in negotiations with counties and private developers regarding the construction of a new court facility
AB 262	Berg	2005	Oppose	Prohibits the Judicial Council from requiring that a structure proposed for transfer from a county to the state for court occupancy meet a building code stricter than the standard adopted for the county buildings in the county proposing the transfer.	II, III	
AB 1435	Evans	2005	Support	Adds expenditures on “court facilities” to the list of allowable uses of local courthouse construction funds.	III	
SB 395	Escutia	2005	Sponsor	States the intent of the Legislature to enact the California Court Facilities Bond Act of 2006 to acquire, construct, and finance court facilities.	I, III, VI	
AB 688	Nakanishi	2003	Oppose	Requires the Amador County courthouse and hospital transfer to the state on January 1, 2004, and relieves Amador County of its responsibility to provide court facilities pursuant to SB 1732 (Escutia; Stats. 2002, ch. 1082).	II	April 28, 2003 amendments provide that in establishing the recommended priorities for funding of projects under the California Court Facilities Construction and Renovation Bond Act of 2004, the Judicial Council shall consider all relevant factors bearing on the priority of each proposed project, including a proposal for matching funds. Council opposition withdrawn.
SB 655	Escutia	2003	Sponsor	Authorizes the issuance of bonds, the proceeds of which would be deposited in the State Court Facilities Construction Fund.	I, III, VI	
SB 1732	Escutia	2002	Cosponsor	Establishes a process for the transfer of responsibility for court facilities from the counties to the state.	I, II, III, VI	

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D. COURT MANAGEMENT

1. *Personnel issues* – The council seeks to maintain the ability of the judicial branch to manage relationships between courts and court employees and independent contractors such as court reporters and court interpreters.

BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
AB 242	Kamlager-Dove	2019	Support	Allows the Judicial Council to develop training on implicit bias, requires any training developed to include the components listed in the bill, and requires court staff (who interact with the public on matters before the court) to complete two hours of implicit bias training every two years, as of January 1, 2022.	I, IV, V	
AB 1520	Low	2019	Oppose, unless amended and funded	Increases the fee for the original and copies of court reporter transcripts for three consecutive years by a specified amount and then annually by the Consumer Price Index.	I, IV	
AB 2868	Santiago	2018	Oppose	Prohibits the Superior Court of Los Angeles County from employing a “limited-term law clerk” in the trial court for a period exceeding 180 calendar days. Provides that the law clerk is a trial court employee if he or she is employed for more than 180 calendar days. Makes legislative findings and declarations as to the necessity of a special statute for the Superior Court of Los Angeles County.	II, III	
AB 2835	Cooper	2016	Oppose	Among other things, requires public employers (including the trial courts) to provide newly hired public employees, as defined, a specified public employee orientation within two months of hiring. Requires public employee orientation to take place during the regular workday, in person, unless the public employer and recognized employee organization or exclusive representative have agreed otherwise. Requires the scheduling of these orientations to be agreed on with the recognized employee organization or exclusive representative.	III	

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BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
AB 804	Hernández	2015	Support	Among other things, requires the Court Reporters Board (CRB) to adopt regulations that establish minimum continuing education (CE) requirements for renewal of a certified shorthand reporter (CSR) certificate by July 1, 2017. Specifies that the continuing education required includes a minimum of 2 hours of course credits in ethics and professional conduct of shorthand reporting. Limits the continuing education required to no less than 8 hours and no more than 12 hours every two years. Requires certificate holders, six months after the effective date of the regulations, to certify completion of minimum CE requirements to the CRB when renewing a certificate. Requires the CRB to ensure that the CE requirement is relevant to the practice of shorthand reporting. Permits the CRB to revoke or deny the right of a CE provider for failure to comply with requirements or regulations as specified. Authorizes the CRB to adopt regulations to implement the above provisions. Requires the CRB to collaborate with the Judicial Council to develop a list of approved courses that satisfy the requirements established by California Rules of Court, rule 10.474 and specifies that courses on the list shall satisfy both requirements.	V	
AB 874	Rendon	2015	Neutral	Applies the Dills Act to the Judicial Council to confer bargaining rights to Judicial Council employees.	II	
AB 1699	Hernandez	2010	Oppose unless amended	Provides that the General Fund and other special funds are to be continuously appropriated in an amount necessary for employee compensation and benefits, so that state employees will be fully paid in the absence of a state budget. The contents of this bill are identical to the provisions of AB 790.	II, III	Inappropriately treats judicial branch employees differently than other public employees.
AB 1749	Lowenthal	2010	Support	Extends the existing provisions of the California Whistleblower Protection Act (CWPA) to the judicial branch.	II	Promotes accountability and transparency.
SB 752	Wiggins	2009	Support	Requires that counties in joint Public Employees Retirement System (PERS) contract with a court, prior to issuing a pension obligation bond (POB): (1) identify court employees as of January 1, 2001, (2) require PERS to complete an actuarial analysis, and (3) reach agreement with the court on the financial and legal impact of the POB on the court's employer contribution rate.	II	

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BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
AB 276	Solorio	2007	Oppose	Provides that a limited-term employee is a regular trial court employee if the limited-term employee has completed 180 days of service, and if the assignment, position, or project of the limited-term employee is an integral part of the long-term, regular work of the trial court. This bill would remove the right to bargain with employee organizations over the use of temporary or limited-term employees.	II, III	
AB 553	Hernandez	2007	Oppose	Eliminates or delays the courts' ability to seek injunctive relief when court employees or when county employees strike and essential court employees will not cross a picket line. Removes a court's ability to seek injunctive relief in superior court for the return of a limited number of employees instead. Requires all injunctive relief to be sought through Public Employment Relations Board.	II, IV	
AB 582	Evans	2007	Oppose unless amended and funded	Increases the fee for the original and copies of court reporter transcripts for three consecutive years by a specified amount and then annually by the Consumer Price Index.	I, IV	As amended May 23, 2007, council position changed to take no position on amount of transcript rate increase, if funded; support the uniform transcript standards; and oppose unless amended to address increased costs on low-income litigants.
AB 1797	Bermudez	2006	Oppose	Prohibits use of limited-term employee for work that is an integral part of the long-term, regular work of the trial court.	II	
SB 733	Aanestad	2005	Oppose unless amended	Requires the assets and liabilities of the Superior Court of Butte County and the County of Butte to be kept in separate accounts within the Public Employees Retirement System fund.	II, III	Amendment sought to delete the requirement that assets and liabilities be split and instead require the Judicial Council to report to the Legislature by January 1, 2006, on how to fairly resolve the issues raised in Butte and Solano Counties.
AB 782	Kehoe	2003	Oppose unless amended	Grants to the Public Employment Relations Board authority to process claims involving violations of statutes or rules relating to employment relations between trial courts and recognized employee organizations.	II, III	
SB 371	Escutia	2002	Support	Establishes the Trial Court Interpreter Employment and Labor Relations Act, providing for the employment and compensation of certified and registered trial court interpreters.	II, III	
SB 2011	Burton	2002	Support	Establishes the Workers' Compensation Fund. Allows the courts to be uninsured for workers' compensation in the same way the state, as an employer, is uninsured.	II, III	

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BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
AB 1571	Shelley	2001	Oppose	Eliminates the statutory “at pleasure” status of the Supreme Court and Court of Appeal employees.	II, III	
SB 2140	Burton	2000	Support	Establishes the trial court as the employer of court employees.	III	

2. *Management and administration* – The council closely examines the fiscal and resource implications of any legislative proposal that places additional responsibilities on court administration. When appropriate, the council informs the Legislature of the need for additional resources to carry out new legislatively imposed responsibilities, or seeks to improve the efficiency of the new procedure.

BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
AB 253	Stone	2019	Support, if amended	Authorizes, until January 1, 2022, the Superior Court of Santa Clara County to conduct a pilot project to study the potential use of remote court reporting to make the verbatim record of certain court proceedings. Prohibits all other courts from using remote reporting.	I, III	
AB 1737	Obernolte	2019	Support	Repeals the 1 percent limitation on trial courts’ carrying over unexpended funds and, instead, allows the Judicial Council to authorize a trial court to carry unexpended funds over from one fiscal year to the next.	II, VII	
AB 2988	Weber	2018	No position	Requires the appropriate governmental entity to preserve any object or material that contains or includes biological material. Requires the governmental entity to provide notice of intent to destroy biologics, as specified. Retains the provisions in existing law relating to challenges to notices of intent to destroy biologics.	VI	
SB 349	Lara	2018	No position	Provides that judicial officers have the power to prevent activities that threaten access to state courthouses and court proceedings, and to prevent interruption of judicial administration, including protecting the privilege from civil arrest at courthouses and court proceedings. Provides that no person shall be subject to civil arrest of any type while at a courthouse or court proceeding. Provides that an individual who violates this provision may be held in contempt of court.	I	
AB 1128	Weber	2017	Oppose	Provides that exhibits in criminal proceedings are to be retained under the custody and control of the court, and, in more serious cases, extends the time periods that exhibits must be retained by the court or that an object or material that contains biological material must be retained by the appropriate governmental entity.	VII	Some courts will not be able to comply with the provisions of this bill unless significant capital improvements and infrastructure are funded to provide for the necessary storage envisioned in this bill.

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BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
AB 1312	Gonzalez Fletcher	2017	Oppose, unless amended	Among other things, requires a court, upon request by a sexual assault victim during a criminal proceeding related to the alleged sexual assault, to provide the victim and the victim's family members, friends, and witnesses with a secure waiting area that is separate from the waiting area of the defendant and the defendant's family members, friends, witnesses, and attorneys, and separate from the district attorney's office.	VII	Many courthouses will be unable to accommodate the secure waiting area requirement within existing space resources.
AB 1443	Levine	2017	Sponsor	Specifies the statutory period for retaining court records in gun violence restraining order cases. Eliminates the requirement that superior courts report any court records that they have destroyed to the Judicial Council.	VII	
AB 1450	Obernolte	2017	Support	Requires court reporters to provide transcripts to appellate courts, parties, or any other person entitled to a transcript in an electronic format that complies with the California Rules of Court, unless a paper copy is requested. Provides a five-year grace period for courts and reporters to modernize their equipment and overall technical abilities.	I, III, IV	
AB 749	Bloom	2015	Oppose, unless funded	Adds child custody hearings and Domestic Violence Prevention Act proceedings to the list of case types for which court reporters are mandated.	IV, VII	
SB 682	Leno	2015	Oppose, unless amended	Establishes standards for when a trial court intends to enter into, renew, or extend a contract for any services that are "currently or have been customarily performed" by that trial court's employees.	III	
AB 1773	Allen	2014	Support, if funded	Requires the semiannual contracting reports related to the procurement of contracts by the Judicial Council to include a list of all new contracts and the complete history of contracts amended during the reporting period, including the date, amount, and duration of the original contract and all subsequent amendments.	III	
SB 1313	Nielsen	2014	Sponsor	Eliminates the requirement that the enumerated courts use court reporters in nonmandated case types. Eliminating these requirements will allow the enumerated courts the flexibility that all other courts have to determine if their budget circumstances can accommodate court reporting in nonmandated case types.	III	
AB 1008	Torres	2013	Oppose	Eliminates the ability of a judge to perform the duties of a clerk during a session of a superior court or within a judge's chambers as is currently permitted under section 167 of the Code of Civil Procedure.	II	Hampers the ability of the trial courts to manage staffing and duties in the courtroom.

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BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
AB 1131	Skinner	2013	Support the provision relating to court reporting, if amended.	Among other things, requires that courts notify the Department of Justice (DOJ) in an electronic format, in a manner prescribed by the DOJ, about individuals who have been adjudged by a court to be a danger to others as a result of mental disorder or mental illness, or who have been adjudicated to be a mentally disordered sex offender, within two court days of the finding.	IV	Allows for more efficient reporting to the Department of Justice.
AB 1352	Levine	2013	Sponsor	Updates and revises court record retention provisions to allow courts to efficiently and effectively manage court records and reduce unnecessary storage costs.	II	
AB 973	Campos	2011	Support if amended; neutral if not amended.	Requires trial courts, prior to adopting a baseline budget plan for the fiscal year, to accept public input by holding a public hearing where testimony may be presented and by receiving written comments. Requires that, during the current 60-day notice period regarding notice of courtroom closures, or closure or reduction in the hours of clerks' offices, the public be given an opportunity to submit written comments on the court's plan.	II	Support contingent on amendments to provide flexibility to the trial courts on how the opportunity for public comment is provided, rather than mandating a public hearing.
SB 326	Yee	2011	Oppose	Requires the Judicial Council to adopt a rule of court requiring courts to make newly filed or lodged court records available for public inspection at the courthouse no later than the end of the same day on which those records are received by the court.	IV	Unworkable burden on courts.
SB 858	Gaines	2011	Oppose	Provides that the Chief Probation Officer of Nevada County shall be appointed by the Nevada County Board of Supervisors.	II	Codifies a one-sided governance structure that ignores the critical role of the court in probation activities.
AB 1697	Hall	2010	Oppose	Takes the authority to allocate funding for court security away from the Judicial Council. Directs that the allocation to each sheriff be determined by the Judicial Council's Working Group on Court Security; makes all persons who provide court security services employees of and under the direction of the county sheriff.	II	Inappropriately interferes with Judicial Council governance; inappropriately takes funding authority away from the Judicial Council.
AB 1926	Evans	2010	Sponsor	Authorizes courts to create, maintain, and preserve records in any form or forms—including paper, optical, electronic, magnetic, micrographic, or photographic media or other technology—that satisfies standards or guidelines established by the Judicial Council.	VI	Promotes efficient management of court records.
AB 273	Anderson	2009	Oppose	Requires the superior courts to submit all unpaid court-ordered debt to the Franchise Tax Board, regardless of the amount, if the debt is at least 90 days delinquent. Allows the Franchise Tax Board to include in the total amount owed by the debtor that is subject to collection, the "actual and reasonable cost of collection."	II	

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BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
AB 1338	Anderson	2009	Oppose unless funded	Authorizes the presiding judge of the superior court, or a judge designated by the presiding judge, together with the district attorney and the public defender, to establish and conduct an arraignment court program. Also authorizes the presiding judge of the superior court to establish extended hours for the operation of an arraignment court program.	III	Unnecessary. Interferes with court management.
AB 2357	Duvall	2008	Oppose unless amended	Requires the Judicial Council to develop and implement policies and procedures for the protection of personal information maintained by a superior court and processed or stored by private service providers, consistent with the best interests of the public. Requires the council, as part of the process of developing these policies and procedures, to consider, among other things, the effect and advisability of prohibiting the outsourcing of data entry services outside the United States.	III, IV	Sought amendment to direct the Judicial Council to take a comprehensive look at protecting personal information and to develop policies and procedures that are in the best interests of the public.
AB 112	Wolk	2007	Oppose	Designates a segment of State Highway Route 12 in Solano and San Joaquin Counties as a Safety Enhancement-Double Fine Zone upon approval of specified county resolutions and until January 1, 2012.	III	
AB 117	Beall	2007	Oppose	Provides that, until January 1, 2010, a county may choose to levy an additional assessment for a highway traffic violation in the amount of \$2 for every \$10 or fraction thereof, on each base fine, excluding other penalty assessments, fees, or additions. Requires that the collected assessment be deposited in a Traffic Safety Committee Network fund, and that the monies be allocated so that, after deducting administrative costs, 85% shall be used in traffic safety programs approved by the county board of supervisors, and 15% shall be deposited in the county's courthouse construction fund.	III	
SB 57	Alarcon	2005	Oppose	Authorizes a county board of supervisors to levy a \$2 penalty assessment for every \$10 in base fine for seat belt, speed limit, DUI, and domestic violence offenses.	III	Imposed undue burden on court case-management systems.
SB 324	Florez	2004	Oppose unless amended to include an appropriation to the Trial Court Improvement Fund	Validates the incorrect distribution of fines, forfeitures, and penalties made by the County of Tulare to the State Treasurer for deposit in the Trial Court Improvement Fund in the 1996–1997 to 1999–2000 fiscal years.	II, IV	

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SB 1801	Bowen	2004	Oppose	Prohibits any state or local agency or court that accepts a credit card or debit card as a payment from imposing any processing fee or charge for the use of that card that is not also imposed on persons who pay by cash or check.	II, III	
AB 3036	Corbett	2002	Oppose unless funded	Increases the accountability of guardians by assisting courts in overseeing guardianship cases and helps ensure proper care and treatment for wards.	II, III	
AB 1421	Thomson	2001	Oppose unless funded	Authorizes a new involuntary outpatient treatment scheme for certain mentally ill persons. Sets forth new court duties for implementing this program.	III	

E. COURT HOURS

The council seeks to maintain adequate access to the courts.

BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
AB 996	Anderson	2009	Oppose	Authorizes the courts to operate on a continuous and ongoing basis, 24 hours per day, seven days per week.	II, III	
AB 1641	Keene	2003	Sponsor	Improves procedures authorizing the Chief Justice to issue orders during an emergency.	I, II, IV	

II. THE JUDICIARY

A. JUDGESHIPS

The council is committed to ensuring adequate judicial resources in the courts. The council advocates creation of additional trial and appellate court judgeships in order of most severe need, and pursuant to an orderly statewide review.

BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
SB 16	Roth	2019	Support and Sponsor	Appropriates \$36.5 million from the General Fund to support 25 superior court judgeships that have been authorized by current statute since the passage of AB 159 (Stats. 2007, ch. 722). Requires allocation of those judgeships under uniform criteria outlined in Government Code section 69614(b) to courts with the greatest need.	I, IV	
AB 2446	Obernolte	2018	Sponsor	Specifically, seeks funding for 12 of the remaining 50 unfunded judgeships, assigned to the courts with the greatest need based on the most recently approved Judicial Needs Assessment, plus funding for one appellate justice and staff.	I, IV, VI	

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BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
SB 38	Roth	2018	Sponsor	Adds an additional justice to the Court of Appeal, Fourth Appellate District, Division Two.	I, IV, VI	
AB 414	Medina	2017	Support and Sponsor	Requires that up to four vacant judgeships be allocated from superior courts with more authorized judgeships than their assessed judicial need to superior courts with fewer authorized judgeships than their assessed judicial need.	I, II, III, IV	Enacted as part of budget.
AB 159	Jones	2007	Sponsor	Authorizes the creation of the second set of 50 judgeships, to be allocated pursuant to the council's allocated methodology.	I, II, III, IV	
SB 56	Dunn	2005	Sponsor	Authorizes 50 additional judges based on the uniform criteria and allocation approved by the Judicial Council pursuant to the Judicial Needs Study. Requires the Judicial Council to report to the Legislature biannually on the continuing need for new judgeships and their allocation based on the same uniform criteria.	I, II, III, IV	

B. JUDICIAL SERVICE

To ensure the branch's ability to attract and retain highly qualified judges, the council supports appropriate increases to judicial salaries, and an adequate, fully funded judicial retirement plan. The council also seeks ways to improve the administration of justice in areas related to judicial retention, including (1) benefits, wellness subsidies, professional development allowances, personal leave, and supplemental life, disability, or liability insurance; (2) healthcare benefits, including services and programs; (3) compensation and retirement; (4) "quality of judicial life" resources and programs; (5) mentorship programs; and (6) special needs of and programs for new and retired judges.

BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
AB 2322	Daly	2018	Support	Requires the Department of Motor Vehicles, on request, to make confidential the home address of a judge or court commissioner or his or her surviving spouse or child if the judge or court commissioner died in the performance of his or her duties. Requires the department to make confidential the home address of the surviving spouse or child for three years following the death.	II, IV	
AB 2299	Feuer	2012	Support	Authorizes the board of supervisors of a county to establish a program whereby the names of certain public safety officials, including judges and subordinate judicial officers, may be redacted on request from any property record of principal residence that is disclosed to the public.	II	Promotes safety and security of judges and their families.
SB 503	Vargas	2011	Cosponsor	Allows Judges' Retirement System II (JRS II) members who previously served as subordinate judicial officers (SJOs) to purchase JRS II service credit for a fraction of their SJO years.	I	

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BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
SB 1425/AB 1987	Simitian/ Ma	2010	Oppose unless amended	Prohibits the practice of “pension spiking” by excluding from the calculation of pension benefits out of the ordinary compensation increases paid for the principal purpose of enhancing individuals’ pension benefits. Prohibits “double dipping” by requiring at least six months’ separation before any employee may return to service.	II, III	Fails to address the unique circumstances of the judicial branch. By failing to exclude judges from the double-dipping provision, interferes with the assigned judges program’s ability to retain newly retired judges, and the ability to hire retired commissioners while a court awaits a judicial appointment to a converted commissioner position.
AB 32	Lieu	2009	Support	Enhances Internet privacy protections for judicial officers.	II, III	
AB 545	Walters	2008	Support	Amends the Judges’ Retirement System II (JRS II) statute to allow a judge who is on leave from the bench because of active duty service in the military to elect to purchase retirement service credit by repaying his or her missed contributions to JRS II.	II, III	
SB 1187	Ackerman	2006	Sponsor	Permits a judge in the Judges’ Retirement System II who leaves judicial office after five or more years of service and is not eligible to retire to elect to receive the amount in his or her retirement account as an annuity.	II, III	
SB 1364	Battin	2006	Support	Protects privacy of judicial officers.	II, III	
AB 1035	Spitzer	2005	Support	Prohibits any state or local agency from hosting or providing service to an Internet website that posts a public safety official’s home address or telephone number.	II, III	
AB 1595	Evans	2005	Support	Prohibits selling or trading for value on the Internet the home address or telephone number of any elected or appointed official has made a written demand to not disclose his or her home address or telephone number.	II, III	
SB 506	Poochigian	2005	Support	Extends existing voter registration confidentiality programs to include a public safety official.	II, III	
SB 528	Ackerman and Dunn	2005	Cosponsor	Declares the Legislature’s intent to evaluate the impact of trial court unification on the judges’ retirement systems and the resulting increase in the judges’ ages at the start of their judicial service.	II, III	
AB 2905	Spitzer	2004	Support	Requires that an employing governmental entity reimburse moving and relocation expenses if it is necessary to move because a judge or court commissioner has received a credible threat that a life-threatening action may be taken against him or her or his or her immediate family as a result of his or her employment.	II, III	Improve quality of judicial service.
AB 2688	Alquist	2002	Support	Establishes a burial benefit in the amount of \$7,500, subject to cost-of-living increases, for all active and retired judges.	III	

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C. SELECTION AND ELECTION OF JUDGES

The council seeks to avoid politicizing the election process, and supports a process that is fair and clear to candidates and informative to voters.

BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
AB 362	Lowenthal	2011	Support	Revises the number of signatures needed for placing an uncontested judicial election on the ballot for a potential write-in contest. Requires that a write-in candidate for the office of superior court judge include on the statement of intent to run his or her compliance with eligibility requirements for a judge of a court of record.	I, II	
ACA 1	Nation	2001	Oppose	Eliminates elections to fill judicial vacancies, providing instead that the Governor shall fill vacancies. Provides that all judges appear on the ballot uncontested, with the question presented whether the candidate shall be elected.	II, III	

D. COMMISSIONERS, REFEREES, AND TEMPORARY JUDGES

The council supports clarification of the status, powers, and duties of commissioners, referees, and hearing officers.

BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
AB 1692	Committee on Judiciary	2017	Cosponsor	Ratifies the authority of the Judicial Council to convert up to 10 subordinate judicial officer (SJO) positions to judgeships in fiscal year 2016–17, where the conversion results in a judge being assigned to family or juvenile law matters previously assigned to subordinate judicial officers.	I, II, IV	
AB 159	Jones	2007	Sponsor	Authorizes the conversion of 162 subordinate judicial officer positions to judgeships upon vacancy.	I, II, IV	

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III. PROCEDURAL LAW

A. APPELLATE PROCEDURE

BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
SB 1065	Monning	2016	Oppose	Requires a Court of Appeal to issue its decision no later than 100 days after the notice of appeal is filed in an appeal of an order dismissing or denying a petition to compel arbitration in a case involving a claim under the Elder Abuse and Dependent Adult Civil Protection Act where a party has been granted a trial preference. Provides that a Court of Appeal may grant an extension of time in such an appeal only if good cause is shown and the extension will promote the interests of justice. Requires the Judicial Council to adopt rules of court to implement this act, and to also establish a shortened notice-of-appeal period in such cases.	I, II	Interferes with court administration and access to justice.
AB 825	Rendon and Stone	2015	Oppose	Fundamentally changes the process of judicial review of Public Utilities Commission decisions by shifting review from the Courts of Appeal and Supreme Court to the Los Angeles and San Francisco superior courts.	III	Interferes with court administration.
AB 1932	Jones	2014	Neutral	Requires a judgment of the appellate division of the superior court in an appeal to contain a brief statement of the reasons for the judgment, and provides that a judgment stating only “affirmed” or “reversed” is insufficient for this purpose.	II, IV	Increases public trust and confidence in the court system by making decisions more transparent.

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B. CIVIL PROCEDURE

The council supports measures that reduce delay and make court operations more efficient. The council seeks to protect the exercise of judicial discretion in matters of civil litigation. The council generally supports judicial arbitration and other alternative dispute resolution (ADR) programs and procedures that are likely to assist in the equitable disposition of cases, but advocates for limits on the use of court-ordered discovery references to exceptional circumstances.

BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
AB 734	Bonta	2018	Oppose	Among other things, requires the Judicial Council to adopt a rule of court by September 1, 2019, to establish procedures governing CEQA actions challenging a specified Oakland Sports and Mixed-Use Project that requires the actions and any appeals therefrom to be resolved, to the extent feasible, within 270 days of the filing of the certified record of proceedings with the court.	I, III	Interferes with court administration and access to justice.
AB 987	Kamlager-Dove	2018	Oppose	Among other things, requires the Judicial Council to adopt a rule of court by July 1, 2019, to establish procedures governing CEQA actions challenging a specified sports and entertainment project in the City of Inglewood that requires the actions and any appeals therefrom to be resolved, to the extent feasible, within 270 days of the certification of the record of proceedings.	I, III	Interferes with court administration and access to justice.
AB 1905	Grayson	2018	Oppose	Prohibits a court in a judicial action or proceeding under the California Environmental Quality Act from staying or enjoining a specified transportation project unless the court finds either of the following: (1) the continued construction or operation of the transportation project presents an imminent threat to public health and safety; or (2) the transportation project contains unforeseen important Native American artifacts or unforeseen important historical, archaeological, or ecological values that would be materially, permanently, and adversely affected by the continued construction or operation of the transportation project, unless the court stays or enjoins the construction or operation of the transportation project. Specifies that if the court finds that either of the above criteria is satisfied, the court must enjoin only those specific activities that are associated with the transportation project and that present an imminent threat to public health and safety or that materially, permanently, and adversely affect unforeseen important Native American artifacts or unforeseen important historical, archaeological, or ecological values.	I, III	Interferes with court administration and access to justice.
AB 2185	Chiu	2018	Neutral	Authorizes a court to appoint a guardian ad litem under a pseudonym under specified conditions.	IV	

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BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
AB 2230	Berman	2018	Support	Provides that in lieu of a separate statement in connection with a motion to compel further responses to discovery requests, the court may (but is not required to) allow a moving party to submit a concise outline of the discovery request and each response in dispute. Delays the operative date of the above permissive separate statement provisions to January 1, 2020. Extends from 60 to 75 days the respective timelines for the court to rule on a motion for a new trial and a motion to set aside and vacate the judgment.	IV	
AB 2267	Wood	2018	Oppose	Requires the Judicial Council, on or before July 1, 2019, to amend certain rules of court to establish procedures applicable to actions or proceedings brought under the California Environmental Quality Act seeking judicial review of the certification of an environmental impact report or the adoption of a negative declaration or mitigated negative declaration for the adoption or amendment of a specified plan (referred to as the “RED Area Plan”) in the City of Santa Rosa. Requires that the actions or proceedings, including any potential appeals therefrom, be resolved, to the extent feasible, within 270 days of the certification of the record of proceedings.	I, III	Interferes with court administration and access to justice.
AB 2586	Melendez	2018	Oppose	Prohibits a court in a judicial action or proceeding under the California Environmental Quality Act from staying or enjoining specified housing development projects unless the court finds either of the following: (1) the continued construction or operation of the housing development project presents an imminent threat to public health and safety; or (2) the housing development project site contains unforeseen important Native American artifacts or unforeseen important historical or archaeological values that would be materially, permanently, and adversely affected by the continued construction or operation of the project unless the court stays or enjoins the construction or operation of the project. Specifies that if the court finds that either of the above criteria is satisfied, the court must enjoin only those specific activities that are associated with the housing development project and that present an imminent threat to public health and safety or that materially, permanently, and adversely affect unforeseen important Native American artifacts or unforeseen important historical or archaeological values.	I, III	Interferes with court administration and access to justice.

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SB 922	Nguyen	2018	Oppose	Among other things, requires the Judicial Council, on or before July 1, 2019, to adopt a rule of court to establish procedures applicable to actions or proceedings brought under the California Environmental Quality Act seeking judicial review of an environmental impact report for specified affordable student housing projects. Requires that the actions or proceedings, including any potential appeals therefrom, be resolved, to the extent feasible, within 365 days of the lodging with the court of the certified record of proceedings. Also prohibits a court from staying or enjoining the siting, construction, or operation of the affordable student housing project unless the court finds either of the following: (1) the continued construction or operation of the project presents an imminent threat to public health and safety; or (2) the project site contains unforeseen important Native American artifacts or unforeseen important historical, archaeological, or ecological values that would be materially, permanently, and adversely affected by the continued construction or operation of the project unless the court stays or enjoins the construction or operation of the project. Further provides that if the court makes either of the above findings, the court must enjoin only those specific activities that are associated with the project and that present an imminent threat to public health and safety or that materially, permanently, and adversely affect unforeseen important Native American artifacts or unforeseen important historical, archaeological, or ecological values.	I, III	Interferes with court administration and access to justice.
SB 948	Allen	2018	Oppose	Authorizes the Governor to certify updates to a community plan and the accompanying ordinances meeting specified requirements as being eligible for the CEQA expedited judicial review benefits of Assembly Bill 900 (Stats. 2011, ch. 354).	I, III	Interferes with court administration and access to justice.

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SB 1340	Glazer	2018	Oppose	Requires the Judicial Council, on or before July 1, 2019, to adopt a rule of court to establish procedures applicable to actions or proceedings brought under the California Environmental Quality Act seeking judicial review of an environmental impact report and approvals granted for a housing project. Requires that the actions or proceedings, including any appeals therefrom, be resolved, to the extent feasible, within 270 days of certification of the record of proceedings. Prohibits a court from staying or enjoining the siting, construction, or operation of the housing project unless the court finds either of the following: (1) the continued construction or operation of the project presents an imminent threat to public health and safety; or (2) the project site contains unforeseen important Native American artifacts or unforeseen important historical, archaeological, or ecological values that would be materially, permanently, and adversely affected by the continued construction or operation of the project unless the court stays or enjoins the construction or operation of the project. Specifies further that if the court finds that either of the above criteria is satisfied, the court must enjoin only those specific activities that are associated with the project and that present an imminent threat to public health and safety or that materially, permanently, and adversely affect unforeseen important Native American artifacts or unforeseen important historical, archaeological, or ecological values.	I, III	Interferes with court administration and access to justice.
AB 30	Caballero	2017	Oppose	Among other things, prohibits a court in a judicial action or proceeding under the California Environmental Quality Act from enjoining a qualified strip mall conversion housing project, as defined, unless the court finds either of the following: (1) the continuation of the project presents an imminent threat to the public health and safety; or (2) the project site contains unforeseen important Native American artifacts or unforeseen important historical, archaeological, or ecological values that would be materially, permanently, and adversely affected by the continuation of the project unless the courts stays or enjoins the project.	I, III	Interferes with court administration and access to justice.

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AB 73	Chiu	2017	Oppose	Among other things, requires the Judicial Council, on or before July 1, 2018, to adopt a rule of court to establish procedures applicable to actions or proceedings brought pursuant to the California Environmental Quality Act to attack, review, set aside, void, or annul a public agency's certification of the environmental impact report for the designation or the approval of the designation of a housing sustainability district. Requires the actions or proceedings, including any potential appeals therefrom, be resolved, to the extent feasible, within 270 days of certification of the record of the proceeding.	I, III	Interferes with court administration and access to justice.
AB 246	Santiago	2017	Oppose	Among other things, extends for two years the expedited California Environmental Quality Act (CEQA) judicial review procedures established by AB 900 (Stats. 2011, ch. 354). Requires the courts to resolve CEQA lawsuits on AB 900 projects within 270 days, to the extent feasible, from the date the certified record of proceedings is filed with the court.	I, III	Interferes with court administration and access to justice.
AB 644	Berman	2017	Support	Extends the meet and confer requirements under the demurrer statute to both a motion for judgment on the pleadings and a motion to strike.	IV	
AB 905	Maienschein	2017	Support	Revises and recasts the procedures for California courts to recognize money judgments of courts from other states, foreign countries, and tribal courts. Among other things, eliminates the Tribal Court Civil Money Judgment Act's sunset date, thereby extending its provisions indefinitely.	III, IV	Improves administration of justice.
AB 976	Berman	2017	Sponsor	Among other things, the civil procedure provisions of the bill: (1) authorize the use of electronic signatures for signatures made under penalty of perjury on electronically filed documents; (2) provide for a consistent effective date of electronic filing and service across courts and case types; (3) consolidate the mandatory electronic filing provisions; (4) clarify the application of section 1010.6's electronic service provisions in sections 664.5 and 1011; and (5) codify provisions that are currently in the California Rules of Court on mandatory electronic service, effective date of electronic service, protections for self-represented persons, and proof of electronic service.	II, IV	Improves administration of justice.
SB 699	Galgiani	2017	Oppose	Extends for two years the expedited California Environmental Quality Act judicial review procedures established by AB 900 (Stats. 2011, ch. 354).	I, III	Interferes with court administration and access to justice.

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BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
SB 785	Wiener	2017	No position	Among other things, seeks to prevent irrelevant information about a person's immigration status from being divulged in open court and included in specified public court records. Prohibits parties to a civil or criminal action from disclosing evidence regarding the immigration status of any other party or witness in open court, unless the party first requests a confidential, in-camera hearing and ruling by the judicial officer presiding over the case as to whether the evidence is relevant and not inadmissible. Prohibits <i>in criminal cases</i> evidence of a person's immigration status from being included in public court records, except as authorized by the court pursuant to the above-described, confidential, in-camera hearing procedure.	I, IV	
SB 789	Bradford	2017	Oppose	Among other things, requires the Judicial Council, on or before July 1, 2018, to adopt a rule of court to establish procedures applicable to actions or proceedings brought pursuant to the California Environmental Quality Act seeking judicial review of an environmental impact report and approvals granted for a project related to the development of a specified sports and entertainment project in the City of Inglewood. Requires the actions or proceedings, including any appeals therefrom, be resolved, to the extent feasible, within 270 days of certification of the record of proceeding. Prohibits a court from staying or enjoining the construction or operation of the project unless the court finds either of the following: (1) the continued construction or operation of the project presents an imminent threat to the public health and safety; or (2) the project site contains unforeseen important Native American artifacts or unforeseen important historical, archaeological, or ecological values that would be materially, permanently, and adversely affected by the continued construction or operation of the project.	I, III	Interferes with court administration and access to justice.
AB 1298	Gipson	2016	Oppose	Among other things, requires the Judicial Council to adopt a rule of court to establish procedures applicable to actions or proceedings brought pursuant to the California Environmental Quality Act seeking judicial review of a public agency's action in granting project approval for the stadium project. Requires the actions or proceedings, including any appeals therefrom, be resolved, to the extent feasible, within 270 days of certification of the record of proceeding. Prohibits a court from staying or enjoining the implementation of the stadium project unless the court makes specified findings.	I, III	

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BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
AB 1473	Salas	2016	Oppose	Extends for four years the sunset on AB 900 (Stats. 2011, ch. 354), which provides for expedited judicial review of certain cases filed under the California Environmental Quality Act.	I, III	
SB 734	Galgiani	2016	Oppose	Extends for two years the sunset on the expedited judicial review provisions in AB 900 (Stats. 2011, ch. 354) that apply to specified cases filed under the California Environmental Quality Act.	I, III	Interferes with court administration and access to justice.
AB 311	Gallagher	2015	Oppose	Among other things, requires the Judicial Council, on or before July 1, 2016, to adopt a rule of court to establish procedures applicable to actions or proceedings seeking judicial review of a public agency's action in certifying the environmental impact report and in granting project approval for those projects that require the actions or proceedings, including any appeals therefrom, be resolved, to the extent feasible, within 270 days of the certification of the record of proceedings. Prohibits a court from staying or enjoining those water projects unless the court makes specified findings.	I, III	Interferes with court administration and access to justice.
AB 432	Chang	2015	Support	Aligns the Code of Civil Procedure with the rules of court that define "electronic signature" and authorizes their use by courts and judicial officers. Provides that an electronic signature by a court or judicial officer shall be effective as an original signature.	IV	
AB 455	Bigelow	2015	Oppose	Among other things, requires the Judicial Council, on or before July 1, 2016, to adopt a rule of court to establish procedures applicable to actions or proceedings brought to attack, review, set aside, void, or annul the certification of an environmental impact report for projects covered by a groundwater sustainability plan that require the actions or proceedings be resolved within 270 days of certification of the record of proceeding. Prohibits a court from staying or enjoining those projects unless the court makes specified findings.	I, III	Interferes with court administration and access to justice.
AB 641	Mayes	2015	Oppose	Among other things, requires the Judicial Council, on or before July 1, 2016, to adopt a rule of court to establish procedures applicable to actions or proceedings brought pursuant to the California Environmental Quality Act seeking judicial review of a public agency's action in granting project approval for specified housing development projects. Requires the actions or proceedings, including any appeals therefrom, be resolved, to the extent feasible, within 270 days of certification of the record of proceeding. Prohibits a court from staying or enjoining those housing development projects unless the court makes specified findings.	I, III	Interferes with court administration and access to justice.

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AB 1068	Allen	2015	Oppose	Authorizes each member of the Legislature to nominate one project subject to the California Environmental Quality Act within his or her respective district each year, and the Governor to designate those projects as priority projects if the projects meet specified requirements. Among other things, prohibits a court from staying or enjoining the implementation of a priority project unless the court finds either of the following: (1) the continued construction or operation of the project presents an imminent threat to the public health and safety; or (2) the priority project site contains unforeseen important Native American artifacts or unforeseen important historical, archaeological, or ecological values that would be materially, permanently, and adversely affected by the continued construction or operation of the priority project.	I, III	Interferes with court administration and access to justice.
AB 1298	Gipson	2015	Oppose	Among other things, requires the Judicial Council to adopt a rule of court to establish procedures applicable to actions or proceedings brought pursuant to the California Environmental Quality Act seeking judicial review of a public agency's action in granting project approval for the stadium project. Requires the actions or proceedings, including any appeals therefrom, be resolved, to the extent feasible, within 270 days of certification of the record of proceeding. Prohibits a court from staying or enjoining the implementation of the stadium project unless the court makes specified findings.	I, III	Interferes with court administration and access to justice.
SB 127	Vidak	2015	Oppose	Among other things, requires the Judicial Council, on or before July 1, 2016, to adopt a rule of court to establish procedures applicable to actions or proceedings seeking judicial review of a public agency's action in certifying the environmental impact report and in granting project approval for projects funded under the Water Bond (Proposition 1) that require the actions or proceedings, including any appeals therefrom, be resolved, to the extent feasible, within 270 days of the certification of the record of proceedings. Prohibits a court from staying or enjoining those water projects unless the court makes specified findings.	I, III	Interferes with court administration and access to justice.
SB 383	Wieckowski	2015	Support	Establishes new requirements for filing, amending, and resolving demurrers. Among other things, requires the parties to meet and confer, in person or by telephone, before the demurring party may file a demurrer. Establishes various streamlined procedures and timelines for the courts and parties to follow to resolve demurrers more efficiently.	IV	

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BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
AB 1659	Chau	2014	Support	Requires that the moving, opposing, and reply briefs and accompanying documents in support of or opposition to a motion for judgment notwithstanding the verdict or in support or opposition to a motion to set aside and vacate a judgment be served and filed in accordance with the deadlines applicable to a motion for new trial.	IV	
SB 1398	Cannella	2014	Oppose	Prohibits a court, in an action brought pursuant to the California Environmental Quality Act challenging certain maintenance activities along the Salinas River from staying or enjoining such maintenance activities unless those activities present an imminent threat to public health and safety or would materially, permanently, and adversely affect unforeseen important Native American artifacts, or unforeseen important historical, archaeological, or ecological values.	I, III	Interferes with court administration and access to justice.
AB 756	Melendez	2013	Oppose; appellate courts are not designed for this process, and it's an inefficient use of judicial resources.	Expands the expedited judicial review procedures enacted by AB 900 (Stats. 2011, ch. 354) to public works projects, as defined.	II	
AB 1167	Dickinson	2013	Support	Clarifies the procedures for levying officers to follow in their efforts to enforce judgments where the underlying writ of execution was issued by the court in an electronic form. Among other things, details the specific information that must be included in a judgment creditor's instructions to the levying officer in such cases. Makes clear that the levying officer may generally proceed in the same manner as if in possession of a paper version of the original writ.	III, IV	
AB 1875	Gatto	2012	No position	Specifies that, unless otherwise ordered by the court, a deposition in a civil case would generally be limited to one day of 7 hours of total testimony. Provides that the court shall allow additional time if needed to fairly examine the deponent or if the deponent, another person, or any other circumstance impedes or delays the examination. Exempts specified individuals and cases.	II, III	
AB 2106	Wagner	2012	Support	Clarifies the time for bringing a motion for a new trial and a motion to set aside and vacate a judgment.	IV	

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BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
SB 1214	Cannella	2012	Oppose	Expands the types of projects that would be eligible for expedited judicial review by requiring all CEQA challenges to projects located in a “distressed county” (except for high-speed rail projects) be filed directly with the Court of Appeal with geographic jurisdiction over the project.	I, III	Interferes with court administration and access to justice.
AB 1403	Committee on Judiciary	2011	No position	Makes various changes to the statute governing voir dire in civil trials. Among other things, provides that a brief opening statement should be allowed for each party prior to the commencement of the oral questioning phase of the voir dire process; prohibits a blanket policy of time limits for voir dire; provides that in cases where a questionnaire is utilized, the parties should be given reasonable time to evaluate the responses before oral questioning commences; and authorizes the court to provide the parties with both the alphabetical list and the list of prospective jurors in the order in which they will be called.	IV	
AB 5	Evans	2009	Sponsor	Amends the Civil Discovery Act to expressly authorize the discovery of electronically stored information, and authorizes the “copying, testing or sampling” of such information. Allows a party to specify the form in which electronically stored information is to be produced, and if no form is specified, the responding party must produce the information in the form or forms in which it is ordinarily maintained or in a form that is reasonably usable. Establishes procedures for motions to compel and motions for protective orders relating to the discovery of electronically stored information. Sets forth a procedure for handling disputes over the production of electronically stored information that is subject to claims of privilege or attorney work-product protection.	III, IV	Improves administration of justice.
AB 839	Emmerson	2009	Support	Requires Medi-Cal service providers with a complaint or grievance concerning the processing or payment of money that the provider alleges is payable under the Medi-Cal program to follow specified Department of Health Care Services complaint procedures. In lieu of allowing providers to seek “appropriate judicial remedies” to appeal the department’s decision, instead specifies that the provider who has complied with these procedures may, within the time period prescribed in existing law, file a petition for a writ of mandate pursuant to section 1085 of the Code of Civil Procedure in the superior court.	III, IV	Improves administration of justice.

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BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
SB 259	Benoit	2009	Oppose	Provides that, if a court voids any results of a homeowners' association election for one or more Common Interest Development (CID) board members, the court shall not invalidate a decision of the board that was reached after the board was seated pursuant to that election unless the court finds that the action of the board was contrary to law or the governing documents.	II	Interferes with court discretion.
AB 225	Beall	2008	Support	Re-enacts the elder abuse protective orders statute and expands its scope to allow the court, in its discretion, on a showing of good cause, to extend the protection to include the petitioner's named family or household members, as well as the petitioner's conservator. Provides that a petitioner shall not be required to pay a fee for law enforcement to serve a protective order issued pursuant to the bill's provisions.	III, IV	Enhances court's ability to provide protection to elder abuse victims, and improves access to justice.
AB 2193	Tran	2008	Support	Enacts the Interstate and International Depositions and Discovery Act. Creates a process for the resolution of a dispute regarding discovery conducted in California in connection with an out-of-state proceeding, and provides that a request for relief in this regard would be filed in the superior court in the county in which the discovery is sought, with payment of specified fees. Permits a party to appeal court orders in connection with a dispute by extraordinary writ to the appropriate Court of Appeal.	IV	Improves administration of justice and enhances court administration.
AB 2379	Evans	2008	Oppose	Provides that an appeal from an order granting or denying a motion to seal or unseal a court record may be made by filing an extraordinary writ petition or notice of appeal. If a party seeks an appeal, requires that the record relating to the matter and the opening brief be filed within 30 days of notice of entry of the trial court's order. Requires the clerk of the reviewing court to set the appeal for a hearing on the first available court date.	II	Interferes with appellate court calendaring authority.
SB 1608	Corbett, Harman, Steinberg, Runner, and Calderon	2008	Neutral	Requires a court, in civil actions involving construction-related accessibility claims, to issue an order, upon request, that grants a 90-day stay of the action and schedules a mandatory early evaluation conference (EEC) if the defendant has satisfied certain requirements relating to inspection of the site at issue by a certified access specialist. Provides that the court must schedule an EEC between 21 and 50 days after issuance of the stay order, and requires that EECs be conducted by a superior court judge or commissioner, or a court early evaluation conference officer, as defined.	IV	Encourages early resolution of these cases.

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BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
AB 500	Lieu	2007	Support	Specifies generally that a party may appear by telephone in all general civil cases at case management conferences and other specified conferences, hearings, and proceedings. Provides that a court may require a party to appear in person at such hearings, conferences, or proceedings if the court determines, on a hearing-by-hearing basis, that a personal appearance would materially assist in the determination of the proceedings or in the effective management or resolution of the particular case.	I, IV	Improves access to the courts and conserves resources.
AB 1264	Eng	2007	Neutral	Prohibits delay reduction rules from requiring the severance of unnamed defendants prior to the conclusion of the introduction of evidence at trial, except on stipulation or motion of the parties.	IV	Improves administration of justice.
AB 2303	Committee on Judiciary	2006	Sponsor (of specified provisions)	Clarifies the procedures governing a change of name; makes service times for elder abuse protective orders consistent with other protective orders; authorizes courts to receive notice to appear citations for non-parking Vehicle Code violations electronically if the court has the ability to receive the information and reproduce it in a printed form; and extends the sunset date on existing statutory authority for courts to impose modest monetary sanctions on jurors who fail to respond to a jury summons.	IV	Improves administration of justice and enhances court administration.
SB 1116	Scott	2006	Support	Increases court oversight of moves of conservatees and the sale of their homes.	IV	Improves the court's ability to provide oversight of these cases.
SB 1550	Figueroa	2006	Support	Enacts the Professional Fiduciaries Act, which establishes in the Department of Consumer Affairs a new licensure scheme governing professional conservators, guardians, and other fiduciaries.	IV	Improves the court's oversight of these cases.
AB 355	Tran	2005	Oppose	Authorizes the court in any action involving joint and several liability to "instruct the jury on the effect of finding any party, including, but not limited to, the State of California, partially liable."	II, III	Would create confusion; interferes with judicial function.
AB 496	Aghazarian	2005	Support if amended	Requires the clerk to maintain the original summons in the court file.	III	Improves court administration and conserves resources.
AB 1322	Evans	2005	Cosponsor	Modifies grounds for disqualification to require more than casual discussions regarding prospective employment with providers of alternative dispute resolution services.	II, IV	Avoids unnecessary disqualifications of judges.
AB 1742	Committee on Judiciary	2005	Sponsor	Deletes the sunset on Code of Civil Procedure section 128.7, thereby continuing the courts' ability to impose sanctions for the filing of frivolous lawsuits. Clarifies and streamlines small claims court procedures, extends the sunset of the security fee, and requires that acceptance of an offer to compromise a lawsuit must be in writing.	III, IV	Improves administration of justice and enhances court administration.

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BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
SB 575	Torlakson	2005	Oppose unless amended	Establishes calendar preference for actions to enforce provisions of the “Anti-NIMBY” law.	II, III	Interferes with court administration.
AB 3078	Committee on Judiciary	2004	Sponsor	Makes several noncontroversial changes to the statute governing the times for service and filing of motion papers, as well as clarifying the cutoff date for discovery in civil cases. Also clarifies standing of emancipated minors in small claims court, and clarifies to whom a clerk must provide notice when a check for filing fees has been returned for nonpayment.	III, IV	Improves administration of justice and enhances court administration.
SB 1249	Morrow	2004	Oppose	Provides that the word “hearing,” when applied to any demurrer, motion, or order to show cause, signifies oral argument by moving and opposing parties on a record amenable to written transcription which shall be had unless affirmatively waived by the parties.	II, IV	Unnecessary; interferes with judicial function.
AB 2321	Hertzberg	2002	Sponsor	Clarifies the process for tort claims filed against judicial branch entities.	III	Eliminates confusion and streamlines the handling of cases.
AB 3027	Committee on Judiciary	2002	Sponsor	Makes various improvements to civil procedure.	III	Improves administration of justice and enhances court administration.

1. *Alternative dispute resolution*

BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
AB 1123	Mayes	2015	Support	Authorizes, but does not require, a county that has established and is operating a program under the Dispute Resolution Program Act to contract with the superior court of the county to transfer operation of the program to the court.	III, IV	
AB 202	Harman	2005	Support	Provides that filing a petition to compel arbitration pursuant to Code of Civil Procedure section 1281.2 is the exclusive means by which a party to an arbitration agreement may seek to compel arbitration of a controversy alleged to be subject to that arbitration agreement.	III, IV	Would conserve judicial resources by eliminating unnecessary side litigation over issue.

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2. *Disqualification motions (170.6)*

BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
AB 1894	Monning	2010	Support	Extends, for civil cases only, the time period for moving to disqualify a judge from 10 to 15 days and requires the moving party to notify all other parties within 5 days of making the motion.	II, IV	Clarifies timeline for bringing motions, which should help avoid confusion.

3. *Miscellaneous*

BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
AB 3248	Committee on Judiciary	2018	Support	Removes the July 1, 2019, repeal date on the statutory procedures governing mandatory expedited jury trials in limited civil cases, thereby extending these provisions indefinitely.	I, III, IV	Enhances access to justice and increases efficiency of handling small civil cases.
AB 555	Alejo	2015	Support	Modifies existing procedures governing voluntary expedited jury trials to provide that each party has up to 5 hours to complete voir dire and present its cases and adds new provisions that require most limited civil cases to be conducted as expedited jury trials.	I, III, V	Enhances access to justice and increases efficiency of handling small civil cases.
AB 1390/ SB 226	Alejo Pavley	2015	Support	This package of bills provides a modern, comprehensive adjudication process for all groundwater basins regulated under the Sustainable Groundwater Management Act (SGMA), and it would be an option for basins that are not. These bills will (1) make the adjudication process more cost-effective, (2) ensure that the process is fair, and (3) harmonize the process with SGMA to ensure that parties have a forum to determine their water rights but do not use it to obstruct or delay SGMA.	IV	
SB 406	Evans	2014	Sponsor	Establishes the Tribal Court Civil Money Judgment Act to govern the process by which a party could seek recognition of a tribal court civil money judgment in California state courts.	I, IV	
AB 2073	Silva	2012	Support	Authorizes the Superior Court of Orange County, until July 1, 2014, to adopt a local rule of court that would establish a pilot project mandating parties to civil actions identified by the court to electronically file and serve documents. Requires the Judicial Council to adopt uniform rules that would permit trial courts throughout the state to mandate electronic filing and service of documents in civil cases.	III	
AB 2274	Lara	2012	Support	Extends the vexatious litigant statute to pro per parties who had legal representation at the time of filing their lawsuits.	I	

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BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
SB 731	Committee on Judiciary	2012	Sponsor	Clarifies that the vexatious litigant statute applies to matters in the Courts of Appeal, as well as the trial courts, and that a presiding justice or judge may delegate to another justice or judge of the same court the authority to make the pre-filing determination that an individual is a vexatious litigant or is permitted to file an action; and provides procedures for an application to vacate a pre-filing order and remove a litigant's name from the Judicial Council's list of vexatious litigants.	III	
AB 2119	Tran	2010	Support	Provides that when any law governing civil procedure requires an act to be performed no later than a specified number of days before a hearing date, the last day to perform that act shall be determined by counting backward from the hearing date, excluding the date of the hearing.	IV	
AB 2284	Evans	2010	Support	Establishes the Expedited Jury Trials Act. Among other things, defines expedited jury trial as a binding jury trial before a reduced jury panel and judicial officer. Requires the Judicial Council, by January 1, 2011, to adopt implementing rules and forms. Makes the act operative until January 1, 2016.	I, III, IV	
SB 1274	Committee on Judiciary	2010	Sponsor	Authorizes service by electronic notification by defining electronic service to include both electronic transmission and electronic notification. Authorizes electronic service of all types of documents and expands the courts ability to serve certain documents electronically.	III, IV	

4. *Small claims* – The council advocates a small claims court system that provides a speedy, fair, and inexpensive alternative for resolving conflicts of low monetary value. The council supports adequate funding for small claims human resources in all counties.

BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
SB 221	Simitian	2011	Support	Increases small claims court jurisdiction for actions brought by natural persons from \$7,500 to \$10,000.	I	Enhances access to the courts.
AB 712	Evans	2009	Support	Specifies that a small claims court has jurisdiction over an action for an injunction or other equitable relief when a statute expressly authorizes a small claims court to award that relief. Expressly provides that this legislation does not expand and is not encouraging the expansion of the jurisdiction of the small claims court.	I, IV	Improves administration of justice.

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BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
AB 1873	Lieu	2008	Sponsor	Clarifies that a court is authorized to charge the same fees for postjudgment motions related to the enforcement of a small claims judgment as a court charges for the enforcement of a regular civil judgment. Authorizes a court to charge and collect a nonrefundable postponement fee of \$10 from either party who makes more than one <i>pre-service</i> request to postpone a small claims trial. Provides that this fee would only be assessed after a party has already been granted one prior postponement.	III, IV	Improves administration of justice and enhances court administration.
AB 2846	Feuer	2008	Support	Provides that if a dispute exists between the owner of a separate interest and a homeowners' association regarding any disputed charge or sum levied by the association, and the amount in dispute does not exceed the jurisdictional limits of the small claims court, the owner of the separate interest may pay under protest the disputed amount and all other amounts levied, including certain fees, costs, and other specified amounts, and commence an action in small claims court.	I, IV	Improves access to the courts.
SB 1432	Margett	2008	Support	Increases the jurisdiction of the small claims court from \$4,000 to \$6,500 for any action brought by a natural person against a defendant guarantor that charges a fee for its guarantor or surety services.	I, IV	Improves access to the courts.
AB 2455	Nakanishi	2006	Support	Provides that the small claims court has jurisdiction in an action brought by a natural person against the Registrar of the Contractors State License Board as the defendant guarantor holding a contractor's cash deposit if the amount of the demand does not exceed \$7,500.	I, IV	Enhances access to the courts.
AB 1459/ SB 422	Canciamilla/Simitian	2005	Oppose unless amended, support if amended	Increases the jurisdiction in small claims court from \$5,000 to \$7,500 for actions brought by <i>natural persons</i> .	I, III, IV	Enhances access to the courts by raising jurisdictional amount to \$7,500; opposition to proposal to expand jurisdiction to \$10,000 because too much complexity for small claims.

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5. *Summary adjudication/summary judgment*

BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
AB 1141	Chau	2015	Support section 1; no position on section 2	Reinstates the provisions in Code of Civil Procedure (CCP) section 437c that allowed a party to file a motion for partial summary adjudication. Amends CCP section 998, the statute that governs settlement offers and costs, by requiring the defendant to pay a reasonable sum to cover expert witness costs, whether or not the costs arose post-offer, in cases where the defendant failed to obtain a more favorable judgment or award.	III, IV	
SB 470	Jackson	2015	Sponsor	Provides that in granting or denying a motion for summary judgment or summary adjudication, the court need rule only on those objections to evidence that it deems material to its disposition of the motion, and that objections to evidence that are not ruled on for purposes of the motion are preserved for appellate review.	III, IV	
SB 384	Evans	2011	Support	Authorizes a motion for summary adjudication of a legal issue or claim of damages, other than punitive damages, that does not completely dispose of a cause of action, an affirmative defense, or an issue of duty. Does this upon stipulation of the parties whose claims or defenses are put at issue by the motion, and a prior determination by the court, that the motion will further the interests of judicial economy by reducing the time required for trial or increasing the ability of the parties to settle. Clarifies the law governing fees in complex civil cases.	III, IV	
AB 2961	Wayne	2002	Oppose	Authorizes a motion for summary adjudication of a legal issue or claim of damages other than punitive damages that does not completely dispose of a cause of action, an affirmative defense, or an issue of duty, if brought upon stipulation of the parties whose claims or defenses are put at issue by the motion.	II	Interferes with court's management of litigation.

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6. *Unlawful detainer* – The council supports efforts to reduce delays and abuses in unlawful detainer actions, and seeks to ensure that processes are not overly burdensome to the courts.

BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
AB 2819	Chiu	2016	Neutral	Makes various changes to the law governing masking of records in unlawful detainer (UD) proceedings. Among other things, the bill provides that the court clerk shall allow access to UD civil case records to any person 60 days after the complaint has been filed if the plaintiff prevails in the action within 60 days of the filing of the complaint. If a default or default judgment is set aside more than 60 days after the complaint has been filed, the above masking rule shall apply as if the complaint has been filed on the date the default or default judgment is set aside. The court clerk shall allow access to UD civil case records to a person by order of the court if judgment is entered for the plaintiff after trial more than 60 days since the filing of the complaint. In conjunction with the entry of judgment for the plaintiff in the above instance, the court must also issue an order unsealing the records. The bill clarifies that its provisions do not prohibit the court from issuing an order that bars access to the court record in a UD case if the parties to the action so stipulate. Finally, the bill allows (but does not require) the court to dismiss the action without prejudice if 60 days elapse after the complaint is filed and no proof of service of the summons has been filed.	I, II, IV	
AB 1126	Eng	2007	Support	Provides that in unlawful detainer actions and other specified summary proceedings involving the possession of real property, a discovery motion may be made at any time upon giving five days' notice. Requires the Judicial Council to adopt rules prescribing the time for the filing and service of opposition and reply papers relating to specified motions filed in connection with the above summary proceedings.	II, IV	Improves administration of justice.
AB 664	Jones	2005	Support	Allows the court to list legal service providers not funded by the federal Legal Services Corporation on unlawful detainer notices.	I, IV	Ensures best information on legal service providers for UD defendants.
SB 345	Kuehl	2003	Oppose unless amended	Denies access to unlawful detainer records until 60 days following the date final judgment has been entered in favor of the landlord after a trial or summary judgment motion.	III	Administrative record-keeping requirements unduly burdensome on the courts.

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7. *Calendar preferences*

BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
AB 281	Frazier	2019	Oppose	Requires CEQA actions or proceedings, including any appeals therefrom, to be resolved, to the extent feasible, within 270 days of the filing of the certified record of proceedings with the court.	II	Bill was subsequently amended to remove all CEQA-specific provisions.
AB 490	Salas	2019	Oppose	Requires CEQA actions or proceedings, including any appeals therefrom, to be resolved, to the extent feasible, within 270 days of the filing of the certified record of proceedings with the court. Prohibits a court from staying or enjoining the construction or operation of these projects as specified.	II	Bill was subsequently amended to remove prohibitions from staying or enjoining on court.
AB 1244	Fong	2019	Oppose	Prohibits, as specified, a court in a judicial action or proceeding under the CEQA from staying or enjoining a housing project for which an environmental impact report has been certified.	II	
AB 1648	Levine	2019	Oppose	Requires CEQA actions or proceedings, including any appeals therefrom, to be resolved, to the extent feasible, within 270 days of the filing of the certified record of proceedings with the court.	II	Bill was subsequently amended to remove all CEQA-specific provisions.
SB 384	Morrell	2019	Oppose	Requires CEQA actions or proceedings, including any appeals therefrom, to be resolved, to the extent feasible, within 270 days of the filing of the certified record of proceedings with the court. Prohibits a court from staying or enjoining the siting, construction or operation of these housing projects, as specified.	II	
SB 621	Glazer	2019	Oppose	Requires CEQA actions or proceedings, including any appeals therefrom, to be resolved, to the extent feasible, within 270 days of the filing of the certified record of proceedings with the court.	II	
SB 744	Caballero	2019	Oppose	Requires CEQA actions or proceedings, including any appeals therefrom, to be resolved, to the extent feasible, within 270 days of the filing of the certified record of proceedings with the court.	II	Bill was subsequently amended to address a different topic.

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C. CRIMINAL PROCEDURE

1. *Criminal and capital case processing* – The council seeks to expedite the resolution of criminal cases at the trial and appellate level. The council seeks to maintain the courts' ability to efficiently and effectively manage the procedures and administration of the court system while improving the delivery of justice to the public, and to protect the exercise of the judicial discretion in criminal cases.

BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
AB 607	Carrillo	2019	Oppose, unless amended	Deletes various crimes relating to controlled substances from the prohibitions against granting probation or a suspended sentence. Authorizes the remaining prohibitions on probation to be waived by a court in the interests of justice. Requires the court to both specify on the record and enter into the minutes the circumstances supporting the findings when probation is granted under those provisions.	III	
AB 1076	Ting	2019	Oppose, unless funded	Among other things, requires the Department of Justice (DOJ), on a monthly basis, to review the state summary criminal history repository to find individuals with felony, misdemeanor, and infraction convictions dating back to January 1, 1973, who may be eligible, except in limited circumstances, to have their case records withheld from public disclosure. Requires the DOJ to notify courts of eligible cases on a monthly basis. Allows prosecuting attorneys, for cases resolved on or after January 1, 2018, to file a motion to prohibit the DOJ from requesting that the court withhold the case from public release. If the court grants that motion, ensures that the case remain available to the public, with the person still eligible to petition to have the case withheld through existing statutes. Requires a court, at the time of sentencing, to advise each defendant of the defendant's right to conviction relief under the bill.	VII	
AB 1331	Bonta	2019	Oppose, unless amended, to specify realistic delayed implementation date, and funded	Requires courts monthly to report the Criminal Information and Identification (CII) number and court docket number, in addition to case disposition information that existing law requires courts to report to the Department of Justice. Requires a criminal justice agency, when filing a case with the court, to include the CII number in the filing, and provides for a delayed operative date of July 1, 2020.	VII	

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AB 1636	Bonta	2019	Oppose	Authorizes a person charged by complaint with a felony to, at the time of arraignment, make a motion for a determination of probable cause on each count charged, which shall be made by the court immediately on the basis of the complaint, warrant, police reports, or other documents of similar reliability, or may be continued for not more than three days for good cause. Requires the court to dismiss any count charged for which the court does not make a finding of probable cause. Provides that any charge dismissed under such a motion can be refiled. Clarifies that a finding of probable cause under such a motion is not binding on the court in any later hearing for determining probable cause.	IV	

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BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
SB 36	Hertzberg	2019	Support	<p>Requires each pretrial services agency that uses a pretrial risk assessment tool to validate the tool by January 1, 2021, and on a regular basis thereafter, but no less frequently than once every three years, and to make specified information regarding the tool, including validation studies, publicly available. Requires the Judicial Council to maintain a list of pretrial services agencies that have satisfied those validation requirements and complied with those transparency requirements. Requires the Judicial Council, beginning on December 31, 2020, and on or before December 31 of each year thereafter, to publish a report on its internet website with data related to outcomes and potential biases in pretrial release. Requires pretrial services agencies, the Department of Justice, courts, and local governments that elect to use risk assessment tools to work with the Judicial Council to provide the data necessary for this report. Protects the use of the data by restricting the Judicial Council from sharing any individual-level data unless the council has entered into a contract for research purposes. To ensure sufficient funding for data collection, analysis, and reporting requirements, constrains those provisions of SB 36 to apply solely to agencies receiving funding, as follows:</p> <ul style="list-style-type: none"> • Pretrial services agencies that have a contractual agreement with one of the pretrial pilot program courts (funded with the Budget Act of 2019 appropriation of \$75 million for the pilots). • Agencies otherwise funded by the state to perform risk assessments—for example, if SB 10 goes into effect or the state chooses to expand or continue the pilot projects. • Other agencies that perform risk assessments only if sufficient funding is provided to the Judicial Council, the superior courts, and pretrial services agencies to ensure their ability to meet the data reporting requirements and standards set by the Judicial Council. <p>Requires the Judicial Council, on or before July 1, 2022, to provide a report to the courts and the Legislature containing recommendations to mitigate bias and disparate effect in pretrial decisionmaking.</p>	III, VII	

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BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
SB 389	Hertzberg	2019	Support	Authorizes counties to use Mental Health Services Act moneys to provide services to persons who are participating in a presentencing or postsentencing diversion program or who are on parole, probation, postrelease community supervision, or mandatory supervision.	IV	
SB 471	Stern	2019	Support, if amended	Authorizes a subpoena in a criminal matter to be delivered by electronic mail or facsimile transmission. Requires, for service to be effected, that the witness identify themselves by reference to their DMV-issued identification number, and requires the sender to make a written notation of the fact that the witness made that identification.	III	
SB 516	Skinner	2019	Oppose	Requires a case in which a person is charged with actively participating in a criminal street gang and other criminal charges to be tried in phases that separate the trier of fact's determination of the person's guilt of participation with the criminal street gang and guilt of the other criminal charges.	VII	
SB 557	Jones	2019	Support	Makes all documents submitted to a court under proceedings on competency to stand trial—including examinations, evaluations, recommendations, reports, or certificates of restoration—presumptively confidential, except as otherwise provided by law. Requires that those documents be retained in the confidential portion of the court's file and that counsel for the defendant and the prosecution maintain the report as confidential. Provides that the defendant, counsel for the defendant, and prosecution may inspect the documents and that the court may consider a motion, application, or petition to unseal the documents, in whole or in part, under rule 2.551(h) of the California Rules of Court.	IV	
SB 580	Wilk	2019	Oppose	Requires the court to order a psychological or psychiatric evaluation when a defendant is granted probation for sexually assaulting, poisoning, or improperly caring for an animal; injuring a police dog; maliciously and intentionally injuring an animal; or overworking an animal.	IV	
AB 2526	Rubio	2018	Sponsor	States the procedure for issuing a temporary emergency gun violence restraining order, specifically Penal Code sections 18140 and 18145, replacing the procedural requirement for obtaining an order orally with requirements stated directly within the gun violence prevention statutes. Clarifies the procedures for law enforcement officers and the court to follow, and aligns procedures with those for obtaining a domestic violence emergency protection order.	III	

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BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
AB 2710	Obernolte	2018	Sponsor	Promotes procedural efficiencies by streamlining and modernizing the warrant process. Specifically, amends Penal Code sections 817 and 1526 by (1) providing that the warrant signed by the magistrate and received by the officer be deemed the original warrant, (2) no longer requiring the magistrate to print the warrant, and (3) eliminating the oral oath requirement, with the magistrate exercising discretion to call the officer when appropriate.	III	
AB 2988	Weber	2018	No position	Requires the appropriate governmental entity to preserve any object or material that contains or includes biological material. Requires the governmental entity to provide notice of intent to destroy biologics, as specified. Retains the provisions in existing law relating to challenges to notices of intent to destroy biologics.	VI	
SB 10	Hertzberg	2018	Support	Changes the current pretrial release and detention system, moving from a system that determines pretrial release and detention based on criminal charges and monetary bail, to one that is based on criminal charges, assessment of risk to public safety, and potential for failure to return to court.	I, II, IV	
AB 255	Gallagher	2017	Support	When determining the county placement of sexually violent predators, requires the court to consider additional factors if the county of placement is not the county of domicile, including if and how long the person has previously resided or been employed in the county and if the person has next of kin in the county.	I	
AB 411	Bloom	2017	Oppose provision requiring a jury instruction	Requires that if a party makes a showing that the therapy or facility dog and handler are suitably qualified and will reasonably assist the testifying witness, the court shall grant the motion, unless the court finds the use of a therapy or facility dog would cause undue prejudice to the defendant or would be unduly disruptive to the court proceeding. Requires the court, upon request of the parties, to issue an appropriate jury instruction designed to prevent prejudice for or against any party if a therapy dog is used.	II	
AB 532	Waldron	2017	Oppose	Clarifies that a court may collaborate with outside organizations on a program to offer mental health and addiction treatment services, as defined, to women who are charged in a complaint that consists only of misdemeanor offenses or who are on probation for one or more misdemeanor offenses. Specifically excludes from these provisions a woman who is charged with a felony or who is under supervision for a felony conviction.	IV	

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AB 745	Reyes	2017	Sponsor	Until January 1, 2021, authorizes a presiding judge of a superior court located within the County of Riverside or the County of San Bernardino, if certain conditions are met, to direct a commissioner to perform certain specified duties performed by magistrates, including on-call magistrate duties. Requires the Judicial Council to report to the Governor and Legislature on this expanded authority.	I	
AB 789	Rubio	2017	Sponsor	Allows a court to approve own recognizance release under a court-operated or court-approved pretrial release program for certain arrestees with three or more prior failures to appear.	I, IV	
AB 1541	Kalra	2017	Oppose	Provides that (1) counsel for each party shall have the right to examine, by oral and direct questioning, any of the prospective jurors in order to enable counsel to intelligently exercise challenges for cause; (2) the judge permit liberal and probing examination calculated to discover bias or prejudice with regard to the circumstances of the particular case or the parties before the court and provide that the fact that a topic was included in the judge's examination shall not preclude appropriate questioning in the same area by counsel; (3) the scope of the examination conducted by counsel shall be within reasonable limits prescribed by the judge in the judge's sound discretion; (4) the judge shall not impose specific unreasonable or arbitrary time limits or establish an inflexible time limit policy for voir dire; (5) as voir dire proceeds, the judge shall permit supplemental time for questioning, as specified; and (6) the court shall not arbitrarily or unreasonably refuse to submit reasonable questionnaires before oral questioning commences and that if a questionnaire is used, that the parties be given reasonable time to evaluate the responses to the questionnaires before oral questioning commences. Requires the judge to facilitate the jury selection process and provide the parties with both the alphabetical list and the list of prospective jurors, in the order in which they will be called.	IV	The bill as written is inefficient and burdensome, infringes on judicial discretion, and interferes with the ability of judges to manage their courtrooms.

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SB 238	Hertzberg	2017	Support provision relating to digital records	Among other things, applies existing law relating to certified photographic records of exhibits to digital records of exhibits to (1) allow any party to prepare a digital record of an exhibit before it is disposed of; (2) require that the clerk of the court observe the taking of a digital record of the exhibit and certify the copy of the digital record as being a true, unaltered, and unretouched print of the photographic record taken in the presence of the clerk; and (3) require a duplicate of the photographic or digital record to be delivered to the clerk for certification and defines “photographic” and “duplicate” for these purposes.	VI	
SB 785	Wiener	2017	No position	Among other things, seeks to prevent irrelevant information about a person’s immigration status from being divulged in open court and included in specified public court records. Prohibits parties to a civil or criminal action from disclosing evidence regarding the immigration status of any other party or witness in open court, unless the party first requests a confidential, in-camera hearing and ruling by the judicial officer presiding over the case as to whether the evidence is relevant and not inadmissible. Prohibits <i>in criminal cases</i> evidence of a person’s immigration status from being included in public court records, except as authorized by the court pursuant to the above-described, confidential, in-camera hearing procedure.	I, IV	
AB 813	Gonzalez	2016	Oppose, unless amended	Creates an explicit right for a person no longer imprisoned or restrained to prosecute a motion to vacate a conviction or sentence as specified.	IV	
AB 1272	Grove	2016	Support	Requires that, in scheduling a trial date at an arraignment in superior court where the allegation is that the defendant committed a crime against a person with a developmental disability, courts make reasonable efforts to avoid setting that trial, when that case is assigned to a particular prosecuting attorney, on the same day that another case is set for trial involving the same prosecuting attorney.	I, IV	
AB 1276	Santiago	2016	Support	Authorizes, under specified conditions, a minor 15 years of age or younger to testify by contemporaneous examination and cross-examination in another place and out of the presence of the judge, jury, defendant or defendants, and attorneys if the testimony will involve the recitation of the facts of an alleged offense of human trafficking.	IV	

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AB 1867	Steinorth	2016	Support	Includes within the definition of an “electronically digitized copy” a copy that is made by scanning, photographing, or otherwise exactly reproducing a document, is stored or maintained in a digitized format, and that meets certain requirements.	VI	
AB 1962	Dodd	2016	Support	Requires the Department of State Hospitals (DSH), on or before July 1, 2017, to adopt guidelines for education and training standards for a psychiatrist or licensed psychologist to be considered for appointment by the court to conduct mental competence examinations pursuant to Penal Code section 1369. Directs DSH to convene a workgroup to assist in the development of the guidelines that is comprised of the Judicial Council and other groups or individuals representing judges, defense counsel, district attorneys, counties, advocates for people with developmental and mental disabilities, state psychologists and psychiatrists, professional associations and accrediting bodies for psychologists and psychiatrists, and other interested stakeholders. Clarifies the court’s authority to depart from the guidelines in specified cases.	II, IV	
AB 2013	Jones-Sawyer	2016	Oppose	Requires that three counties—one large, one medium, and one small—be selected to participate in a three-year pilot project. Creates a three-member committee to select the pilot counties, with members selected by the California District Attorneys Association (CDAA), the California Public Defenders Association (CPDA), and the Judicial Council, with the CDAA and CPDA responsible for convening the committee. Requires the Department of Justice to report to the Legislature not later than July 1, 2021.	IV	
AB 2380	Alejo	2016	Oppose	Requires the court to provide the following information at the arraignment of a defendant who is charged with a felony and who is the sole custodial parent of one or more minor children: (1) Judicial Council Form GC-250, the “Guardianship Pamphlet”; (2) information regarding a power of attorney for a minor child; and (3) information regarding “trustline” background examinations pertaining to child care providers as provided in Health and Safety Code section 1596.60 et seq.	II	
AB 2498	Bonta	2016	No position	Among other things, expands the list of criminal actions that take precedence over all other criminal actions in the order of trial to include human trafficking, as defined.	I	

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AB 2655	Weber	2016	Support	Provides that the court's jurisdiction from the date of the arraignment to declare a forfeiture and authority to release bail may be extended for not more than 90 days if both of the following occur: (1) the arraignment is continued to allow the prosecutor time to file the complaint, and (2) the defendant requests the extension in writing or in open court.	I	
SB 443	Mitchell	2016	No position	Requires additional due process protection in cases where the State of California seeks forfeiture of assets in connection with specified drug offenses. Changes the process concerning how money or property forfeited under federal forfeiture law is distributed to state or local law enforcement. Increases the threshold for a burden of proof of beyond a reasonable doubt for seizure of assets to less than \$40,000. In cases in which the forfeiture hearing, or any related civil discovery, is continued or stayed, the requirement that the forfeiture case be tried in conjunction with the related criminal case or to the same jury as in the related criminal case may be waived by the parties.	IV	
SB 823	Block	2016	Oppose	Extends the relief available under Penal Code section 1203.49 for dismissal of adult prostitution convictions suffered by human-trafficking victims to dismissal of any nonviolent offenses committed as a direct result of or in clear connection with a human-trafficking scheme of which the person was a victim. Provides that a person who was arrested for a crime allegedly committed while the person was a human-trafficking victim may petition for a judicial finding of his or her status as a human-trafficking victim at the time of the offense and an order that the arrest record be sealed.	II	
SB 1134	Leno	2016	Neutral, if funded	Allows a writ of habeas corpus to be prosecuted on the basis of new evidence that is credible, material, presented without substantial delay, and of such decisive force and value that it would have more likely than not changed the outcome at trial. Defines "new evidence" as "evidence that has been discovered after trial, that could not have been discovered prior to trial by the exercise of due diligence, and is admissible and not merely cumulative, corroborative, collateral, or impeaching."	I	

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BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
AB 39	Medina	2015	Support	Requires an affiant to first sign his or her affidavit in support of the application for the search warrant and then transmit the proposed search warrant and all supporting affidavits and documents to the magistrate. Also provides that the completed search warrant as signed by the magistrate and transmitted via facsimile transmission, electronic mail, or computer server, and received by the affiant shall be deemed to be the original warrant.	V	
AB 249	Obernolte	2015	Sponsor	Prohibits appeals based solely on the grounds of an error in the imposition or calculation of fines, penalty assessments, surcharges, fees, or costs unless the defendant first presents the claim in the trial court at the time of sentencing, or, if the error is not discovered until after sentencing, the defendant first makes a motion for correction in the trial court. Lists statutory exceptions to the appellate procedure set forth in Penal Code section 1237.2.	I	
AB 267	Jones-Sawyer	2015	Oppose	Requires the court to inform the defendant prior to the plea of not guilty only of the potential adverse consequences set forth in the bill. Provides that courts may provide the information through a form notice presented to the defendant or a bulletin posted in the courtroom informing the defendant of these adverse consequences. Provides that the court may orally inform the defendant that the actual impacts may be unknown and the defendant may consult with his or her attorney or another qualified expert. Provides that with respect to pleas accepted prior to January 1, 2016, it is not the intent of the Legislature that a court's failure to provide the advisement should require a vacation of judgment and withdrawal of the plea, constitute grounds for finding a prior conviction invalid, or provide a ground for appeal from the judgment or appealable order.	IV	Potential of increasing workload and adding to the already high-volume calendars; defense counsel is in best position to advise of adverse consequences.
AB 539	Levine	2015	Support	Authorizes law enforcement to obtain a search warrant to test the blood of a person suspected of operating a marine vessel under the influence of drugs and/or alcohol.	IV	
AB 673	Santiago	2015	Support	Establishes procedures for the payment and collection of fines, fees, and restitution if a person is released on probation or mandatory supervision, and the jurisdiction of the case is transferred to the superior court of another county, as specified.	III	
AB 696	Jones-Sawyer	2015	Oppose	Requires the court, upon motion of a noncustodial defendant accused of a misdemeanor, to make a probable cause determination. Requires that determination to be made 30 days before the date calendared for trial to allow the prosecution to comply with certain discharge requirements.	IV	Has the potential of requiring a significant number of additional probable cause determinations hearings for out-of-custody misdemeanor defendants.

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AB 813	Gonzalez	2015	Oppose unless amended	Creates an explicit right for a person no longer imprisoned or restrained to prosecute a motion to vacate a conviction or sentence as specified.	IV	Author made several amendments to address some of the concerns raised by the Judicial Council.
AB 1156	Brown	2015	Support	Makes numerous technical and clarifying changes to the 2011 Realignment Act, including, among others, that a court may, within 120 days of the date of commitment on its own motion, or on the recommendation of the county correctional administrator, recall the sentence previously ordered and resentence the defendant in the same manner as if he or she had not previously been sentenced, provided the new sentence, if any, is no greater than the original sentence; requiring the Judicial Council to adopt rules providing criteria regarding a court's decision to impose the lower or upper term of a sentence under Penal Code section 1170(h)(1)–(2); and providing that a person shall not be subject to prosecution for a non-felony offense arising out of a violation in the California Vehicle Code, with the exception of Driving under the Influence (DUI), that is pending against him or her at the time of his or commitment to a county jail under the 2011 Realignment Act.	I	Judicial Council also sponsored a proposal authorizing courts to recall past felony sentences within 120 days of sentencing on the court's own motion.
AB 1351	Eggman	2015	No position	Addresses the federal immigration law that makes a deferred entry of judgment requirements a “conviction,” for deportation purposes, by creating a pretrial diversion program, which does not result in a conviction if completed successfully.	I	

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AB 1352	Eggman	2015	No position	Requires a court to allow a defendant who was granted deferred entry of judgment on or after January 1, 1997, after pleading guilty or nolo contendere to the charged offense, to withdraw his or her plea and enter a plea of not guilty, and would require the court to dismiss the complaint or information against the defendant if the defendant performed satisfactorily during the deferred entry of judgment period and the defendant attests that the plea may result in the denial or loss to the defendant of any employment, benefit, license, or certificate, including, but not limited to, causing a noncitizen defendant to potentially be found inadmissible, deportable, or subject to any other kind of adverse immigration consequence. Requires that if court records showing the case resolution are no longer available, the defendant's declaration, under penalty of perjury, that the charges were dismissed after he or she completed the requirements, be presumed to be true if the defendant submits a copy of his or her state summary criminal history information that shows either that the defendant successfully completed the deferred entry of judgment program or that the record does not show a final disposition.	I	
AB 1492	Gatto	2015	Oppose	Among other things, requires that DNA samples obtained during an arrest on a felony not be sent to Department of Justice for analysis until after a judicial determination of probable cause, if the California Supreme Court upholds <i>People v. Buza</i> , review granted February 18, 2015, S223698. If the California Supreme Court upholds <i>Buza</i> , requires the DNA specimen and sample to be destroyed and the searchable database profile expunged from the database without the requirement of an application to the Department of Justice.	IV	Poses significant operational issues; the potential confusion among courts regarding the application of the bill prior to and after the Supreme Court's ruling in <i>Buza</i> is likely to place burdens on the courts.
SB 213	Block	2015	Support/ Cosponsor	Reduces the number of peremptory challenges available in misdemeanor trials from 10 to 6 in cases where the offense is punishable with a maximum term of imprisonment of one year or less.	IV	

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SB 443	Mitchell	2015	Oppose	Requires additional due process protection in cases where the State of California seeks forfeiture of assets in connection with specified drug offenses. Changes the process concerning how money or property forfeited under federal forfeiture law is distributed to state or local law enforcement. Changes the burden of proof for seizure of assets less than \$25,000 from a clear and convincing standard to a beyond a reasonable doubt standard. In cases in which the forfeiture hearing, or any related civil discovery, is continued or stayed, the requirement that the forfeiture case be tried in conjunction with the related criminal case or to the same jury as in the related criminal case may be waived by the parties.	IV	
SB 517	Monning	2015	Sponsor	Provides courts with discretion to order the release of supervised persons from custody, unless otherwise serving a period of flash incarceration, regardless of whether a petition has been filed or a parole hold has been issued.	III	
SB 603	Hueso	2015	Oppose	Among other things, provides that if a defendant is acting as his or her own attorney, the court, on a motion by the prosecutor, at the request of a victim, or on the court's own motion, shall conduct a hearing to determine whether intermediary standby counsel shall be appointed, at county expense, for the limited purpose of presenting the defendant's examination of the victim. Provides the court may order intermediary standby counsel if the court makes the certain findings. If intermediary standby counsel is not available, provides that the court appoint any individual the court deems fit to conduct the examination or the court may conduct the examination. Provides that when the court orders the examination of the victim be presented by intermediary standby counsel, another individual, or the court, the defendant shall submit the entire line of questioning to the intermediary standby counsel, another individual, or the court, including any follow-up questions, and have the right to contemporaneously direct intermediary standby counsel, another individual, or the court during the examination to ensure the defendant maintains control of his or her defense.	II	
SB 694	Leno	2015	Neutral, if funded	Allows a writ of habeas corpus to be prosecuted on the basis of new evidence that is credible, material, and of such decisive force and value that it would have more likely than not changed the outcome at trial. Defines "new evidence" as "evidence that has been discovered after trial, that could not have been discovered prior to trial by the exercise of due diligence, and is admissible and not merely cumulative, corroborative, collateral, or impeaching."	I	

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AB 885	Ammiano	2014	Oppose	Allows the court, in any criminal trial or proceeding in which the court determines that the prosecuting attorney has failed to disclose materials and information required under law, to instruct the jury that the intentional failure to disclose the materials and information has occurred and that the jury may consider the failure to disclose as circumstantial evidence to support the presence of reasonable doubt.	II	Interferes with judicial discretion to deliver jury instructions that are appropriate to the unique facts and circumstances of each trial.
AB 1014	Skinner	2014	Neutral	Creates a new civil process for the issuance of gun violence restraining orders and authorizes a law enforcement officer or immediate family member of a person to seek, and a court to issue, a gun violence restraining order, as specified, prohibiting a person from having in his or her custody or control, owning, purchasing, possessing, or receiving any firearms or ammunition. Defines a gun violence restraining order as an order, in writing, signed by the court, prohibiting and enjoining a named person from having under his or her custody and control, owning, purchasing, possessing, or receiving any firearms or ammunition. Requires the Judicial Council to prescribe the petitions and orders and any other documents or rules of court necessary to implement the gun violence restraining order process.	I	Author took numerous amendments addressing operational concerns for courts.
AB 1591	Achadjian	2014	Support	Requires that courts notify the Department of Justice in an electronic format about individuals who have been adjudged by a court to be incompetent to stand trial, not guilty by reason of insanity, a danger to others as a result of a mental disorder or mental illness, or a mentally disordered sex offender, within one court day instead of two court days of the finding.	IV	
AB 1610	Bonta	2014	Support	Authorizes the defendant or the People to apply for an order that the witness be examined conditionally when the defendant has been charged with human trafficking and there is evidence that the victim or material witness will not attend the trial because he or she is under the direct control of the defendant or another person involved in human trafficking and by virtue of this relationship, the defendant or another person seeks to prevent the witness or victim from testifying.	IV	By granting courts the authority to order that a witness be conditionally examined in cases involving human trafficking, AB 1610 both enhances judicial discretion and enhances the quality of justice.

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BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
AB 1698	Wagner	2014	Support	Requires a court to issue a written order declaring a false or forged instrument to be judged void at its inception when (1) a defendant is convicted of offering a false or forged instrument for filing, or (2) a defendant enters a plea in which a charge of offering a false or forged instrument is dismissed, but he or she agrees to let the court consider the dismissed charge for purposes of sentencing. Clarifies that the prosecuting agency must record the court order at the appropriate public office.	IV	Increases the efficiency of courts by avoiding costly quiet title actions.
AB 2186	Lowenthal	2014	Support	Among other things, requires the court, if it finds any one of a list of conditions to be true, to issue an order authorizing involuntary administration of antipsychotic medication to the defendant when and as prescribed by the defendant's treating psychiatrist at a state hospital or other facility. Requires the court to review the order to administer involuntary medication at the time of the review of the initial competency report by the medical director of the treatment facility and at reviews of the six-month progress reports.	IV	
AB 2190	Maienschein	2014	Sponsor	Allows the court, when appropriate, to conditionally release a defendant found incompetent to stand trial to a placement in the community, rather than in a custodial or in-patient setting, to receive mental health treatment until competency is restored. Requires that when a conservatorship investigation results from a criminal court ordering an evaluation of a defendant, the officer must submit a copy of the report to the defendant or defendant's attorney who may authorize distribution to the criminal court. Clarifies the defendant or defendant's counsel must give prior written consent to release of conservatorship investigation to a criminal court.	I, IV	
AB 2397	Frazier	2014	Support	Expands the types of appearances that can be made using two-way videoconference technology between a defendant housed in a state, county, or local facility within the county and a courtroom to include specified noncritical trial appearances, if the defendant and defense counsel consent to the defendant's physical absence from court.	VI	The use of video technology should improve the efficiency of courts and over time the use of that and similar technology will be more frequent.
AB 2487	Wagner	2014	Sponsor	Requires court reporters to transcribe shorthand notes of preliminary hearings on homicide charges within 10 days following the close of examination. In all other felony charges, the reporter would be required to transcribe his or her shorthand notes within 10 days of a request by counsel or the court.	IV	Would have created new efficiencies for the courts.

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BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
AB 2499	Bonilla	2014	Support	Among other things, provides that unless otherwise ordered by the court, mandatory supervision commences upon release from physical custody or an alternative custody program, whichever is later. Also provides that this provision becomes effective and operative on January 1, 2015, and shall be applied prospectively to any person sentenced on or after January 1, 2015. The bill further provides that the time spent on a home-monitoring program shall be credited toward any term of imprisonment or fine imposed.	VI	Enhances judicial discretion when courts impose sentences involving mandatory supervision and clarifies an ambiguity in the law about when mandatory supervision begins for a defendant.
AB 2625	Achadjian	2014	Support	Requires the court, in cases where the medical director's report concerning the defendant's progress toward mental competency recovery indicates there is no substantial likelihood the defendant will regain mental competence in the foreseeable future to order the defendant to be returned to the court for further proceedings to determine if the defendant is eligible to be placed under a specified conservatorship no later than 10 days following receipt of the medical director's report. Provides that the court shall transmit a copy of its order to the community program director or his or her designee. Requires that a defendant committed to a state hospital for treatment to regain mental competency, but who has not recovered competence, be returned to the committing court no later than 90 days before the expiration of the defendant's term of commitment.	IV	
AB 2645	Dababneh	2014	Sponsor	Provides that where jurisdiction of a case in which the defendant has been placed on mandatory supervision or probation is transferred, the court in the transferring county shall determine the amount of restitution owed to the victim, unless the determination cannot be made in a reasonable time.	III	
AB 2683	Cooley	2014	Sponsor	Deletes a category of juror misconduct that constitutes misdemeanor contempt—the willful disobedience by a juror of a court admonishment against any communication or research about a pending trial, including electronic or wireless communications.	III	

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AB 2724	Bradford	2014	Oppose	Provides that the ability to post bail or pay the civil assessment imposed by the court for failure to appear for a proceeding, or failure to pay a fine or bail installment, is not a prerequisite to filing a request that the court vacate the assessment. Provides that the imposition or collection of a civil assessment does not preclude a defendant from scheduling a court hearing on the underlying charge. Provides that the court cannot require the payment of bail, fine, or civil assessment before the person requests that the court vacate a civil assessment, imposed as specified. Provides that if an agreement is signed to pay a lawfully imposed fine in installments or to perform community service in lieu of the fine, as specified, the magistrate or court clerk is required to issue and file with the Department of Motor Vehicles (DMV) a certificate showing that an agreement has been signed to request that the hold on the defendant's driver's license be lifted.	II	
SB 663	Lara	2014	Support provision relating to trial dates	Among other things, requires that, in scheduling a trial date at an arraignment in superior court where the allegation is that the defendant committed a crime against a person with a developmental disability, courts make reasonable efforts to avoid setting that trial, when that case is assigned to a particular prosecuting attorney, on the same day that another case is set for trial involving the same prosecuting attorney.	I, IV	Gives courts flexibility in scheduling arraignments involving allegations that the defendant committed a crime against persons with developmental disabilities by requiring courts to make "reasonable efforts" to avoid setting trials on the same day a case is assigned to a prosecuting attorney who already has another case rather than requiring courts to do so in all instances.
SB 1110	Jackson	2014	Support, if amended	Requires a magistrate to inquire as to the active duty or veteran status of the defendant and requires specified actions if the defendant acknowledges military service, including filing Judicial Council Form MIL-100 and transmitting the form to the county veterans services officer for confirmation of military service. Provides that a defendant may decline to provide military service information without penalty. Requires, if the defendant is not represented by counsel, that the magistrate not make an inquiry into the defendant's current or past military status and requires that the court advise the defendant that certain current or former members of the U.S. military who meet certain qualifications are eligible for specific forms of restorative relief.	IV	Should result in better and timelier results for criminal cases involving individuals with military-related service who have not been identified as such by raising the awareness of veterans about their options during criminal proceedings. Thus, it should result in individuals who have military-related service being assigned to veterans courts in a timely manner in the counties where they are available, as well as providing defendants easier access to services at the local, state, and federal level.

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SB 1193	Evans	2014	Oppose, unless amended	Reduces the amount of marijuana seized by a law enforcement agency that must be retained for evidence from at least 10 pounds to at least 2 pounds. Reduces the required representative sample size of seized marijuana from one 10-pound sample to one 2-pound sample. Requires counsel for the defendant to have 30 days from the date of seizure to examine the 2-pound sample and five representative samples prior to destruction if criminal proceedings are pending, as specified.	II	Language is unclear as to whether it contemplates that a criminal court take the action relating to marijuana and related paraphernalia that is damaged or destroyed or whether the author intends that it be done through the existing public entity claims process.
SB 1222	Block	2014	Sponsor	Requires that the reasons for dismissal in a criminal case be set forth either on the record or in an order entered on the minutes. Requires the court to set forth the reasons for dismissal in an order entered on the minutes if requested by either party or if the proceedings are not being recorded electronically or reported by a court reporter.	III	
SB 1412	Nielsen	2014	Support	Applies and adapts the procedures and standards currently governing persons found incompetent to stand trial to cases where a defendant subject to mandatory supervision or postrelease community supervision faces revocation of his or her conditional release due to incompetency.	IV	
AB 492	Quirk	2013	Support	Requires transferring courts to make the determination of the probationer's county of residence for Proposition 36 probation cases.	I	
AB 568	Muratsuchi	2013	Support	For purposes of introducing hearsay statements at a preliminary hearing, provides that allowances for testimony of law enforcement officers extend to nontraditional law enforcement officers.	I	Codifies existing case law.
AB 651	Bradford	2013	Oppose	Authorizes courts, in their discretion and in the interest of justice, to grant dismissals (commonly referred to as "expungements") for eligible petitioners who were convicted of a felony and sentenced to jail upon a petition for a change of plea or setting aside of a verdict. Releases the defendant from all penalties and disabilities resulting from the offense of which he or she has been convicted, except as specified. Authorizes courts to require individuals filing such a petition to reimburse the court for the actual costs of services rendered, whether or not the petition is granted and the records are sealed or expunged, at a rate to be determined by the court not to exceed \$150.	II	Interferes with the discretion of courts to provide incentives to individuals convicted of crimes to opt for probation or split sentences over jail time.

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AB 723	Quirk	2013	Oppose	Allows a person on postrelease community supervision (PRCS) who has a revocation petition filed against him or her to file an application for bail or release on his or her own recognizance with the superior court. Provides that it is within the sole discretion of the court to admit a person to bail pending revocation of PRCS. States that a bail application will be governed by the procedures set forth in existing provisions of law governing bail. Specifies that a court is not prohibited from making any order authorized by existing provisions of law governing bail.	I	Greatly increases the number of bail hearings by permitting bail hearings for individuals on PRCS subject to a revocation petition.
AB 805	Jones-Sawyer	2013	Support	Provides that in setting, reducing, or denying bail, a judge may consider “factors such as” a report prepared by investigative staff.	I	
AB 807	Ammiano	2013	Oppose	Among other things, requires, when law enforcement has adopted procedures for conducting photo and live lineups with eye witnesses, that courts give jury instructions about those procedures that are substantially similar to instructions set forth in the bill.	II	Interferes with judicial discretion by requiring courts to give jury instructions that are substantially similar to those set forth in the bill.
AB 1004	Gray	2013	Sponsor	Streamlines the process for obtaining arrest warrants by permitting them to be submitted by computer servers, and by allowing magistrates to sign arrest warrants digitally or electronically.	IV	This bill contains one of the 17 efficiency proposals approved for Judicial Council sponsorship in December 2012.
AB 1118	Hagman	2013	Oppose	Among other things, requires the Judicial Council to prepare, adopt, and annually revise a statewide bail schedule for all bailable offenses, except Vehicle Code infractions, and to appoint a group of judges who represent counties varying in size from throughout the state to develop and approve the statewide bail schedule.	IV	Requires Judicial Council to adopt a model statewide bail schedule with no ostensible purpose.
SB 366	Wright	2013	Oppose	Implements broad changes to the laws that govern how civil assessments are imposed and processed.	II	Would significantly increase the workload of courts that are already understaffed.
SB 378	Block	2013	Support	Provides that an electronically digitized copy of an official record of conviction that has been certified in accordance with specified requirements is admissible to prove the commission, attempted commission, or solicitation of a criminal offense, prior conviction, service of a prison term, or other act, condition, or event recorded by the record.	IV	This bill contains one of the 6 efficiency proposals approved for Judicial Council sponsorship in April 2013.
SB 513	Hancock	2013	Support	Provides that two years after a person has successfully completed a pre-filing diversion program, he or she may petition the court for an order sealing the arrest records and related court files and records. Provides that a court is only required to have a hearing on the petition if the prosecution so requests.	IV	

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BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
SB 530	Wright	2013	Oppose	Among other things, eliminates the requirement that a defendant present satisfactory evidence of five years' residence in this state prior to the filing of the petition for a certificate of rehabilitation and a pardon from a conviction of either a felony or misdemeanor violation of a sex offense, the accusatory pleading of which has been dismissed. Permits an individual convicted outside the state of an offense that would be a felony or a misdemeanor sex offense if the conviction had occurred in the state, to file a petition for a certificate of rehabilitation if the petitioner: (1) has not been incarcerated since the dismissal of the accusatory pleading; (2) is not on probation for the commission of any other felony; and (3) presents clear and convincing evidence that he or she has been a resident of the United States, its territories, or a military base for the five consecutive years prior to filing the petition. Requires such petitioners, at least 90 days prior to the date set for a hearing, to give notice of the filing of the petition to the district attorney in each county, or the equivalent jurisdiction, where a felony or misdemeanor offense occurred, and each county where the petitioner has resided for the previous five years.	I	Provisions relating to certificates of rehabilitation raise interstate jurisdictional issues.
SB 569	Lieu	2013	Oppose	Requires a court to provide the jury with an instruction to be developed by the Judicial Council that advises the jury to view the statements made in that custodial interrogation with caution.	II	Interferes with judicial discretion to draft jury instructions.
SB 717	DeSaulnier	2013	Support	Authorizes the issuance of a search warrant to allow law enforcement officers to take a sample of blood or other bodily fluid that may be used as evidence in misdemeanor driving under the influence cases when a person refuses to submit to or complete a blood test as requested by the officer.	IV	Enacted in response to the U.S. Supreme Court ruling in <i>Missouri v. McNally</i> that a search warrant is generally required to conduct a blood test of an individual suspected of driving under the influence.
AB 1913	Skinner	2012	Oppose	Authorizes persons on postrelease community supervision (PRCS) to apply for bail during the pendency of court revocation proceedings. Specifies that admittance to bail pending revocation of PRCS is within the sole discretion of the court. Provides that a bail application pursuant to the bill's provisions shall be governed by existing statutory procedures for the setting of bail.	I	Creates inconsistent processes for courts based on the type of supervision.
SB 210	Hancock	2012	Oppose	Requires that a judge determine whether a defendant charged with a felony, the sentence for which may be served in county jail, is eligible for release on his or her own recognizance (OR). Sets forth a nonexclusive list of factors a court may, but is not required to, consider in granting OR release.	I, II	Effectively requires courts to consider a host of factors in all cases, and sets up grounds for review if courts fail to do so.

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SB 1124	Cannella	2012	Oppose	Requires, rather than allows, the court, following every conviction resulting in commitment to state prison or county jail, to order the defendant to file a statement setting forth his or her assets, liabilities, and income, and requires the court to conduct a hearing and make a determination of the ability of the defendant to pay all or a portion of the reasonable costs of incarceration.	IV	
AB 109	Committee on Budget	2011	No position	Enacts broad changes to the criminal justice system by realigning postrelease supervision of inmates from the state to the county and redefining “felony to be punishable,” with specified exceptions, in county jail instead of state prison.	IV	The Judicial Council took no position on the policy as outside the council’s purview, but due to the magnitude of the realignment and impacts on the courts, the council directed staff to submit a letter to the Governor and Legislature on behalf of the Judicial Council expressing grave concerns about the concept of shifting parole jurisdiction to the judicial branch and the critical need to provide adequate resources.
AB 1284	Hagman	2011	Oppose	Permits the court, in lieu of revoking probation, to allow the defendant to post bond to secure appearance at any future hearing regarding a violation of the court-imposed conditions of probation. Requires the court to notify the defendant, the surety, and the bail agent of the probation revocation hearing.	I, II	
AB 447	Nestande	2010	Oppose	Makes mandatory on the court and defendant several provisions permissive under current law relating to the court’s determination of a defendant’s ability to pay for counsel.	II, III	Imposes enormous unnecessary workload; existing law and practices are effective.
AB 2056	Miller	2010	Oppose	Adds cases involving assault with the intent to commit rape to the list of types of cases that are categorically eligible for a good cause continuance in criminal proceedings when the prosecuting attorney assigned to the case has another trial, preliminary hearing, or motion to suppress in progress in another case.	II	Inappropriately interferes with the court’s function to have the court determine whether there is good cause for a continuance on a case-by-case basis.
AB 2505	Strickland	2010	Support	Allows an oath by an affiant seeking a search warrant to be made using a telephone and computer server, in addition to a fax machine or e-mail, and allows the affiant’s signature to be in the form of an electronic signature.	III	
SB 1449	Leno	2010	Support	Reclassifies from a misdemeanor to an infraction simple possession and possession while driving of not more than 28.5 grams of marijuana.	III, IV	Increases court efficiency.

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SCA 27	Harman	2010	Support	Authorizes the Supreme Court to transfer a case to a Court of Appeal when a judgment of death has been pronounced and requires the Supreme Court to review the resulting decision of the Court of Appeal affirming or reversing that judgment.	IV	
AB 250	Miller	2009	Support	Requires a criminal defendant's withdrawal of a waiver of his or her speedy trial time limits to be done in open court.	III, IV	Improves court efficiency by ensuring all parties have notice of change in case status.
SB 431	Benoit	2009	Support	Improves probation transfer procedures.	III, IV	
SB 678	Leno and Benoit	2009	Support in concept	Creates the California Community Corrections Performance Incentive Fund to provide sustainable funding for improved, evidence-based probation supervision practices and capacities to improve public safety outcomes among adult felons who are on probation.	IV	Furtheres Judicial Council goals to improve sentencing practices and outcomes.
AB 2166	Tran	2008	Support	Clarifies appellate jurisdiction in bail forfeiture proceedings by allocating these cases between the Courts of Appeal and the superior court appellate divisions the same way they were allocated before unification of the municipal and superior courts. Bases jurisdiction of a bail forfeiture appeal on the underlying criminal charge and the stage of the proceeding at which bail was forfeited.	III, IV	
SB 1257	Morrow	2006	Oppose	Revises and regulates the capital appeals process.	II	
SB 330	Cedillo	2005	Support	Requires a criminal action to be dismissed if a defendant in a misdemeanor or infraction case is not brought to trial within 30 days after the date of the reinstatement of criminal proceedings pursuant to the provisions of law governing the mental competency of defendants.	III	Allows for more efficient case management.
AB 2011	Firebaugh	2004	Oppose	When determining whether to allow a defendant who has pleaded guilty or no contest to be admitted to or to remain out on bail, requires a court to consider the same factors that must be considered after a verdict has been rendered against a defendant.	II	Unnecessary; will result in lengthy hearings.
AB 2173	Parra	2004	Oppose unless amended	Provides that the court must require a person convicted of a DUI to sign and date a statement that indicates that the person is aware that individuals who drive under the influence pose a serious threat to the lives of innocent persons. Requires the court to include on the abstract of judgment that the person has signed and dated the statement, or attach the statement to the abstract.	III	Will significantly lengthen court proceedings. Neutral if amended to provide defendant with information more efficiently.
SB 58	Johnson	2004	Support in concept	Directs courts and district attorneys to establish means of protecting confidentiality of information in police reports.	IV	Protects local control; clarifies authority to establish procedures.
SB 977	Johnson	2004	Oppose	Prohibits the live or delayed broadcasting of any criminal action until a verdict is rendered.	II, IV	Unnecessary; interferes with judicial function.

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AB 1306	Leno	2003	Sponsor	Provides that if a person is sentenced under Proposition 36, probation jurisdiction shall be transferred to the defendant's county of permanent residence at the discretion of the sentencing judge.	III, IV	
AB 1435	Koretz	2003	No position	Authorizes a court in a criminal case to order a party who has violated discovery disclosure requirements or any lawful court order to pay a monetary sanction.	N/A	Unnecessary; judges currently have this authority.
AB 1653	Mullin	2003	Oppose	Allows an attorney for a party to a criminal proceeding to appeal a sanction order or finding of contempt against him or her to the court authorized to hear an appeal of the judgment in the main action. Requires the court to stay the execution of the order or imposition of punishment pending appeal.	II	Unnecessary; interferes with judicial function.
SB 761	McPherson	2003	Oppose unless amended	Prohibits accepting an undertaking of bail if any summary judgment entered against an undertaking issued by the bail agent or agency remains unpaid.	II, III	April 30, 2003 amendments eliminate requirement that the court determine solvency of bail agency. Opposition withdrawn.
AB 2159	Cardoza	2002	Oppose unless amended	Requires courts, after arraignment, upon conviction, and when a judgment has been pronounced, to determine if a defendant has custody of any child under the age of 18 years, and inquire as to the proper care of that child if the defendant is in custody or remanded to custody.	II, III	Inefficient; ineffective; significantly lengthens court proceedings.
AB 2211	Horton	2002	Oppose	Provides that a representative of the community affected by a crime may submit a Community Impact Statement.	II, III	Unnecessary; results in lengthy hearings.
AB 2563	Vargas	2002	Oppose	Requires the agency discharging a person who posts bail on charges of domestic violence to serve that person with a protective order, without court involvement but enforceable as a court order.	II	Interferes with judicial functions.
AB 241	Dickerson	2001	Oppose	Prohibits the court from striking prior convictions in DUI cases.	II	Interferes with judicial functions.
AB 299	Pacheco, Rod	2001	Support	Grants a court exercising jurisdiction over multiple offenses involving criminal sexual acts and stalking that occurred in more than one jurisdictional territory jurisdiction over properly joinable offenses.	II	Streamlines court procedures.

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2. *Sentencing and other judicial decisionmaking* – The council seeks to preserve judicial discretion and the independence of the judicial function in sentencing matters. The council does not take positions on the length or severity of sentences for crimes, but supports efforts to simplify the criminal sentencing structure.

BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
AB 581	Levine	2019	Support	Allows a defendant currently serving a felony sentence who is or was a member of the United States military and may be suffering from sexual trauma, traumatic brain injury, post-traumatic stress disorder, substance abuse, or mental health problems as a result of the defendant’s military service to petition for resentencing to allow the court to consider that circumstance as a factor in mitigation if it was not considered at the time of sentencing, without regard to whether the defendant was sentenced before January 1, 2015. Clarifies that this relief is available whether or not there was argument or evidence about the defendant’s condition at trial.	I, III	
AB 597	Levine	2019	Support	Extends the authority of a court, until January 1, 2023, to authorize the use of flash incarceration to detain a person in county jail for not more than 10 days for a violation of the conditions of that person’s probation or mandatory supervision.	I	
AB 865	Levine	2018	Support	Authorizes any person who was sentenced for a felony conviction before January 1, 2015, is or was a member of the U.S. military, and may be suffering from post-traumatic stress disorder (PTSD) or other forms of trauma conditions as a result of his or her military service to petition for a recall of sentence if the person meets both of the following conditions: (1) the circumstance of suffering from sexual trauma, traumatic brain injury, PTSD, substance abuse, or mental health problems as a result of the person’s military service was not considered as a factor in mitigation at the time of sentencing; and (2) the person was sentenced before January 1, 2015, whether or not the case was final as of January 1, 2015.	I, III	
AB 1065	Jones-Sawyer	2018	Neutral, if amended to either remove the references to a deferred entry of judgement program or clarify the process for that program	Creates the crime of organized retail theft, and makes various changes to existing laws related to arrest and bench warrants for theft-related offenses. Until January 1, 2021, authorizes a city or county prosecuting attorney or a county probation department to create a diversion or deferred entry of judgment program for persons who commit repeat theft offenses.	III	

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AB 1793	Bonta	2018	Oppose, unless amended and funded	Requires the Department of Justice (DOJ), by July 1, 2019, to identify past cannabis conviction cases that are potentially eligible for recall or dismissal of sentence, sealing, or redesignation under current law. Requires DOJ to notify prosecutors of cases in their jurisdiction that are eligible for sentence modifications. Requires prosecutors, by July 1, 2010, to review all identified cases to determine if they will object to sentence modifications in these cases or allow them to proceed and to notify the courts and public defenders of cases where they are challenging the sentence modification. Requires courts to automatically modify sentences in identified cases if there is no challenge by July 1, 2020.	VII	
AB 2438	Ting	2018	Oppose	Requires the court to automatically withdraw the plea of guilty or nolo contendere and enter a plea of not guilty for a defendant after the lapse of one year from the date of pronouncement of judgment, if he or she has fully complied with and performed the sentence of the court, is not then serving a sentence for any offense is not under charge of commission of any crime, has conformed to and obeyed the laws of the land, and has fulfilled the conditions of probation. Applies these provisions to defendants who have completed probation on or after November 23, 1970. For a defendant convicted of a misdemeanor and not granted probation and a defendant convicted on an infraction, after the lapse of one year from the date of pronouncement of judgment, requires the court to withdraw the plea of guilty or nolo contendere and enter a plea of not guilty, or if the defendant has been convicted after a plea of not guilty, to set aside the verdict of guilty, if a defendant has fully complied with and performed the sentence of the court, is not then serving a sentence for any offense, is not under charge of commission of any crime, and has, since the pronouncement of judgment, lived an honest and upright life and conformed to and obeyed the laws of the land.	VI	

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AB 3125	Mayes	2018	Oppose	Requires judges, in adopting or revising a uniform countywide bail schedule, to compute bail as follows when a person is booked for, or charged with, two or more offenses: (1) set bail under the bail schedule for the offense having the highest amount of bail, including applicable amounts for enhancements and prior convictions; and (2) if the offenses were alleged to have been committed against separate victims or on separate dates, or separate sex crimes were committed against one victim and each charge may be punished separately, set bail as the sum of the amounts listed for each offense, including applicable amounts for enhancements and convictions. Also provides that when determining the amount of bail in either situation, both of the following are required: (1) that amounts of applicable enhancements be added only one time per victim; and (2) that amounts for prior convictions, if applicable, be added only one time per prior case.	IV	
SB 142	Beall	2018	Support, if amended	Changes the current pretrial release and detention system, moving from a system that determines pretrial release and detention based on criminal charges and monetary bail, to one that is based on criminal charges, assessment of risk to public safety, and potential for failure to return to court.	II, III	
SB 215	Beall	2018	Support	Makes defendants ineligible for the mental health diversion program for certain serious offenses. Authorizes a court to require the defendant to make a prima facie showing that the defendant will meet the minimum requirements of eligibility for diversion and that the defendant and the offense are suitable for diversion. Requires the court, on request, to conduct a hearing to determine whether restitution is owed to any victim as a result of the diverted offense and, if owed, to order its payment during the period of diversion.	IV	
SB 1187	Beall	2018	Support	Changes the period of commitment for an individual who has been found incompetent to stand trial (IST) from three years to two years. Makes IST individuals eligible for custody credits during the period of commitment, and applies those credits to those individuals when competency is restored. Makes various technical changes. Deletes the requirement that an ISD individual who has been committed, or who is on outpatient status and is still hospitalized or on outpatient status at 18 months, be returned to the community court for a competency hearing.	III	

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BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
SB 1437	Skinner	2018	Support, if amended	Revises the felony murder rule to exclude certain participants in the commission or attempted commission of a felony that results in death from liability for murder. Provides a means of vacating the conviction and resentencing a defendant when a complaint, information, or an indictment was filed against the defendant that allowed the prosecution to proceed under a theory of first degree felony murder or murder under the natural and probable consequences doctrine, the defendant was sentenced for first degree or second degree murder or accepted a plea offer in lieu of a trial at which the defendant could be convicted for first degree or second degree murder.	I	
AB 154	Levine	2017	No position	Provides that on conviction of any felony in which a defendant is sentenced to state prison and on certain findings, a court must recommend in writing that the defendant participate in a counseling or education program with a mental health component while imprisoned. Requires the court to make that recommendation on a finding that any of the following are true: (1) the defendant at the time of the commission of the offense was suffering from a serious mental illness, (2) the defendant has a demonstrated history of mental illness, and (3) the defendant at the time of the commission of the offense was suffering from a mental illness that was a substantial factor that contributed to the defendant's criminal conduct.	IV	
AB 1115	Jones-Sawyer	2017	No position	Allows that a defendant sentenced to state prison on a plea of guilty or nolo contendere for a felony charge that if committed after enactment of AB 109 (the 2011 Realignment legislation; Stats. 2011, ch. 15) would have been eligible for sentencing to a county jail to withdraw the guilty or nolo contendere plea and enter a plea of not guilty, after the lapse of one or two years following the defendant's completion of the sentence, as specified, provided that the defendant is not under supervision, and is not serving a sentence for, on probation for, or charged with the commission of any offense.	I	

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BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
SB 8	Beall	2017	Support	Authorizes a court, with the consent of the defendant and a waiver of the defendant's speedy trial right, to postpone prosecution of certain misdemeanor or felony offenses punishable in a county jail, and place the defendant in a pretrial diversion program for up to 2 years if the court is satisfied the defendant suffers from a mental disorder, that the defendant's mental disorder played a significant role in the commission of the charged offense, and that the defendant would benefit from mental health treatment. The court may, after considering the positions of the defense and prosecution, grant pretrial diversion to a defendant and courts will continue to have access to the arrest record of the defendant even if the defendant successfully completes the diversion program. Requires ongoing monitoring by the court by requiring that reports be made to the court, as well as the defense and prosecution, by the divertee's mental health provider on the divertee's process in treatment at least every three months. Provides that a court may conclude that a divertee has performed satisfactorily if, in the court's judgment, the divertee has substantially complied with the requirements of the treatment program, avoided significant new violations of law unrelated to the defendant's mental health condition, and has a location in place for long-term mental health care.	II, III	
SB 142	Beall	2017	Support, if amended	Establishes the State Community Mental Health Performance Incentives Fund, which would provide monetary incentives for counties to avoid sending mentally ill offenders to prison. Requires courts to consider, if provided by probation, a defendant's mental health history when determining sentence and whether treatment in the community, including residential treatment, is appropriate in lieu of incarceration.		
SB 384	Wiener	2017	Support, if funded	Commencing January 1, 2021, establishes three tiers of registration for sex offenders based on specified criteria for two mandated minimum periods of registration of 10 years, and 20 years, and maintains lifetime registration as specified. Establishes new court procedures by authorizing a tier one or tier two offender to file a petition at the expiration of his or her minimum registration period, and provides that the district attorney may request a hearing on the petition on the basis that the petitioner has not fulfilled the requirements of successful tier completion, as specified. Authorizes a tier three offender who meets specified criteria to petition the court for placement into tier two.	I	

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BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
SB 670	Jackson	2017	Sponsor	Promotes uniformity and clarifies judicial sentencing authority when imposing concurrent or consecutive judgments under Penal Code section 1170(h) implicating multiple counties. Requires the Judicial Council to adopt rules providing criteria for courts to use for those purposes.	IV	
AB 2129	Lackey	2016	Sponsor	Requires courts to find good cause before continuing a sentencing hearing for failure by the probation department to provide a sentencing report by the required deadlines.	I, IV	
AB 2205	Dodd	2016	Sponsor	Clarifies that when supervision has been revoked, summarily or otherwise, the time that elapses during revocation shall not be credited toward any period of supervision.	I, IV	
AB 2765	Weber	2016	Support	Changes the time limitation for petitioning or applying for a reduction of sentence under Proposition 47 to eight years from the date the voters approved the initiative.	I	
SB 266	Block	2016	Support	Authorizes until January 1, 2021, the use of “flash” incarceration, where a county probation department can order the detention of any adult offender under their supervision in jail for not more than 10 consecutive days for violating a condition of probation or mandatory supervision if at the time of granting probation or ordering mandatory supervision the court had obtained from the defendant a waiver to a court hearing prior to the imposition of flash incarceration.	I	
SB 1202	Leno	2016	Oppose	Provides that the court may not impose an upper-term sentence based on aggravating facts unless the facts were first presented to a jury and the jury found the facts to be true. Requires the court to state on the record at the time of sentencing the specific facts in aggravation relied on to impose an upper term. Requires the bifurcation of the trial of all facts pleaded in aggravation of sentence, as specified.	II	

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BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
AB 1006	Levine	2015	Oppose	Provides that a defendant who has pleaded guilty or nolo contendere to, or been convicted of, an offense that will result in a sentence to state prison or county jail, or the prosecutor, may submit evidence after the defendant's plea or conviction, but before her or his sentencing, that the defendant suffers from a diagnosable mental illness that was a substantial factor that contributed to the defendant's criminal conduct. Requires the court to consider such evidence in conjunction with the defendant's sentencing. Provides that the court may order placement of the defendant as follows: if the defendant agrees, the court may order the defendant to serve all or a portion of her or his sentence in a residential mental health treatment facility instead of state prison or county jail; the court may order the Department of Corrections and Rehabilitation (CDCR) or the county jail authority to place the defendant in a mental health program within the prison or jail; and the court may order CDCR or the county jail authority to prepare a postrelease mental health treatment plan, as specified. Allows the defendant or prosecutor, at any time, to petition the court for approval to transfer the defendant from a residential mental health treatment facility to a mental health program within the prison or jail. Provides a similar court petition process for cases where the defendant, prosecutor, CDCR, or county jail authority seeks permission to remove the defendant from a mental health program within the state prison or jail, or dismissal of the requirement that CDCR or the county jail authority prepare a postrelease mental health treatment plan.	II	Creates burdensome and costly sentencing procedures.
AB 1214	Achadjian	2015	Sponsor	Requires courts to find good cause before continuing a sentencing hearing for failure by the probation department to provide a sentencing report by the required deadlines.	I	
AB 1237	Brown	2015	Oppose	Among other things, specifies that when a defendant pleads not guilty by reason of insanity (NGI), the court must select an evaluation panel established by Department of State Hospitals pursuant to the bill's provisions (instead of psychiatrists and psychologists appointed by the court) to examine the defendant and investigate his or her mental status, make specified reports to the court, and testify during the NGI proceedings. Imposes similar obligations and restrictions on the court in cases where the competence of the defendant to stand trial is at issue.	II	Interferes with court's ability to appoint expert evaluators.

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BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
SB 266	Block	2015	No position	Authorizes until January 1, 2021, the use of “flash” incarceration, where a county probation department can order the detention for any adult offender under their supervision in jail for not more than 10 consecutive days for violating a condition of parole or mandatory supervision. These provisions would not apply to persons convicted of certain drug offenses.	I	Judicial Council supported a similar bill, SB 419 (Block; 2014).
SB 352	Block	2015	Support	Requires a sentencing court, upon a person’s conviction for violating elder abuse provisions, to consider issuing an order restraining the defendant from any contact with the victim, whether the defendant is sentenced to state prison or county jail, or if imposition of sentence is suspended and the defendant is placed on probation, for up to 10 years, as determined by the court. Provides that the protective order may be issued by the court whether the defendant is sentenced to state prison or county jail, or if imposition of sentence is suspended and the defendant is placed on probation. Declares the intent of the Legislature that in determining the length of any restraining order the court consider the seriousness of the facts before it, the probability of future violations, and the safety of the victim and his or her immediate family.	I	
SB 382	Lara	2015	Support	Provides further guidance to criminal courts on the five criteria that courts must consider when determining whether a juvenile is a fit and proper subject to be dealt with under juvenile court law by providing that when considering each of the criteria, courts may give weight to certain factors.	I	
AB 1585	Alejo	2014	Support if amended	Provides that a defendant who has been convicted of solicitation or prostitution may petition the court to set aside the conviction if the defendant can establish by clear and convincing evidence that the conviction was the result of his or her status as a victim of human trafficking.	II, III	Proposed amendments would uphold the public policy underlying the bill while ensuring the remedy is not extended in a manner that would duplicate prior criminal proceedings.
AB 2098	Levine	2014	Support if amended	Requires the court to consider a defendant’s status as a combat veteran suffering from sexual trauma, traumatic brain injury, posttraumatic stress disorder, substance abuse, or other mental health problems as a result of his or her military service, as a factor in favor of granting probation, and as a factor in mitigation when choosing whether to impose the lower, middle, or upper term of a state prison sentence. Clarifies that consideration of veteran status in sentencing does not preclude the court from considering similar trauma, injury, substance abuse, or mental health problems due to other causes as evidence or factors in mitigation.	II, III	Amendments would have preserved judicial discretion when considering the impact of military service as a factor in mitigation.

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BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
AB 2124	Lowenthal	2014	Support	Authorizes a judge, at his or her discretion, to defer sentencing a defendant who has submitted a plea of guilty or nolo contendere for a period not to exceed 12 months and to order the defendant to comply with terms, conditions, and programs, as specified.	II	Gives courts greater flexibility to fashion remedies that are most appropriate for the facts and circumstances of an individual defendant and has the potential to free up precious judicial resources.
SB 210	Hancock	2014	Support	Provides that a sheriff, probation department, or other local government agency may, with the concurrence of the board of supervisors, employ an investigative staff to determine whether or not a defendant may be released on his or her own recognizance. Requires that only one entity shall issue a report. Provides that in setting conditions for pretrial release and in setting, reducing, or denying bail, the court shall consider, in addition to the protection of the public, the defendant's criminal record and the seriousness of the charged offense. Also provides that when considering the history and circumstances of the defendant, the court may consider the results of an evidence-based pretrial risk assessment instrument that is predictive of the defendant's risk to public safety and the probability of him or her failing to appear at court hearings.	II	Author took a number of amendments to address previous concerns including amendments that enhance judicial discretion by stating that when deciding to release a defendant on his or her own recognizance, the judge may consider the results of an evidence-based pretrial risk assessment instrument rather than the specific factors previously set forth in the bill.
SB 1227	Hancock	2014	Support if amended	Creates a pretrial diversion program when a member or former member of the U.S. military is accused of a misdemeanor and the defendant is suffering from sexual trauma, traumatic brain injury, posttraumatic stress disorder, substance abuse, or mental health problems resulting from his or her military service.	II	In general the Judicial Council is supportive of diversion programs because they enhance judicial discretion in fashioning remedies that are most appropriate to the individual facts and circumstance of the defendant and have the potential to free up precious judicial resources. The proposed amendments would enhance judicial discretion by requiring the court to determine whether there was causal connection between the military service and resulting condition and the crime.
AB 560	Ammiano	2013	Oppose unless amended; support if amended	Requires, instead of authorizes, courts to impose a split sentence with a minimum of six months of mandatory supervision in every felony case resulting in a county jail term. Authorizes the court, when a defendant is sentenced to county jail, to, on its own motion or on the recommendation of the sheriff, recall the sentence and resentence the defendant, provided the new sentence is no greater than the initial sentence (paralleling the process in current law relating to state prison sentences).	I, II	Interferes with judicial discretion in sentencing by requiring split sentences.

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BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
AB 604	Ammiano	2013	Oppose the provision requiring courts to give specified jury instructions. No position on the remaining provisions.	Among other things, requires, when law enforcement has adopted procedures for conducting photo and live lineups with eye witnesses, that courts give jury instructions about those procedures that are substantially similar to instructions set forth in the bill.	II	Interferes with judicial discretion to deliver jury instructions appropriate to the facts and circumstances of each individual case. Gutted and amended September 6, 2013, to impose state regulation and enforcement of medical cannabis.
AB 651	Bradford	2013	Oppose	Authorizes courts, in their discretion and in the interest of justice, to grant dismissals (commonly referred to as “expungements”) for eligible petitioners who were convicted of a felony and sentenced to jail on a petition for a change of plea or setting aside of a verdict.	II	Interferes with court’s discretion to provide incentives to individuals convicted of crimes to opt for probation or split sentences.
AB 765	Ammiano	2013	Oppose	Provides that, effective January 1, 2014, the court may not impose an upper-term sentence based on aggravating facts unless those facts were first presented to the fact-finder and the fact-finder found the facts to be true.	II	Diminishes court’s discretion by preventing courts from imposing upper term in the absence of certain findings.
SB 260	Hancock	2013	Oppose	Requires a sentencing court, on a motion by an inmate, after 60 days’ notice to the prosecution, to hold a hearing to review the sentence of a person who meets specified criteria. Allows the judge to suspend or stay all or a portion of the sentence, reduce the sentence to any sentence that could lawfully have been ordered at the time of the original judgment, or both reduce and suspend or stay all or a portion of the sentence. Authorizes the court to consider specified evidence relating to the person’s rehabilitation and the circumstances at the time of the offense, in conjunction with any other evidence the court considers relevant, in making this determination. Requires the court to state on the record the criteria relied on in reaching its decision and to provide a statement of reasons for reliance on those criteria. Permits each person granted review whose sentence is not suspended, stayed, or reduced, to file a new petition for review three or more years after the prior hearing. Requires the court to grant a review hearing if the petition demonstrates, by a preponderance of the evidence, a change in the evidence the court considered in denying the person’s prior petition.	IV	Increases burden on courts because petitions will be routinely filed every three years by virtually all eligible individuals, even those without merit.
SB 419	Block	2013	Support	Extends the authority for “flash incarceration” to include persons subject to probation and mandatory supervision.	I	

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BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
SB 569	Lieu	2013	Oppose	Requires, among other things, that a custodial interrogation of a minor 16 years or older who is suspected of committing an offense for which he or she may be tried as an adult be electronically recorded in its entirety. Requires the Judicial Council to develop a jury instruction on the electronic recording that is “substantially similar” to jury instruction language set forth in the bill. Requires a court to provide the jury with an instruction to be developed by the Judicial Council that advises the jury to view the statements made in that custodial interrogation with caution.	II	Interferes with judicial discretion to draft and deliver jury instructions.
AB 520	Ammiano	2011	Oppose	Provides that the court may not impose an upper term based on aggravating facts unless facts were first presented to the fact-finder and the fact-finder found the facts to be true.	II, IV	
AB 1264	Hagman	2011	Oppose	Repeals the requirement that the superior court adopt a uniform countywide schedule of bail and instead establishes a Statewide Bail Commission. Requires the commission to revise annually a statewide bail schedule for all bailable felony, misdemeanor, and infraction offenses except Vehicle Code infractions.	I, II	
AB 908	Berryhill, Tom	2009	Oppose	Requires the court, if probation is granted, to order the payment of the reasonable costs of any probation supervision or conditional sentence as a condition of probation.	II, III	Introduces inappropriate issues into judge’s sentencing decision.
SB 59	Huff	2009	Oppose	Adds cases involving the California Street Terrorism Enforcement and Prevention Act to the list of types of cases that are categorically eligible for a good cause continuance in criminal proceedings when the prosecuting attorney assigned to the case has another trial, preliminary hearing, or motion to suppress in progress in another case.	II	
AB 2609	Davis	2008	Oppose unless amended	Requires, when appropriate and feasible, that a court order a defendant convicted of vandalism to clean up, repair, and replace the damaged property or keep the damaged property or another property in the community free of graffiti for up to one year.	II	Sought amendment to give the court sufficient flexibility to ensure that the required sanction will be imposed when appropriate and feasible.
AB 1660	La Malfa	2007	Oppose	Deletes the court’s authority to exclude a victim or a designated victim’s representative from a criminal proceeding.	II	Inappropriately interferes with court’s authority.
AB 1551	Runner, Sharon	2005	Oppose unless amended	Among other things, prohibits a court from striking an allegation, admission, or finding of a prior conviction pursuant to Penal Code section 1385 for defendants who are convicted of certain sex offenses.	II	Sought amendment to strike the provision eliminating the court’s authority under Penal Code section 1385 to dismiss an action in the furtherance of justice.

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AB 623	Lieber	2003	No position	Requires the judge in a toxics case to consider whether the defendant has expressed remorse for the acts and whether the defendant has made an appropriate public apology that reflects that nature of the violation and the number of potential victims.	N/A	Outside purview.
SB 1497	Polanco	2002	Oppose	Sets up a one-time review of the custody status of life prisoners who have been in prison beyond a date specified in certain regulatory matrices.	II	Impossible to implement.

D. TRAFFIC LAW

The council advocates use of simplified procedures in minor traffic cases to guarantee expedited disposition. The council supports development of statewide uniform rules, procedures, and forms to provide efficient handling of traffic cases.

BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
AB 2532	Jones-Sawyer	2018	Sponsor	Provides a uniform hourly rate for conversion of infraction violation total fines to community service at double the lowest schedule for California minimum wage, and permits a court by local rule to increase the uniform rate.	I, IV	
AB 330	Cooley	2017	Support	Authorizes a court to order a person convicted of a DUI to enroll and participate in, and successfully complete, a qualified “24/7 Sobriety program,” as a condition of probation.	I	

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BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
AB 1571	Lackey	2016	Oppose	Among other things, requires that enrollment in an approved DUI program take place within 30 days of conviction, unless an extension of not longer than 30 days is granted by the court, as specified. Requires the court, for first-time offenders, to consider a blood-alcohol concentration of 0.08% or more, by weight, in combination with the presence of a Schedule I or II controlled substance, as defined, except for marijuana or a controlled substance prescribed by a licensed physician or dentist, as an aggravating factor that may justify enhancing the terms and conditions of probation, as specified. Provides that exceptions to the 30-day requirement may be granted by the courts telephonically or electronically for those who miss the deadline. Requires the county alcohol program administrator to additionally coordinate court referral and tracking documents with the Department of Motor Vehicles and the State Department of Health Care Services. Requires a court to refer a person with a second or subsequent DUI conviction to a licensed program as a condition of probation even if the person's privilege to operate a motor vehicle is restricted, suspended, or revoked. Requires the clerk of the court to also indicate the duration of the treatment program ordered on court referral and tracking documents.	II	
AB 2871	Obernolte	2016	Sponsor	Eliminates the trial de novo option when the defendant in a Vehicle Code violation has not prevailed on his or her trial by written declaration.	I, IV	
SB 881	Hertzberg	2016	No position	Requires courts to issue, within 90 days, appropriate documentation to the Department of Motor Vehicles that would result in the restoration of a driver's license and driving privileges. Requires for amnesty applications submitted on or before March 31, 2017, that all terms and procedures related to a participant's payment plan remain in effect after that date.	I	
AB 2085	Fox	2014	Withdrew oppose position; took no position.	Authorizes a court and county, upon agreement by both entities, to establish a one-time amnesty program for fines and bail due on or before January 1, 2012, for certain infraction or misdemeanor violations of the Vehicle Code and Penal Code, on or after January 1, 2016, until December 31, 2016.	IV	
AB 366	Wright	2013	Oppose	Implements broad changes to the laws that govern how civil assessments are imposed and processed.	II	Significantly increases the workload of courts that are already understaffed.

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BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
AB 2499	Portantino	2010	Support	Consolidates all traffic violator school (TVS) programs under the licensing authority of the Department of Motor Vehicles (DMV). Requires courts to transmit to DMV abstracts of judgment for convictions of traffic violations rather than the court dismissing the case upon completion of the TVS program.	III, IV	Relieves judicial branch of inappropriate regulatory role. Provides DMV better ability to enforce driver safety program.
AB 758	Plescia	2007	Support	Requires the Department of Motor Vehicles, on or before July 1, 2008, to submit a report to the Legislature containing a comprehensive plan with specified components by which the licensing of all driving instruction programs offered to traffic violators may be consolidated under the authority of the department.	III, IV	
AB 1464	Benoit	2007	Sponsor	Allows the court, after proper notice to the owner/violator, to report a failure to appear on an unsigned citation issued for an owner-responsibility offense to the Department of Motor Vehicles for a hold to be placed on the registration of the vehicle involved in the offense.	III, IV	
AB 1932	Benoit	2006	Support	Provides for the licensing and regulation of home study-based traffic violator schools by the Department of Motor Vehicles (DMV) and declares the intent of the Legislature to have DMV uniformly regulate all traffic violator schools.	II	Appropriately places regulatory function with the executive branch.
SB 1697	Torlakson	2004	Support	Consolidates administration of all sanctions related to the driving privilege imposed as a result of a driving-under-the-influence conviction with the Department of Motor Vehicles.	IV	Increases efficiency; provides better service to the public.

E. JURY SYSTEM

The council supports efforts to ensure adequate numbers of jurors, achieve full use of jurors once they are summoned, ensure fair representation of the community served by the court, and provide adequate compensation of jurors. The council seeks to maintain plain-English jury instructions that accurately convey the law using language that is understandable to jurors.

BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
AB 2240	Grayson	2018	Oppose	Prohibits the selection of designated parole and correctional officers for voir dire in both criminal and civil matters. Excludes the officers from jury service in criminal matters.	IV	

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BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
SB 658	Wiener	2017	No position	Makes various changes to the civil voir dire statute. Among other things, maintains the provision that specifies that the scope of the examination conducted by counsel shall be within reasonable limits prescribed by the trial judge in the judge's sound discretion. Requires judges, in the exercise of their sound discretion over the scope of voir dire, to give due consideration to all of the following: (1) the amount of time requested by trial counsel; (2) any unique or complex elements, legal or factual, in the case; (3) length of the trial; (4) number of parties; (5) number of witnesses; and (6) whether the case is designated as a complex or long case. Requires a judge to provide the parties with both the alphabetical list and the list of prospective jurors in the order in which they will be called. Clarifies that a judge shall not impose specific unreasonable or arbitrary time limits, or establish an inflexible time limit policy for voir dire.	IV	
AB 1766	Stone	2016	No position	Creates a pilot program sunsetting January 1, 2022, that would require the court to (1) provide the complete names of prospective jurors to counsel for each party, as specified; (2) the court and counsel for each party to address a prospective juror using a number assigned by the court, by the prospective juror's first name and first initial of his or her last name, or by his or her title and last name, as determined by the court in each criminal trial; and (3) before examining prospective jurors, to advise jurors that, in accordance with state law, the court and counsel for each party are prohibited, in all criminal cases, from addressing prospective jurors by their full names during jury selection, and are required to address each prospective juror by an identification number, by his or her first name and the first initial of his or her last name, or by his or her title and last name.	I	
AB 2101	Gordon	2016	Sponsor	Requires the Judicial Council to solicit courts for participation in a pilot project in which judicial officers of participating counties would be authorized by the bill to impose reasonable monetary sanctions, not to exceed \$1,500, on an impaneled juror for any knowing violation of a lawful court order without good cause or substantial justification that is supported by clear and convincing evidence. Requires the Judicial Council to conduct an evaluation of the pilot project and report the results to the Governor and the Legislature on or before July 1, 2021. Repeals these provisions on January 1, 2022.		

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BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
SB 213	Block	2016	Support/ Cosponsor	Reduces the number of peremptory challenges available in misdemeanor trials from 10 to 6 in cases where the offense is punishable with a maximum term of imprisonment of one year or less. Specifies further that, in cases where two or more defendants are tried jointly, the number of additional “non-joint” peremptories (i.e., those that may be exercised separately by each defendant and the state) would be reduced from 4 to 2. Contains a five-year sunset of the bill’s provisions. Requires the Judicial Council to conduct a study on or before January 1, 2020, and report to the public safety committees of the Legislature on the effects of the bill, as specified.	IV	
SB 1052	Lara	2016	Oppose, unless amended to remove jury instructions	Provides that prior to a custodial interrogation and before the waiver of any <i>Miranda</i> rights, a youth under 18 years of age shall consult with legal counsel. Provides that the consultation with counsel cannot be waived. Provides that if a custodial interrogation of a minor under 18 years of age occurs prior to the youth consulting with counsel, the court must, among other things, in adjudicating the admissibility of statements of youth under 18 years of age made during or after a custodial interrogation, consider the effect of failure to comply with the consultation with counsel requirement and specified factors. Requires that if the court finds that the minor was subject to a custodial interrogation in violation of the consultation with counsel requirement, the court must provide the jury or the trier of fact with the specified instruction.	II	

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BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
SB 405	Hertzberg	2015	No position	Provides that the ability of a defendant to post bail or to pay a fine or civil assessment is not a prerequisite to filing a request that the court vacate the assessment. Provides that the imposition or collection of bail or a civil assessment does not preclude a defendant from scheduling a court hearing on the underlying charge. Allows a person with a suspended driver's license that was suspended between January 1, 2013, and December 31, 2015, who has an established payment plan to appear in court and ask to have the suspension lifted. Provides that to be eligible to participate in an amnesty program, the person has not made any payments after September 30, 2015, to a comprehensive collection program in the county. Adds an urgency clause making the bill effective immediately upon enactment. Authorizes the Judicial Council to consider, adopt, or develop recommendations for an appropriate mechanism to allow reinstatement of the driving privileges of a person who otherwise meets criteria for amnesty but who has violations in more than one county.	IV	
SB 428	Hall	2015	Oppose	Excludes additional peace officers, including certain parole officers, probation officers, deputy probation officers, board coordinating parole agents, correctional officers, transportation officers of a probation department, and other employees of the Department of Corrections and Rehabilitation, the Department of State Hospitals, and the Board of Parole Hearings, from voir dire in criminal matters.	IV	
AB 1708	Alejo	2014	Oppose	Excludes additional peace officers, including certain parole officers, probation officers, deputy probation officers, board coordinating parole agents, correctional officers, transportation officers of a probation department, and other employees of the Department of Corrections and Rehabilitation, the Department of Mental Health, and the Board of Parole Hearings, from voir dire in civil and criminal matters.	IV	Courts have a constitutional obligation to ensure that jury pools are representative of the community and that there are enough prospective jurors in the courthouse each day to avoid having to dismiss last-day criminal trials for lack of jurors.
SB 1133	Anderson	2014	Oppose	Exempts designated employees of the Department of Fish and Game, whose primary duty as peace officers is enforcement of the law, from voir dire in both civil and criminal matters.	IV	Courts have a constitutional obligation to ensure that jury pools are representative of the community and that there are enough prospective jurors in the courthouse each day to avoid having to dismiss last-day criminal trials for lack of jurors.

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BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
AB 301	Wagner	2013	Oppose	Requires the clerk of the superior court to include, in statements reporting individuals convicted of a felony to the chief elections official in its respective county, the name, address, and date of birth of each person who has, since the clerk's last statement, declared in response to a jury summons from the superior court, that he or she is not qualified to serve as a juror, because he or she is not a citizen of the United States. Requires the elections official to cancel the affidavit of registration of each person so listed by the clerk.	IV	Places new burdens on courts relating to voters—a matter not within the purview of courts.
SB 794	Evans	2013	Support	Reduces the number of peremptory challenges available in all misdemeanor trials from 10 to 5, and reduces the number of “non-joint” peremptory challenges in multiple defendant cases from 4 to 2.	IV	
AB 141	Fuentes	2011	Support	Requires the court, when admonishing the jury against conversing about a trial, to clearly explain that the prohibition applies to all forms of communication, research, and dissemination of information, including electronic and wireless devices. Provides that violation of this admonishment constitutes criminal and civil contempt of court.	I	
SB 319	Harman	2009	Sponsor	Eliminates the sunset and reporting requirement on provisions allowing courts to impose monetary sanctions for failure to appear in response to a jury summons. Decreases the amount of time that must elapse before a compliance action may be initiated.	III, IV	
AB 1769	Galgiani	2008	Oppose	Exempts all peace officers from jury duty in civil and criminal matters.	IV	Fundamentally opposed to categorically exempting individuals from jury duty.
AB 1828	Huff	2008	Oppose	Excuses from jury service, upon request, a prospective juror who has served as a precinct officer or precinct board member on a statewide or local election during the previous 12 months.	IV	
AB 1557	Feuer	2007	Support	Reduces peremptory challenges to six per side in all misdemeanor cases, rather than only those misdemeanors resulting in imprisonment for 90 days or less.	IV	
SB 171	Alquist	2006	Oppose	Requires that any custodial interrogation of an individual relating to a felony offense be electronically recorded, and codifies a jury instruction to be used verbatim if a court finds that a defendant was subjected to an unlawful custodial interrogation.	I, IV	
SB 1281	Romero	2006	Support	Prohibits a state agency from entering into a contract for the acquisition of goods or services with a contractor who does not have and adhere to a written policy providing his or her employees with not less than five days of regular pay for actual jury service.	IV	

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BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
AB 1180	Harman	2003	Sponsor	Clarifies that when a person is summoned but fails to appear for jury service, the court may impose reasonable monetary sanctions on the prospective juror following an order to show cause hearing.	III, IV	Strengthen courts' ability to enforce orders.
AB 2925	Migden	2002	Support	Eliminates reimbursement for the first day of travel to the court for jury duty; increases reimbursement rate for second and subsequent days from 15 cents to 34 cents per mile, one way.	IV	Part of larger effort to improve jury system.

F. INTERPRETERS

To ensure access to justice, the council seeks to attract quality interpreters and meet the courts' caseload demands. The council supports increased compensation and standardized payment practices and procedure for court interpreters.

BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
AB 310	Santiago	2019	Oppose categorical exemption; no position on remaining provisions	Prohibits the selection of designated probation officers for voir dire in criminal matters. Sunsets these exemptions on January 1, 2024. Directs the Judicial Council to submit a report to the Legislature by January 1, 2023, on the impact of categorical exemptions to jury service, including the impacts to court administration, jury pool diversity, and overall access to justice caused by delays in scheduling.	I	
SB 1155	Hueso	2018	Oppose	Deletes the exemption of small claims from the definition of a court proceeding in Government Code section 68560.5, making clear that courts may provide interpreters in all civil proceedings. As amended, also repeals Code of Civil Procedure section 116.550, which provides small claims courts with flexibility to appoint temporary interpreters when certified, registered, or provisionally qualified interpreters are unavailable.	I, II, IV	
AB 1657	Gomez	2014	Sponsor	Declares the intent of the Legislature to provide interpreters to all parties who need language services in all civil matters; authorizes a court to provide an interpreter to a party in civil matters, regardless of income; and creates a priority order for such services based on the availability of funding.	I, IV	
AB 1127	Chau	2013	Neutral	Allocates \$6 million from the Trial Court Trust Fund for a pilot program publicly funding interpreters in civil cases in three counties.	I, IV	
AB 618	Furutani	2011	Oppose	Requires the court to provide separate interpreters for defendants and witnesses, and for codefendants in specified proceedings.	I	Strains court's ability to provide interpreters.

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BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
AB 663	Jones	2009	Sponsor interpreter-related provisions; no position on legal aid provision.	Requires the Judicial Council to establish a working group to develop best practices to expand the use of interpreters and a pilot project to test the workability of the developed best practices.	I, III, IV	
AB 2227	Chu	2006	Support	Requires the Judicial Council to establish the Blue Ribbon Panel on Language Access in the Courts. Requires the panel to report to the Legislature and the Judicial Council on the existing interpreter certification system.	I, IV	
AB 2302	Committee on Judiciary	2006	Support if funded	Requires that an interpreter be present whenever needed in any civil matter, including family law and probate, or in any court-ordered or court-provided alternative dispute resolution, including mediation and arbitration. Specifies the priority for use of funding and interpreters provided for civil matters.	I, IV	
SB 927	Escutia	2001	Oppose unless funded	Requires that a certified or registered court interpreter be provided at court expense in any family law proceeding that involves allegations of domestic violence.	I, IV	

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IV. SUBSTANTIVE LAW

A. JUVENILE DELINQUENCY

The council supports legislation to ensure that judges have sufficient discretion and placement and treatment options to fulfill their obligations to promote the rehabilitation and reintegration of juvenile offenders, the safety of the community, and accountability to victims.

BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
AB 465	Eggman	2019	Support	Defines various terms for purposes of tracking the involvement of youth in both the child welfare and juvenile justice systems. States the intent of the Legislature to replace the term “delinquency” with “juvenile justice” in all parts of the code that address child welfare and juvenile justice.	IV	Bill was subsequently amended to address a different topic.
AB 689	Obernolte	2018	Sponsor	Authorizes the district attorney or minor’s counsel to retain or seek the appointment of additional qualified experts with regard to determining competency. Requires the Judicial Council to adopt a rule of court relating to the qualifications of those experts.	I, IV	
AB 1214	Stone, M.	2018	Oppose	Formalizes processes and procedures related to the care and treatment of minors for whom a doubt is cast as to their competence to be involved in the adjudication of petitions against them. Specifically limits the time frame for restoration of competency of minors to six months.	I, IV	
AB 935	Stone, M.	2017	Support provisions that match AB 689 (2018); no position on remaining provisions of the bill.	Among other things, clarifies the legal process and procedures in proceedings that determine the legal competency of juveniles.	I, IV	
AB 703	Bloom	2015	Support	Requires the council to adopt rules of court establishing the minimum training and education hours, or alternative recent experience, for an attorney to be appointed as counsel in delinquency proceedings.	I, IV	
AB 2195	Achadjian	2014	Support	Amends Welfare and Institutions Code section 256 to allow section 601 truancy violations, at the discretion of the referring probation officer, to be referred to the county juvenile traffic court and be heard by a hearing officer, instead of being referred to the juvenile court.	IV	

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BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
SB 1038	Leno	2014	Support if amended and funded	Removes the cap of 21 years of age by which a court must dismiss a petition against a former ward of the court. Does not require the court to have jurisdiction over the former ward at the time of dismissal of a petition. Further requires a court to automatically seal the records of minors under specified circumstances and grants limited access to such files without this access constituting “unsealing” of the records.	IV	
AB 1006	Yamada	2013	Support	Requires the Judicial Council to develop a form petition and instructional materials to be used by persons with juvenile offenses seeking to seal their juvenile records. Requires probation and the courts to ensure that juvenile offenders are provided with the petition and informational materials.	I, IV	
AB 1709	Mitchell	2012	Oppose	Provides that any minor whose case is being adjudicated in juvenile court for an offense that could be used as a future felony conviction under the “three strikes” law must be provided an opportunity for a jury trial.	IV	Imposes unreasonable burdens on juvenile courts.
AB 1547	Beall	2007	Support	Authorizes the juvenile court to order the probation department to provide a variety of services to a delinquent ward approaching the age of majority.	II, IV	
AB 2496	Steinberg	2002	Oppose unless amended	Requires that the minor, the minor’s counsel, and a probation officer personally appear before the court during each periodic review of the minor’s detention.	II, III	Will significantly increase length of proceedings; neutral if amended to achieve goals in more efficient way.

B. JUVENILE DEPENDENCY

The council supports timely and expeditious determinations in dependency matters, as well as measures to enhance the available placement options for dependent children. The council supports efforts to clarify the procedures for declaring a child a dependent of the court. The council also supports maintaining judicial discretion to terminate dependency.

BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
AB 465	Eggman	2019	Support	Defines various terms for purposes of tracking the involvement of youth in both the child welfare and juvenile justice systems. States the intent of the Legislature to replace the term “delinquency” with “juvenile justice” in all parts of the code that address child welfare and juvenile justice.	IV	Bill was subsequently amended to address a different topic.

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BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
AB 686	Waldron	2019	Support	Requires the Judicial Council, by July 1, 2021, to adopt one or more rules of court to allow for telephonic or other remote appearance options by an Indian child's tribe in proceedings where ICWA may apply. Prohibits the imposition of a user fee for telephonic or other computerized remote access for court appearances.	I, III, IV	
AB 800	Chu	2019	Oppose	Permits an individual who is a participant in the address confidentiality Safe at Home program under Government Code, title 1, division 7, chapter 3.1 (§ 6205 et seq.) to file a civil proceeding using a pseudonym and to exclude or redact other identifying characteristics of the plaintiff from all pleadings and documents filed with the court. Requires the Judicial Council to coordinate with the Secretary of State to adopt or revise rules and forms to implement the provisions of the bill on or before January 1, 2021. Permits, if the protected person is a minor dependent or minor ward of the state, the minor's parent, guardian, or attorney to notify the minor's social worker or probation officer of the minor's participation in the action, and requires the social worker or probation officer to keep information related to the action confidential.	IV	
AB 859	Maienschein	2019	Neutral	Requires the State Department of Social Services, in consultation with the Judicial Council, to convene a stakeholder group, as defined, to make recommendations by January 1, 2022, related to juvenile dependency proceedings, with the purpose of improving child and family outcomes in juvenile dependency court and enhancing collaboration between juvenile dependency courts and child welfare services.	II	
AB 1617	Bloom	2018	Sponsor	Clarifies that people who are entitled to seek review of certain orders in juvenile proceedings who then file a notice of appeal or are respondents in such appellate proceedings may, for purposes of those appellate proceedings, petition the courts to access and copy those records to which they were previously given access by the juvenile court.	I, IV	
AB 3047	Daly	2018	Support	Expressly waives pro hac vice fees when an applicant is an attorney representing a tribe in a child welfare matter under the Indian Child Welfare Act (25 U.S.C. § 1901 et seq.).	I, IV	

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BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
AB 3176	Waldron	2018	Support	Amends various sections of the Welfare and Institutions Code related to Indian children in light of the regulations and guidelines recently promulgated by the federal government concerning, and clarifying requirements under, the Indian Child Welfare Act (ICWA). As recently amended, ensures that courts are not required to apply ICWA to cases where there is no ongoing reason to know the child is an Indian child, clarifies the difference between when a court has reason to know versus when a court has reason to believe a child is an Indian child, clarifies the timing and requirements of ICWA inquiry, ensures that ICWA notice by registered or certified mail return receipt requested is not required in more situations than required under the federal regulations, addresses concern about clarifying procedural issues such as exchange of information between tribal and state courts, and clarifies how the emergency proceeding provisions in the federal regulations relate to California law and practice.	I, IV	
AB 1441	Stone	2014	Support	Requires local school districts to calculate and award full or partial academic credit to foster youth who transition between schools for work done that achieved a grade of D or higher.	IV	Supports foster youth in completing their education.
AB 1618	Chesbro	2014	Sponsor	Provides tribal entities and officials with access to confidential juvenile court files and records for children who are members of the tribe or eligible for membership in the tribe. By explicitly including tribes, tribal officials, and tribal entities within the exception to the confidentiality of juvenile court files, this bill will solve a conflict between federal and state law on one side, and juvenile courts on the other.	I, IV	
AB 2454	Quirk-Silva	2014	Support	Allows an individual who received extended foster care or adoption assistance aid after turning 18 years old to petition for resumption of dependency jurisdiction.	IV	
AB 73	Feuer	2011	Support	States the intent of the Legislature to enact legislation providing that juvenile court hearings in juvenile dependency matters be presumptively open to the public unless the court finds that admitting the public would not be in a child's best interest.	I	Promotes public trust in juvenile court.
AB 743	Portantino	2010	Support	Modifies the standard for sibling visitation to require that if siblings are not placed together the social worker must explain why placement together would be contrary to the safety or well-being of any sibling. Requires a social worker considering a change of placement that will result in sibling separation to notify the attorney for the child being moved as well as the attorney for any affected sibling.	IV	Assists court in keeping siblings together.

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BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
AB 1852	Portantino	2010	Support	Requires the county welfare department to document in the reports it provides to the court at the disposition hearing its efforts to locate and contact relative and nonrelative extended family members of a dependent child to establish permanent familial connections between the child and his or her family.	IV	Improves ability of court to find permanency for dependent children.
SB 962	Liu	2010	Support	Allows incarcerated parents to participate in specified court proceedings concerning parental rights via videoconferencing or teleconferencing if the technology is available	I	Reduces need to continue dependency proceedings for an incarcerated parent's absence.
AB 12	Beall	2009	Cosponsor	Implements federal foster care reform legislation to provide federally subsidized relative guardianships and extend foster care jurisdiction to age 21.	IV	
AB 131	Evans	2009	Sponsor	Authorizes the Judicial Council to implement a cost recovery program to collect reimbursement from parents for the cost of dependency counsel, and directs that the recovered funds be used to reduce caseloads for attorneys.	I, IV	Promotes fairness outcomes in dependency proceedings.
AB 938	Committee on Judiciary	2009	Sponsor	Requires that social workers immediately investigate the identity and location of all adult grandparents and other relatives of a child after the child is detained, and notify the relatives that the child has been removed from his or her parents and of the means by which the relative might participate in the care of the child.	IV	Engages relatives in dependency court to promote best interests of child.
AB 1405	Maze	2008	Support	Provides that information obtained from a minor during an assessment to determine the appropriate status of a minor who meets the definition of both a dependent and a delinquent ward cannot be used against the minor in other proceedings.	II, IV	Ensures court obtains necessary information.
AB 3051	Jones	2008	Support	Requires the court to determine whether a child age 10 or older who is not present was given an opportunity to attend the hearing. Provides that the court may make any orders reasonably necessary to ensure that the child has an opportunity to attend.	I, IV	Ensures that children can participate in proceedings.
AB 2130	DeVore	2006	Oppose	Requires the court to consider the religious, cultural, moral, and ethnic values of a child or of his or her birth parents, before placing a dependent child for adoption.	I, II	Inappropriately limits judicial discretion.
AB 2480	Evans	2006	Support if funded	Requires the appointment of appellate counsel to represent a dependent child if the child is an appellant, or if the Court of Appeal determines that the child would benefit from the appointment of separate counsel.	IV	
SB 1667	Kuehl	2006	Support	Requires that the social worker provide foster parents with a caregiver information form and information on how to submit it to the court. Provides rights for caregivers to receive notice of postpermanency planning hearings.	IV	Ensures that court receives all relevant information regarding dependent children.

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BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
AB 519	Leno	2005	Sponsor	Allows the juvenile court to issue ex parte protective orders for parents and caretakers even without regard to the child's need for a protective order.	IV	Allows the juvenile court to protect families in an efficient individualized manner.
AB 129	Cohn	2004	Sponsor	Authorizes counties to implement dual status (dependency and delinquency) protocol for children in juvenile court.	IV	Ensures adequate oversight for dual need children.
AB 524	Haynes	2003	Oppose	Requires that a child who has been removed from his or her parents' custody be returned within five working days in certain circumstances.	III	March 26, 2003 amendments eliminated provisions related to criminal proceedings. Council opposition withdrawn.
SB 59	Escutia	2003	No position, but seek amendments	Provides expedited appellate review of disputed placement orders in juvenile dependency cases.	N/A	June 11, 2003 amendments conformed the writ process to the one established in Welfare and Institutions Code section 366.26(1).
AB 2336	Negrete McLeod	2002	Support	Requires that orders for the temporary removal of a prisoner to attend a hearing pertaining to parental rights must be issued at least 12 days before it is to be executed.	I, IV	Ensures access to proceedings for affected parties.
SB 2160	Schiff	2000	Sponsor	Creates a presumption that children in dependency proceedings would benefit from the appointment of counsel.	I, IV	Improves ability of court to fulfill role in dependency cases.

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C. FAMILY LAW

The council supports legislation consistent with its goal of increasing access to the courts. The council supports efforts to provide adequate assistance to pro per litigants in family law cases, as well as litigants who face language barriers. The council seeks to maintain judicial discretion to make family law decisions based on the best interest of the child. The council also seeks to clarify the process the court should follow and the factors the court can appropriately consider in family law cases.

BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
SB 435	Moorlach	2019	Oppose	Allows a party in a proceeding for dissolution of marriage or for legal separation to rely on hearsay evidence in establishing the character and value of separate and community property in certain circumstances. Permits hearsay in reports by child custody recommending counselors if the hearsay statement is relied on by an expert in forming the expert's opinion if the hearsay statement is of the type routinely relied on by the expert and the statement has been evaluated by the expert and determined to be trustworthy. Requires the Judicial Council, on or before January 1, 2021, to promulgate a statewide rule of court requiring a person conducting an evaluation, investigation, or assessment in a child custody case to make and maintain a detailed record of all interviews conducted during the evaluation, investigation, or assessment process and to maintain the interview records until the case is resolved by final order. Requires the Judicial Council to promulgate a statewide rule of court requiring a person conducting an evaluation, investigation, or assessment in a child custody case to have obtained specified training.	I, II, IV	
AB 808	Cunningham	2018	Oppose	Allows a court to appoint a private attorney who has not met the training, education, and/or experience requirements stated in rule 5.242 of the California Rules of Court to represent a child in a custody or visitation proceeding if an attorney who has met the requirements is unavailable and the appointment is in the best interests of the child.	IV	
AB 2274	Quirk	2018	No position	Changes from mandatory to permissive the provision that provides for the court to assign sole or joint ownership of a pet animal.	IV	

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BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
AB 2373	Acosta	2018	Support	Permits a party who has complied with notice and disclosure provisions related to the disclosure of assets and liabilities to waive the right to receive the noncomplying party's disclosures without the need for a hearing and court approval. Requires the complying party to file and serve a declaration, executed under penalty of perjury, waiving receipt of the noncomplying party's disclosures and making other specified statements. Specifically, requires the complying party to affirm that he or she has been advised and informed that he or she is entitled to full financial disclosure from the other party and waives that right knowingly, intelligently, and voluntarily.	IV	
SB 1129	Monning	2018	Oppose, unless amended to limit the bill's provisions to those proposed for section 4324.5 of the Family Code	Includes domestic violence and related convictions—as well as misdemeanor domestic violence or a misdemeanor that results in a term of probation, as defined—perpetrated by one spouse against the other in the rebuttable presumption that an award of spousal support to the convicted spouse is prohibited and that the injured spouse shall not pay attorney fees, and states that the injured spouse shall be entitled to a 100 percent of the community property interest in the injured spouse's retirement and pension benefits. Provides that a convicted spouse may present documentation of his or her history as a victim of a violent sexual offense perpetrated by the other spouse, from which the court may determine that the presumption against awarding support and benefits does not apply.	I, IV	
AB 712	Bloom	2017	Support, if amended to remove the requirement to draft a rule of court.	Allows a court transferring jurisdiction over a family law matter to retain emergency jurisdiction over the case until the receiving court formally assumes jurisdiction. Requires the Judicial Council to establish time frames for transferring and assuming jurisdiction over family law matters.	IV	Specific needs of each family law case.
SB 917	Jackson	2016	Oppose, unless funded	Requires a court to provide “a written, detailed, official order setting forth the basic terms of any order made in open court” at any hearing held under the Family Code within two court days of the hearing to any party who was present.	I, IV	Creates unworkable burden on judges and staff.
SB 594	Wieckowski	2015	Oppose	Requires the Judicial Council to develop forms that each investigator, evaluator, or mediator involved in child custody evaluations would be required to submit, along with their reports.	I, IV	Creates unworkable “one size fits all” approach to case-by-case family law disputes; limits relevant information to be received by judges.
AB 1337	Alejo	2012	Support	Specifies who shall be served with notice of a parentage proceeding when one parent is deceased and there is no current or pending custody or guardianship matter before the court.	I	Clarifies procedures in these cases.

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AB 2365	Nestande	2012	Support	Adds to the matters a court shall consider in determining the best interest of a child in a custody proceeding either parent's habitual or continual abuse of prescribed controlled substances. Eliminates the sunset date on the authority of the family court to order drug testing in custody matters.	II	Provides court with tools to make custody decisions in the best interest of children.
AB 2393	Davis	2012	Support	Increases the net disposable income adjustment for low-income child support obligors from \$1,000 to \$1,500, and directs the Judicial Council to calculate an annual adjustment to that amount each March 1 based on the change in the California Consumer Price Index.	IV	Will result in more enforceable child support orders.
AB 939	Committee on Judiciary	2010	Support	Makes numerous changes to provisions in the Family Code consistent with the recommendations of the Elkins Family Law Task Force.	I, IV	
AB 1050	Ma	2010	Support	Creates a presumption that a child is of sufficient maturity to provide input to the court on a child custody or visitation issue at age 14 and requires the court to permit the child to address the court unless the court finds that testimony is not in the child's best interest and states its reasons on the record.	IV	Ensures courts can appropriately consider input of child.
AB 2475	Beall	2010	Oppose	Provides that the doctrine of judicial or quasi-judicial immunity shall not apply to any private third party engaged by the court for his or her expertise in family law matters in an advisory capacity.	II	Interferes with ability of court to obtain expert information.
AB 612	Beall	2009	Oppose	Prohibits the consideration of a "nonscientific theory" in a child custody matter, as defined, and disallows the admission into evidence of any child custody evaluation report that includes a nonscientific theory.	II, IV	Creates inconsistent and unworkable evidentiary standard.
AB 1822	Beall	2008	Oppose	Requires the court, in any proceeding to establish or modify spousal support, to deny spousal support to a party convicted of a sexual offense against a minor.	II	Inappropriately limits judicial discretion.
SB 1255	Harman	2008	Support	Extends until January 1, 2013, the authority of the family court to order a person seeking custody or visitation of a child to undergo testing for drug or alcohol abuse in specified circumstances.	II, IV	Ensures that court has relevant information in custody cases.
SB 1015	Murray	2006	Oppose	Requires the court to redact specified financial information from family law files.	II	Lessens public trust in court and imposes unnecessary administrative burdens.
SB 1482	Romero	2006	Oppose	Provides that a custodial parent has a presumptive right to change the residence of his or her child subject to the power of the court to restrain a change of residence. Requires the noncustodial parent to make a prima facie showing of harm to the child that would result from the relocation, necessitating a change in custody, but would disallow consideration of the normal incident of moving.	II	

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BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
AB 1307	Dymally	2005	Oppose	Creates a rebuttable presumption that equal custody share is in the best interest of child.	II	Unduly limits court's ability to make custody orders on a case-by-case basis.
SB 544	Battin	2005	Oppose	Prohibits parents convicted of certain offenses from having unsupervised contact with their children.	II	Overly restricts court's ability to make custody orders in the best interest of child.
AB 2148	Diaz	2004	Oppose	Restricts the court from holding custody or visitation proceedings until after it has ruled on an application for attorney's fees.	II	Limits ability of court to act in best interest of children.
AB 2228	Garcia	2004	Support	Requires information sharing in cases pertaining to custody of children.	III, IV	Ensures well-informed court regarding child custody.
SB 730	Burton	2004	Oppose	Establishes presumptive right for a custodial parent to relocate with a child.	II	Unduly limits discretion of court to act in best interest.
SB 1616	Knight	2004	Oppose	Requires the court to state its reasons for making any spousal support order on the record and in writing.	II	Unnecessary and resource intensive.
SB 734	Ortiz	2003	Oppose	Restricts courts discretion to grant visitation.	II	Unduly restricts individual discretion.
SB 174	Kuehl	2002	No position	Requires the Judicial Council to select four nonconfidential mediation courts to implement a model with initial confidential mediation, with the allowance for subsequent recommending mediation if performed by a different mediator. Implementation contingent on funding.	N/A	
SB 1406	Kuehl	2002	Oppose unless amended	Requires that all child custody mediation be confidential, and prohibits the mediator from communicating with the court on any matter.	II, III, IV	Interferes with administration of family cases.
SB 1791	Rainey	2000	Oppose	Shifts responsibility for hearing Title IV-D-related child support actions to Department of Social Services administrative law judges.	I, II, IV	Inappropriately shifts judicial function to nonjudicial officers.

D. DOMESTIC VIOLENCE

The council supports efforts to improve court procedures in domestic violence cases and the way courts review allegations of domestic violence in family law proceedings. The council also supports measures that seek to simplify the process for obtaining a restraining order, and the process for making it enforceable.

BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
AB 1081	Quirk	2015	Sponsor	Amends restraining order statutes to eliminate the current provisions concerning the reissuance of temporary orders and replace them with new provisions providing a procedure for continuance of hearings.	IV	
AB 2089	Quirk	2014	Oppose unless amended	Amends numerous sections of the Domestic Violence Prevention Act (DVPA) including requiring a court to state its reasons for denying a request for a permanent domestic violence restraining order in writing or on the record.	IV	Increases workload on courts without adequately funding staff to meet new requirements.

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BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
AB 1596	Hayashi	2010	Sponsor	Contains numerous technical changes to create more consistency in protective order statutes.	IV	Promotes consistent administration of law in protective order matters.
AB 104	Cohn	2005	Oppose	Requires a hearing on a motion to modify or dismiss a DVPA order to be held by the judicial officer that issued the order, if available.	II, III	Undue interference with court calendaring process.
AB 106	Cohn	2005	Oppose	Requires every trial court to establish a one-time amnesty program for fines and fees imposed for spousal abuse convictions or as a condition of probation for domestic violence offenses.	II, III	Contrary to the Judicial Council's enhanced collections strategy.
SB 1627	Kuehl	2002	Support	Clarifies procedures for entry of service of process for DVPA orders into the Domestic Violence Restraining Order System (DVROS) by requiring the court to either enter the information into DVROS directly or transmit proof of service to law enforcement for entry within one business day.	III, IV	Makes court orders more likely to be enforced.
SB 1780	Escutia	2002	Oppose unless funded	Requires the court to provide interpreters for specified parties in family law proceedings involving allegations of domestic violence at court expense.	I, IV	

E. CONSERVATORSHIP AND PROBATE LAW

The council supports clarification of conservators' duties and formulation of guidelines about conservatorships.

BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
AB 1667	Santiago	2019	Oppose	Seeks to authorize the creation and execution of an electronic will as an additional type of will that is a writing created, generated, sent, communicated, received, or stored by electronic means and signed electronically, if it meets specified requirements, including, among others, the requirement to be witnessed.	I, II, III	Significantly increases probate litigation by failing to protect testators' interests in crafting an electronic will.

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BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
SB 303	Wieckowski	2019	Oppose	Provides the presumption that the personal residence of the conservatee is the least restrictive appropriate residence for the conservatee and that, in any hearing to determine if removal of the conservatee from the conservatee's personal residence is appropriate, that presumption may be overcome by clear and convincing evidence. Requires a conservator to notify the court of the proposed sale of a present or former residence before the conservator commits any significant resources to the proposed sale, except as specified, and further requires the conservator to provide the court with additional information about the projected effect of the sale on the conservatee's capital gains income, tax liability, and eligibility for public benefits. Substantially limits the court's discretion to grant a conservator authority to sell a conservatee's personal residence without court confirmation of the sale. In addition, requires the conservator to demonstrate to the court, by clear and convincing evidence, a compelling need to sell the residence for the benefit of the conservatee, and deletes the authority of a court to waive certain requirements for a sale, including the requirement for a conservator to obtain an appraisal. Prohibits compensation to a guardian, conservator, or attorney with any government benefits program moneys designated for the conservatee, unless specifically authorized under other provisions of law.	II, IV	Inappropriately limits judicial discretion and interferes with judicial oversight over conservatees.
AB 1290	Obernolte	2018	No position	Provides that a guardian or conservator does not hold the attorney-client privilege in cases where the guardian or conservator has an actual or apparent conflict of interest with his or her ward or conservatee client.	II	
SB 1011	Roth	2018	Support	Among other things, requires the regional center, in a limited conservatorship case, to attach to its report the client's most recent individual program plan. Also requires the regional center to deliver a copy of its report to the court at least 15 days (versus 5 days) before the hearing on the petition.	IV	

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BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
SB 333	Anderson	2017	Support	Clarifies that if all beneficiaries of an irrevocable trust consent, they may petition the court for modification or termination of the trust. Provides that if a trust is subject to a valid restraint on the transfer of a beneficiary's interest, as provided, the trust may not be terminated with the consent of all beneficiaries who are reasonably likely to take under circumstances. Provides that an irrevocable trust may be modified or terminated by the written consent of the settlor and all beneficiaries without court approval. Clarifies that if any beneficiary does not consent to the modification or termination of an irrevocable trust, with the consent of the settlor the court may modify or partially terminate the trust if the interests of the beneficiaries who do not consent are not substantially impaired.	IV	
AB 691	Calderon	2016	Neutral	Enacts the Revised Uniform Fiduciary Access to Digital Assets Act. Among other things, authorizes a decedent's personal representative or trustee to access and manage digital assets and electronic communications, as specified. Establishes specified court procedures for resolving disputes between custodians and fiduciaries regarding access to a decedent's digital assets.	IV	
AB 1300	Ridley-Thomas	2016	Support section 9; no position on remaining provisions that are outside Judicial Council purview.	Makes various changes to the law governing involuntary commitments to mental health facilities. Among other things, conforms the immunity provisions in the Lanterman-Petris-Short (LPS) Act by extending immunity protections currently provided to court-appointed hearing officers and other specified persons involved in the involuntary commitment process to the same group of persons in counties that utilize the 30-day involuntary hold provisions under the LPS Act (see Welf. & Inst. Code § 5270.10 et seq.). Provides specifically that the court-appointed commissioner or referee, or the certification review hearing officer, among others, would be entitled to immunity from liability for any action by a person who is released at or before the end of the 30-day intensive treatment period.	IV	
AB 1700	Maienschein	2016	Support	Authorizes a trustee to provide a notice of proposed action for preliminary and final distributions.	IV	

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SB 938	Jackson	2016	Support	Seeks to tighten up the law governing the use of psychotropic medications for persons subject to dementia conservatorships. Among other things, requires petitions requesting the authority to administer such medications to be supported by a declaration of a physician that includes specified information including, among other things, the recommended course of medication, the expected effects of the recommended medication on the conservatee's overall mental health and treatment plan, including how the medication is expected to improve the conservatee's symptoms, and a description of the potential side effects of the recommended medication. Requires the Judicial Council, on or before July 1, 2017, to adopt rules of court and develop appropriate forms for the implementation of these provisions.	IV	
SB 1158	Anderson	2016	Support	Among other things, clarifies the ability of all beneficiaries of an irrevocable trust to petition the court for a modification or termination of the trust. Requires the court to consider, in making a determination with respect to a proposed termination of an irrevocable trust, whether the trust is subject to a valid restraint on the transfer of a beneficiary's interest. Clarifies further that an irrevocable trust may be modified or terminated by the written consent of the settlor and all beneficiaries without court approval of the modification or termination.	IV	
AB 314	Waldron	2015	Oppose	Dispenses with the requirement for a court investigation in cases to establish a limited conservatorship for a person with developmental disabilities when the proposed conservator is a parent of the proposed conservatee. Authorizes (rather than requires) the proposed limited conservatee, with his or her consent, to undergo an assessment at a regional center that will be used for the purposes of the conservatorship proceedings.	III, IV	Interferes with court's ability to oversee conservatorship cases.
AB 691	Calderon	2015	Oppose	Enacts the Privacy Expectation Afterlife and Choices Act (PEAC Act). Among other things, authorizes a defined electronic communication service or remote computing service (provider) to disclose specified information pertaining to the account of a deceased user to the personal representative of the decedent's estate or the trustee of the decedent's trust if provided with prescribed information. Authorizes a probate court with jurisdiction over the deceased user's estate or trust to order disclosure of certain information if the court makes specified findings, including that the request for disclosure is narrowly tailored to the purpose of administering the estate or trust.	III	Interferes with court administration of trusts and estates.

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AB 900	Levine	2015	Concerns	Establishes a new and unprecedented form of guardianship for certain youth between ages 18 and 21 who may qualify for federal Special Immigrant Juvenile (SIJ) status. Among other things, this bill allows, with the consent of the proposed ward, a probate court to establish a guardianship of the person for an unmarried individual, who is at least 18 years of age, but not yet 21, in connection with a petition to make necessary findings regarding SIJ status, as specified	II	Complicates court's ability to provide proper oversight.
AB 1085	Gatto	2015	Neutral on sections 1 and 2; no position on remaining provisions, which are outside the council's purview.	Among other things, allows a court to issue an order that either (1) specifically grants a conservator of the person the power to enforce the conservatee's right to receive visitors, telephone calls, and personal mail; or (2) directs the conservator to allow such visitors, telephone calls, and personal mail.	IV	
AB 1300	Ridley-Thomas	2015	Support section 26; no position on remaining provisions which are outside Judicial Council purview.	Among other things, conforms the immunity provisions in the Lanterman-Petris-Short (LPS) Act by extending immunity protections currently provided to court-appointed hearing officers and other specified persons involved in the involuntary commitment process to the same group of persons in counties that utilize the 30-day involuntary hold provisions under the LPS Act (see Welf. & Inst. Code § 5270.10 et seq.).	II	
AB 2034	Gatto	2014	Oppose	Among other things, allows first-degree relative of an elder or dependent adult to file a petition for a protective order to enjoin a person from keeping the elder or dependent adult in isolation from contact with the relative.	III	Interferes with the ability of the courts to resolve these family disputes in an efficient and effective manner.
SB 940	Jackson	2014	Support	Among other things, provides, effective January 1, 2016, provisions for interstate jurisdiction, transfer, and recognition of conservatorships under the California Conservatorship Jurisdiction Act.	I, IV	
AB 1893	Wagner	2012	Support	Clarifies the procedural rules that apply to probate proceedings.	IV	Improves court administration of probate cases.

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AB 458	Atkins	2011	Sponsor	Prohibits a court from appointing a minor's parent as a guardian of the person of the minor, except as specified. Establishes requirements for transferring a proceeding to another court in circumstances in which a proceeding that concerns custody or visitation of a minor child is pending in one or more counties at the time the petition for guardianship is filed. Specifies circumstances under which the court in a guardianship proceeding would maintain exclusive jurisdiction to determine issues of custody or visitation.	I, III	
AB 2271	Silva	2010	Support	Adds temporary trustees to the list of persons who may be appointed by the court during an appeal of certain probate orders.	II, IV	
SB 1041	Harman	2010	Support	Among other things, provides that evidence of a statement made by a declarant who is unavailable as a witness that he or she has or has not established or revoked a revocable trust, or that identifies his or her revocable trust, is not made inadmissible by the hearsay rule because the declarant is unavailable as a witness.	II, IV	
AB 1163	Tran	2009	Support	Clarifies that the attorney-client privilege is held by a deceased client's personal representative appointed for subsequent estate administration after the original personal representative has been discharged. Provides that no attorney-client privilege exists for communications relevant to issues between parties who all claim through a deceased client in a non-probate transfer.	I, IV	Improves administration of justice.
AB 1340	Jones	2008	Support	Requires a guardian or conservator, in a first accounting filed with the court, to provide all account statements showing the account balance as of, rather than through, the closing date of the first court accounting. Requires notice be given 5 court days prior to a hearing on the appointment of a temporary guardian or temporary conservator. Prohibits a court from permitting a person without a valid professional fiduciary's license to continue to carry out the duties of a professional fiduciary.	IV	Improves court's oversight of these cases.
AB 1880	Tran	2008	Oppose	Requires a guardian or conservator to post a separate recovery bond for the benefit of the ward or conservatee and any person interested in the guardianship or conservatorship estate who may bring a surcharge action against the guardian or conservator for breach of duty.	III, IV	Multiple bonds are more difficult to administer, and they would impair the court's ability to provide proper oversight.
AB 2014	Tran	2008	Support	Requires a guardian or conservator to use ordinary care and diligence to determine whether the ward or conservatee owns real property in a foreign jurisdiction and to preserve and protect that property.	IV	Improves court's oversight of these cases.

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AB 2247	Spitzer	2008	Oppose unless amended; neutral if amended	Requires a guardian or conservator to file an investment plan with a court not more than six months after the issuance of letters of guardianship or conservatorship. Revises and expands the list of obligations and securities in which a guardian or conservator may invest funds of the estate without court authorization.	IV	Interferes with the ability of the court to protect conservatees' assets.
SB 1264	Harman	2008	Support	Beginning January 1, 2010, revises, recasts, and clarifies the law governing no contest clauses in wills and trust instruments. Limits the enforceability of no contest clauses to direct contests brought without reasonable cause, transfers of property, or creditor claims as specified. Defines direct contest and probable cause for these purposes. Eliminates provisions regarding the authority of a beneficiary to apply to a court for a determination regarding a no contest clause.	I, IV	Improves access to the courts and enhances court administration.
AB 1727	Committee on Judiciary	2007	Support	Enhances a court investigator's access to confidential medical information. Prohibits a conservatorship of the person or of the estate from being granted unless the court makes an express finding that the granting of the conservatorship is the least restrictive alternative needed for the protection of the conservatee. Creates new requirements on courts when guardianships and conservatorships are transferred from other jurisdictions.	II, IV	Improves court's ability to provide oversight of these cases.
SB 340	Ackerman	2007	Cosponsor	Broadens list of agencies entitled to receive criminal history reports to include probate court conservatorship and guardianship investigators.	II, IV	Improves the court's ability to provide oversight in guardianship and conservatorship cases.
AB 1363	Jones	2006	Support if funded	Makes a number of reforms to the probate conservatorship system, including enhanced court reviews of conservatorships primarily through increasing the frequency and scope of court investigations.	II, IV	Improves court's ability to provide oversight of these cases.
SB 1116	Scott	2006	Support	Increases court oversight of moves of conservatees and the sale of their homes.	II, IV	Improves the court's ability to provide oversight of these cases.
SB 1550	Figueroa	2006	Support	Enacts the Professional Fiduciaries Act, which establishes in the Department of Consumer Affairs a new licensure scheme governing professional conservators, guardians, and other fiduciaries.	II, IV	Improves the courts oversight in these cases.
SB 1716	Bowen	2006	Support if funded	Authorizes the court to take action in response to ex parte communications regarding a guardian's or conservator's performance of his or her fiduciary duties.	II, IV	Improves the court's oversight of these cases.
AB 541	Harman	2005	Support	Allows the court to test prospective guardians for drugs or alcohol and exempts guardians of the person only from having to register with the Statewide Registry.	II, IV	Enhances court's discretion and improves court's ability to oversee these cases.
AB 1155	Liu	2004	Support	Requires the Judicial Council to adopt a rule of court that specifies the qualification and educational requirements of private professional conservators and private professional guardians.	II, IV	Improves court's ability to oversee these cases.

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AB 1851	Harman	2004	Support	Revises and recasts the law concerning the court's responsibility to approve compromises of claims of minors, and settlements or actions or disposition of judgments in favor of minors or "incompetent persons." Permits the court to establish a special needs trust for a disabled minor that will continue under court supervision after the minor reaches age 18.	IV	Improves the court's ability to administer these cases.
AB 1883	Harman	2004	Support	Prevents routine waivers but allows court discretion in waiving bond requirement where it is warranted.	II, IV	Enhances court's discretion.
AB 1784	Harman	2002	Support	Implements the recommendations of the California Law Revision Commission for clarification of Probate Code provisions regarding the construction of trusts and other instruments.	III, IV	Promotes clarity and consistency in the handling of these cases.

V. MISCELLANEOUS

BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
AB 868	Ammiano	2013	No position	Mandates that existing required training standards for judicial officers who hear family law matters, Court Appointed Special Advocates, and attorneys for children in dependency cases be modified to include training on cultural competency and sensitivity with regard to gay, lesbian, bisexual, and transgender youth.	II, V	Directed staff to articulate the concern of the Judicial Council on the precedent that is being established by enacting statutory training requirements for judges, and to highlight the importance of recognizing judicial independence and oversight over training.
AB 1208	Calderon	2011	Oppose	Significantly lessens the role of the Judicial Council in determining the allocation of funds to trial courts and allocating funds in a manner to support implementation of statewide policies and initiatives. Reduces the council's role in ensuring the stability of trial court operations and providing management or oversight of trial court budgets.	I, II, III, IV	
SB 1417	Cox	2010	Support	Modifies the process for formation of Societies for the Prevention of Cruelty to Animals and for the appointment of humane officers.	III, IV	Provides clear court process.
AB 2301	Committee on Judiciary	2006	Support	Provides the State Bar with the authority to collect voluntary financial support from its membership to support organizations that provide free legal services to those of limited means.	I, IV	

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SCA 3	Lowenthal	2006	No position	Shifts redistricting responsibility from the Legislature to an 11-member Independent Redistricting Commission to reapportion legislative and congressional districts. Provides that the California Supreme Court has original and exclusive jurisdiction over all challenges to a redistricting plan adopted by the commission. Requires the Judicial Council to appoint a panel of 10 retired justices of the state Courts of Appeal, and for that panel to establish a pool of 50 candidates for the Independent Redistricting Commission.	N/A	
SB 1246	Burton	2004	No position	Requires the Supreme Court and the State Bar to develop standards and rules of professional conduct governing the propriety of an attorney appearing before a court where that individual previously served as a judicial officer.	N/A	Outside purview.

A. ACCESS TO JUSTICE

BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
AB 2664	Holden	2018	Support	Provides that at the arranging party's request, the court shall appoint a certified shorthand reporter to be present in the courtroom and serve as the official reporter pro tempore unless there is good cause shown for the court to refuse that appointment. Makes fees and charges of the certified shorthand reporter recoverable as taxable costs by the prevailing party.	I, II, IV	
SB 339	Roth	2017	Support	Requires the Judicial Council to report to the Legislature, on or before June 1, 2020, on a study of veterans and veterans treatment courts conducted by the council that includes a statewide assessment of veterans treatment courts currently in operation and a survey of counties that do not operate veterans treatment courts. The study must identify barriers to program implementation and assesses the need for veterans treatment courts in those counties.	IV	
SB 597	Lara	2013	Support if amended and funded	Requires the Judicial Council to select up to five courts to participate in a pilot project to provide interpreter services to limited-English-proficient parties in civil matters.	I	Interpreter pilot project
AB 590	Feuer	2009	Support	Creates a pilot project to provide legal representation to indigent litigants in specified civil case types including domestic violence, civil harassment, probate conservatorship, elder abuse, child custody matters in which one parent is seeking sole legal or physical custody, and housing-related cases, beginning July 2011, with the revenue from recently enacted increases to a number of miscellaneous civil court fees.	I, IV	Improves access to justice for unrepresented litigants.

JUDICIAL COUNCIL OF CALIFORNIA—GUIDING PRINCIPLES

Goal I – Access, Fairness, and Diversity

Goal II – Independence and Accountability

Goal III – Modernization of Management and Administration

Goal IV – Quality of Justice and Service to the Public

Goal V – Education for Branchwide Professional Excellence

Goal VI – Branchwide Infrastructure for Service Excellence

Goal VII – Adequate, Stable, and Predictable Funding for a Fully Functioning Branch

BILL	AUTHOR	YEAR	POSITION	BILL SUMMARY	GOAL	NOTES
AB 663	Jones	2009	Sponsor interpreter-related provisions; no position on legal aid provision	Requires the Judicial Council to establish a working group to identify and develop best practices to expand the use of interpreters in civil proceedings and to implement a three-year pilot project in up to five courts to provide interpreters in civil proceedings. Also requires the Judicial Council to enter into one or more master agreements with telephonic appearance providers to provide uniformity in the fees charged and requires \$15 per appearance to support the cost of the civil interpreter pilot project. Limits the use of the term “legal aid.”	I	Pilot project
AB 2448	Feuer	2008	Sponsor	Revises and redrafts the existing statute governing court fee waivers to ensure that indigent litigants have an opportunity to access the courts in a timely manner, and to provide for recovery of those fees in appropriate cases.	I, III, IV	
AB 3050	Jones	2008	Sponsor	Requires the Judicial Council to establish a working group to identify and develop best practices to expand the use of interpreters in civil proceedings. Requires the Judicial Council to implement a pilot project to provide interpreters in civil proceedings, in up to five courts, to implement the best practices identified by the working group. Requires that the Judicial Council enter into one or more master agreements to provide uniform fees for telephonic appearances in civil cases and provides that funding from this source will support the interpreter pilot project.	I	Interpreter pilot project
AB 171	Beall	2007	Support	Establishes the Assumption Program for Loans for Law in the Public Interest, to provide up to \$11,000 in loan assumption benefits over a four-year period to public interest attorneys.	I	
AB 1723	Committee on Judiciary	2007	Support	Requires banks that hold interest on lawyer trust accounts (IOLTA) to allow those accounts to participate in higher-paying investment products, or receive an interest rate that is comparable to the rates paid by those investment products (referred to as “IOLTA comparability”).	I	

JUDICIAL COUNCIL OF CALIFORNIA—GUIDING PRINCIPLES

Goal I – Access, Fairness, and Diversity

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Goal V – Education for Branchwide Professional Excellence

Goal VI – Branchwide Infrastructure for Service Excellence

Goal VII – Adequate, Stable, and Predictable Funding for a Fully Functioning Branch



SB-179 Gender identity: female, male, or nonbinary. (2017-2018)

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Senate Bill No. 179

CHAPTER 853

An act to amend, repeal, and add Sections 1277 and 1278 of, and to add Section 1277.5 to, the Code of Civil Procedure, to amend Sections 103426 and 103440 of, to amend the heading of Article 7 (commencing with Section 103425) of Chapter 11 of Part 1 of Division 102 of, and to amend, repeal, and add Sections 103425 and 103430 of, the Health and Safety Code, and to amend Section 13005 of, and to amend, repeal, and add Section 12800 of the Vehicle Code, relating to gender identity.

[Approved by Governor October 15, 2017. Filed with Secretary of State October 15, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

SB 179, Atkins. Gender identity: female, male, or nonbinary.

(1) Existing law authorizes a person who was born in this state and who has undergone clinically appropriate treatment for the purpose of gender transition to obtain a new birth certificate from the State Registrar.

This bill would enact the Gender Recognition Act. For purposes of obtaining a new birth certificate under the provisions above, the bill would delete the requirement that an applicant have undergone any treatment, and instead would authorize a person to submit to the State Registrar an application to change gender on the birth certificate and an affidavit attesting, under penalty of perjury, that the request for a change of gender is to conform the person's legal gender to the person's gender identity and not for any fraudulent purpose. By requiring the affidavit to be attested to under penalty of perjury, the bill would create a crime, thereby imposing a state-mandated local program. The bill would authorize the change of gender on a new birth certificate to be female, male, or nonbinary.

(2) Existing law authorizes a person who has undergone clinically appropriate treatment for the purpose of gender transition to petition for a court judgment recognizing the change of gender, and to petition for a court order conforming the person's name to the person's gender identity. Existing law provides specific procedures to seek these orders and judgments, either separately or in combination.

This bill, commencing on September 1, 2018, would delete the requirement that a person have undergone any treatment to seek a court judgment to recognize a change of gender and instead would authorize the petitioner to attest, under penalty of perjury, that the request is to conform the person's legal gender to the person's gender identity and not for any fraudulent purpose. By requiring the affidavit to be attested to under penalty of perjury, the bill would create a crime, thereby imposing a state-mandated local program. The bill would authorize a change of gender in the court judgment to female, male, or nonbinary. The bill would provide modified procedures to obtain a court order for a change of name to conform to the petitioner's gender identity and a court judgment to recognize a change in the petitioner's gender. The bill would provide a separate procedure for

a person under 18 years of age to petition for a court judgment to recognize a change of gender to female, male, or nonbinary.

(3) Existing law requires the Department of Motor Vehicles to issue a driver's license to an applicant when the department determines that the applicant is lawfully entitled to a license, and requires the license to contain, among other things, a brief description and engraved picture or photograph of the licensee for the purpose of identification. Existing law requires the application for an original driver's license or renewal of a driver's license to contain specified information, as provided by the applicant. Existing law also authorizes the department to issue identification cards and requires an identification card to adequately describe the applicant. Existing law requires the department, upon issuance of a new identification card or renewal of an identification card, to provide information regarding organ and tissue donation, including an enrollment form for the California Organ and Tissue Donor Registry that requires an applicant to mark his or her sex.

This bill, on January 1, 2019, would require an applicant for an original driver's license or renewal of a driver's license to choose a gender category of female, male, or nonbinary, as specified, and would require the department to adopt regulations to provide a process for an amendment to a gender category under these provisions. The bill would also require the enrollment form for the California Organ and Tissue Donor Registry to instead require an applicant to mark his or her gender.

This bill would make legislative findings and declarations in support of its provisions.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. This act shall be known and may be cited as the Gender Recognition Act.

SEC. 2. The Legislature finds and declares all of the following:

(a) It is the policy of the State of California that every person deserves full legal recognition and equal treatment under the law and to ensure that intersex, transgender, and nonbinary people have state-issued identification documents that provide full legal recognition of their accurate gender identity.

(b) Gender identification is fundamentally personal, and the state should endeavor to provide options on state-issued identification documents that recognize a person's accurate gender identification. It is the intent of the Legislature in enacting this legislation to provide three equally recognized gender options on state-issued identification documents—female, male, and nonbinary—and an efficient and fair process for people to amend their gender designation on state-issued identification documents so that state-issued identification documents legally recognize a person's accurate gender identification.

(c) "Intersex" is an umbrella term used to describe natural bodily variations, which can include external genitalia, internal sex organs, chromosomes, or hormonal differences that transcend typical ideas of male and female. Upper estimates of the number of intersex people are approximately 1.7 percent of the general population. In the United States, some children born with intersex traits have been subjected to involuntary and medically unnecessary surgical procedures in infancy in an attempt to erase aspects of their natural bodies, causing significant physical and psychological harm. Human rights authorities have condemned this practice as a form of torture and recognize that legal and ethical frameworks require intersex people themselves to make decisions concerning their own bodies. Thus, those human rights authorities recommended that physicians assign a provisional gender designation with the knowledge that the child may later identify differently. An option of a nonbinary gender designation on state-issued identification documents would allow intersex people, like transgender and nonbinary people, to be able to use state-issued identification documents that accurately recognize their gender identification as female, male, or nonbinary.

(d) The binary gender designations of female and male fail to adequately represent the diversity of human experience. Nonbinary is an umbrella term for people with gender identities that fall somewhere outside of the traditional conceptions of strictly either female or male. People with nonbinary gender identities may or may not identify as transgender, may or may not have been born with intersex traits, may or may not use gender-neutral pronouns, and may or may not use more specific terms to describe their genders, such as agender, genderqueer,

gender fluid, Two Spirit, bigender, pangender, gender nonconforming, or gender variant. Nonbinary gender identities have been recognized by cultures throughout history and around the world, as well as by legal systems in the United States and other countries, medical authorities, and researchers. Studies show that nonbinary people face frequent discrimination, harassment, and violence in areas of life including education, employment, health care, and law enforcement.

(e) Transgender is an umbrella term used to describe people whose gender identity or gender expression do not match the gender they were assigned at birth. Some transgender people have medically transitioned, undergoing gender affirming surgeries and hormonal treatments, while other transgender people do not choose any form of medical transition. There is no uniform set of procedures that are sought by transgender people that pursue medical transition. Transgender people may identify as female, male, or nonbinary, may or may not have been born with intersex traits, may or may not use gender-neutral pronouns, and may or may not use more specific terms to describe their genders, such as agender, genderqueer, gender fluid, Two Spirit, bigender, pangender, gender nonconforming, or gender variant. Studies show that transgender people disproportionately face discrimination, harassment, and violence in areas of life including housing, education, employment, health care, and law enforcement.

SEC. 3. Section 1277 of the Code of Civil Procedure is amended to read:

1277. (a) (1) If a proceeding for a change of name is commenced by the filing of a petition, except as provided in subdivisions (b), (c), and (e), the court shall thereupon make an order reciting the filing of the petition, the name of the person by whom it is filed, and the name proposed. The order shall direct all persons interested in the matter to appear before the court at a time and place specified, which shall be not less than 6 weeks nor more than 12 weeks from the time of making the order, unless the court orders a different time, to show cause why the application for change of name should not be granted. The order shall direct all persons interested in the matter to make known any objection that they may have to the granting of the petition for change of name by filing a written objection, which includes the reasons for the objection, with the court at least two court days before the matter is scheduled to be heard and by appearing in court at the hearing to show cause why the petition for change of name should not be granted. The order shall state that, if no written objection is timely filed, the court may grant the petition without a hearing. If the petition seeks to conform the petitioner's name to the petitioner's gender identity and no objection is timely filed, the court shall grant the petition without a hearing.

(2) A copy of the order to show cause shall be published pursuant to Section 6064 of the Government Code in a newspaper of general circulation to be designated in the order published in the county. If a newspaper of general circulation is not published in the county, a copy of the order to show cause shall be posted by the clerk of the court in three of the most public places in the county in which the court is located, for a like period. Proof shall be made to the satisfaction of the court of this publication or posting at the time of the hearing of the application.

(3) Four weekly publications shall be sufficient publication of the order to show cause. If the order is published in a daily newspaper, publication once a week for four successive weeks shall be sufficient.

(4) If a petition has been filed for a minor by a parent and the other parent, if living, does not join in consenting thereto, the petitioner shall cause, not less than 30 days before the hearing, to be served notice of the time and place of the hearing or a copy of the order to show cause on the other parent pursuant to Section 413.10, 414.10, 415.10, or 415.40. If notice of the hearing cannot reasonably be accomplished pursuant to Section 415.10 or 415.40, the court may order that notice be given in a manner that the court determines is reasonably calculated to give actual notice to the nonconsenting parent. In that case, if the court determines that notice by publication is reasonably calculated to give actual notice to the nonconsenting parent, the court may determine that publication of the order to show cause pursuant to this subdivision is sufficient notice to the nonconsenting parent.

(5) If the petition for a change of name is sought in order to conform the petitioner's name to the petitioner's gender identity, the action for a change of name is exempt from the requirement for publication of the order to show cause under this subdivision.

(b) (1) If the petition for a change of name alleges a reason or circumstance described in paragraph (2), and the petitioner has established that the petitioner is an active participant in the address confidentiality program created pursuant to Chapter 3.1 (commencing with Section 6205) of Division 7 of Title 1 of the Government Code, and that the name the petitioner is seeking to acquire is on file with the Secretary of State, the action for a change of name is exempt from the requirement for publication of the order to show cause under subdivision

(a), and the petition and the order of the court shall, in lieu of reciting the proposed name, indicate that the proposed name is confidential and is on file with the Secretary of State pursuant to the provisions of the address confidentiality program.

(2) The procedure described in paragraph (1) applies to petitions alleging any of the following reasons or circumstances:

(A) To avoid domestic violence, as defined in Section 6211 of the Family Code.

(B) To avoid stalking, as defined in Section 646.9 of the Penal Code.

(C) The petitioner is, or is filing on behalf of, a victim of sexual assault, as defined in Section 1036.2 of the Evidence Code.

(3) For any petition under this subdivision, the current legal name of the petitioner shall be kept confidential by the court and shall not be published or posted in the court's calendars, indexes, or register of actions, as required by Article 7 (commencing with Section 69840) of Chapter 5 of Title 8 of the Government Code, or by any means or in any public forum, including a hardcopy or an electronic copy, or any other type of public media or display.

(4) Notwithstanding paragraph (3), the court may, at the request of the petitioner, issue an order reciting the name of the petitioner at the time of the filing of the petition and the new legal name of the petitioner as a result of the court's granting of the petition.

(5) A petitioner may request that the court file the petition and any other papers associated with the proceeding under seal. The court may consider the request at the same time as the petition for name change, and may grant the request in any case in which the court finds that all of the following factors apply:

(A) There exists an overriding interest that overcomes the right of public access to the record.

(B) The overriding interest supports sealing the record.

(C) A substantial probability exists that the overriding interest will be prejudiced if the record is not sealed.

(D) The proposed order to seal the records is narrowly tailored.

(E) No less restrictive means exist to achieve the overriding interest.

(c) A proceeding for a change of name for a witness participating in the state Witness Relocation and Assistance Program established by Title 7.5 (commencing with Section 14020) of Part 4 of the Penal Code who has been approved for the change of name by the program is exempt from the requirement for publication of the order to show cause under subdivision (a).

(d) If an application for change of name is brought as part of an action under the Uniform Parentage Act (Part 3 (commencing with Section 7600) of Division 12 of the Family Code), whether as part of a petition or cross-complaint or as a separate order to show cause in a pending action thereunder, service of the application shall be made upon all other parties to the action in a like manner as prescribed for the service of a summons, as set forth in Article 3 (commencing with Section 415.10) of Chapter 4 of Title 5 of Part 2. Upon the setting of a hearing on the issue, notice of the hearing shall be given to all parties in the action in a like manner and within the time limits prescribed generally for the type of hearing (whether trial or order to show cause) at which the issue of the change of name is to be decided.

(e) If a guardian files a petition to change the name of the guardian's minor ward pursuant to Section 1276:

(1) The guardian shall provide notice of the hearing to any living parent of the minor by personal service at least 30 days before the hearing.

(2) If either or both parents are deceased or cannot be located, the guardian shall cause, not less than 30 days before the hearing, to be served a notice of the time and place of the hearing or a copy of the order to show cause on the child's grandparents, if living, pursuant to Section 413.10, 414.10, 415.10, or 415.40.

(f) This section shall become operative on July 1, 2014, shall become inoperative on September 1, 2018, and shall be repealed on January 1, 2019.

SEC. 4. Section 1277 is added to the Code of Civil Procedure, to read:

1277. (a) (1) If a proceeding for a change of name is commenced by the filing of a petition, except as provided in subdivisions (b), (c), and (e), or Section 1277.5, the court shall thereupon make an order reciting the filing of the petition, the name of the person by whom it is filed, and the name proposed. The order shall direct all persons interested in the matter to appear before the court at a time and place specified, which shall be not less than 6 weeks nor more than 12 weeks from the time of making the order, unless the court orders a different time, to show cause why the application for change of name should not be granted. The order shall direct all persons interested in the matter to make known any objection that they may have to the granting of the petition for change of name by filing a written objection, which includes the reasons for the objection, with the court at least two court days before the matter is scheduled to be heard and by appearing in court at the hearing to show cause why the petition for change of name should not be granted. The order shall state that, if no written objection is timely filed, the court may grant the petition without a hearing.

(2) A copy of the order to show cause shall be published pursuant to Section 6064 of the Government Code in a newspaper of general circulation to be designated in the order published in the county. If a newspaper of general circulation is not published in the county, a copy of the order to show cause shall be posted by the clerk of the court in three of the most public places in the county in which the court is located, for a like period. Proof shall be made to the satisfaction of the court of this publication or posting at the time of the hearing of the application.

(3) Four weekly publications shall be sufficient publication of the order to show cause. If the order is published in a daily newspaper, publication once a week for four successive weeks shall be sufficient.

(4) If a petition has been filed for a minor by a parent and the other parent, if living, does not join in consenting thereto, the petitioner shall cause, not less than 30 days before the hearing, to be served notice of the time and place of the hearing or a copy of the order to show cause on the other parent pursuant to Section 413.10, 414.10, 415.10, or 415.40. If notice of the hearing cannot reasonably be accomplished pursuant to Section 415.10 or 415.40, the court may order that notice be given in a manner that the court determines is reasonably calculated to give actual notice to the nonconsenting parent. In that case, if the court determines that notice by publication is reasonably calculated to give actual notice to the nonconsenting parent, the court may determine that publication of the order to show cause pursuant to this subdivision is sufficient notice to the nonconsenting parent.

(b) (1) If the petition for a change of name alleges a reason or circumstance described in paragraph (2), and the petitioner has established that the petitioner is an active participant in the address confidentiality program created pursuant to Chapter 3.1 (commencing with Section 6205) of Division 7 of Title 1 of the Government Code, and that the name the petitioner is seeking to acquire is on file with the Secretary of State, the action for a change of name is exempt from the requirement for publication of the order to show cause under subdivision (a), and the petition and the order of the court shall, in lieu of reciting the proposed name, indicate that the proposed name is confidential and is on file with the Secretary of State pursuant to the provisions of the address confidentiality program.

(2) The procedure described in paragraph (1) applies to petitions alleging any of the following reasons or circumstances:

(A) To avoid domestic violence, as defined in Section 6211 of the Family Code.

(B) To avoid stalking, as defined in Section 646.9 of the Penal Code.

(C) The petitioner is, or is filing on behalf of, a victim of sexual assault, as defined in Section 1036.2 of the Evidence Code.

(3) For any petition under this subdivision, the current legal name of the petitioner shall be kept confidential by the court and shall not be published or posted in the court's calendars, indexes, or register of actions, as required by Article 7 (commencing with Section 69840) of Chapter 5 of Title 8 of the Government Code, or by any means or in any public forum, including a hardcopy or an electronic copy, or any other type of public media or display.

(4) Notwithstanding paragraph (3), the court may, at the request of the petitioner, issue an order reciting the name of the petitioner at the time of the filing of the petition and the new legal name of the petitioner as a result of the court's granting of the petition.

(5) A petitioner may request that the court file the petition and any other papers associated with the proceeding under seal. The court may consider the request at the same time as the petition for name change, and may

grant the request in any case in which the court finds that all of the following factors apply:

- (A) There exists an overriding interest that overcomes the right of public access to the record.
- (B) The overriding interest supports sealing the record.
- (C) A substantial probability exists that the overriding interest will be prejudiced if the record is not sealed.
- (D) The proposed order to seal the records is narrowly tailored.
- (E) No less restrictive means exist to achieve the overriding interest.

(c) A proceeding for a change of name for a witness participating in the state Witness Relocation and Assistance Program established by Title 7.5 (commencing with Section 14020) of Part 4 of the Penal Code who has been approved for the change of name by the program is exempt from the requirement for publication of the order to show cause under subdivision (a).

(d) If an application for change of name is brought as part of an action under the Uniform Parentage Act (Part 3 (commencing with Section 7600) of Division 12 of the Family Code), whether as part of a petition or cross-complaint or as a separate order to show cause in a pending action thereunder, service of the application shall be made upon all other parties to the action in a like manner as prescribed for the service of a summons, as set forth in Article 3 (commencing with Section 415.10) of Chapter 4 of Title 5 of Part 2. Upon the setting of a hearing on the issue, notice of the hearing shall be given to all parties in the action in a like manner and within the time limits prescribed generally for the type of hearing (whether trial or order to show cause) at which the issue of the change of name is to be decided.

(e) If a guardian files a petition to change the name of the guardian's minor ward pursuant to Section 1276:

(1) The guardian shall provide notice of the hearing to any living parent of the minor by personal service at least 30 days before the hearing.

(2) If either or both parents are deceased or cannot be located, the guardian shall cause, not less than 30 days before the hearing, to be served a notice of the time and place of the hearing or a copy of the order to show cause on the child's grandparents, if living, pursuant to Section 413.10, 414.10, 415.10, or 415.40.

(f) This section shall become operative on September 1, 2018.

SEC. 5. Section 1277.5 is added to the Code of Civil Procedure, to read:

1277.5. (a) (1) If a proceeding for a change of name to conform the petitioner's name to the petitioner's gender identity is commenced by the filing of a petition, the court shall thereupon make an order reciting the filing of the petition, the name of the person by whom it is filed, and the name proposed. The order shall direct all persons interested in the matter to make known any objection to the change of name by filing a written objection, which includes any reasons for the objection, within six weeks of the making of the order, and shall state that if no objection showing good cause to oppose the name change is timely filed, the court shall, without hearing, enter the order that the change of name is granted.

(2) The proceeding for a change of name to conform the petitioner's name to the petitioner's gender identity is exempt from any requirement for publication.

(b) A hearing date shall not be set in the proceeding unless an objection is timely filed and shows good cause for opposing the name change. Objections based solely on concerns over the petitioner's actual gender identity shall not constitute good cause. At the hearing, the court may examine under oath any of the petitioners, remonstrants, or other persons touching the petition or application, and may make an order changing the name or dismissing the petition or application as the court may deem right and proper.

(c) This section shall become operative on September 1, 2018.

SEC. 6. Section 1278 of the Code of Civil Procedure is amended to read:

1278. (a) (1) Except as provided in subdivisions (c) and (d), the petition or application shall be heard at the time designated by the court, only if objections are filed by a person who can, in those objections, show to the court good cause against the change of name. At the hearing, the court may examine on oath any of the petitioners,

remonstrants, or other persons touching the petition or application, and may make an order changing the name, or dismissing the petition or application, as the court may seem right and proper.

(2) If no objection is filed at least two court days before the date set for hearing, the court may, without hearing, enter the order that the change of name is granted. If the petition seeks to conform the petitioner's name to the petitioner's gender identity and no objection is timely filed, the court shall grant the petition without a hearing.

(b) If the provisions of subdivision (b) of Section 1277 apply, the court shall not disclose the proposed name unless the court finds by clear and convincing evidence that the allegations of domestic violence, stalking, sexual assault, or gender identity in the petition are false.

(c) If the application for a change of name is brought as part of an action under the Uniform Parentage Act (Part 3 (commencing with Section 7600) of Division 12 of the Family Code), the hearing on the issue of the change of name shall be conducted pursuant to statutes and rules of court governing those proceedings, whether the hearing is conducted upon an order to show cause or upon trial.

(d) If the petition for a change of name is filed by a guardian on behalf of a minor ward, the court shall first find that the ward is likely to remain in the guardian's care until the age of majority and that the ward is not likely to be returned to the custody of the parents. Upon making those findings, the court shall consider the petition and may grant the petition only if it finds that the proposed name change is in the best interest of the child.

(e) This section shall become operative on July 1, 2014, shall become inoperative on September 1, 2018, and shall be repealed on January 1, 2019.

SEC. 7. Section 1278 is added to the Code of Civil Procedure, to read:

1278. (a) (1) Except as provided in subdivisions (c) and (d), the petition or application shall be heard at the time designated by the court, only if objections are filed by a person who can, in those objections, show to the court good cause against the change of name. At the hearing, the court may examine on oath any of the petitioners, remonstrants, or other persons touching the petition or application, and may make an order changing the name, or dismissing the petition or application, as the court may deem right and proper.

(2) If no objection is filed at least two court days before the date set for hearing, the court may, without hearing, enter the order that the change of name is granted.

(b) If the provisions of subdivision (b) of Section 1277 apply, the court shall not disclose the proposed name unless the court finds by clear and convincing evidence that the allegations of domestic violence, stalking, or sexual assault in the petition are false.

(c) If the application for a change of name is brought as part of an action under the Uniform Parentage Act (Part 3 (commencing with Section 7600) of Division 12 of the Family Code), the hearing on the issue of the change of name shall be conducted pursuant to statutes and rules of court governing those proceedings, whether the hearing is conducted upon an order to show cause or upon trial.

(d) If the petition for a change of name is filed by a guardian on behalf of a minor ward, the court shall first find that the ward is likely to remain in the guardian's care until the age of majority and that the ward is not likely to be returned to the custody of the parents. Upon making those findings, the court shall consider the petition and may grant the petition only if it finds that the proposed name change is in the best interest of the child.

(e) This section shall become operative on September 1, 2018.

SEC. 8. The heading of Article 7 (commencing with Section 103425) of Chapter 11 of Part 1 of Division 102 of the Health and Safety Code is amended to read:

Article 7. Revision of Birth Records to Reflect Change of Gender

SEC. 9. Section 103425 of the Health and Safety Code is amended to read:

103425. (a) Whenever a person has undergone clinically appropriate treatment for the purpose of gender transition, the person may file a petition with the superior court in any county seeking a judgment recognizing the change of gender.

(b) If requested, the judgment shall include an order that a new birth certificate be prepared for the person reflecting the change of gender and any change of name accomplished by an order of a court of this state,

another state, the District of Columbia, or any territory of the United States.

(c) This section shall become inoperative on September 1, 2018, and shall be repealed on January 1, 2019.

SEC. 10. Section 103425 is added to the Health and Safety Code, to read:

103425. (a) A person may file a petition with the superior court in any county seeking a judgment recognizing the change of gender to female, male, or nonbinary.

(b) If requested, the judgment shall include an order that a new birth certificate be prepared for the person reflecting the change of gender and any change of name accomplished by an order of a court of this state, another state, the District of Columbia, or any territory of the United States.

(c) This section shall become operative on September 1, 2018.

SEC. 11. Section 103426 of the Health and Safety Code is amended to read:

103426. The State Registrar shall issue a new birth certificate reflecting a change of gender to female, male, or nonbinary without a court order for any person born in this state who submits directly to the State Registrar an application to change the gender on the birth certificate and an affidavit attesting under penalty of perjury that the request for a change of gender to (female, male, or nonbinary) is to conform the person's legal gender to the person's gender identity and is not made for any fraudulent purpose. Upon receipt of the documentation and the fee prescribed by Section 103725, the State Registrar shall establish a new birth certificate reflecting the gender stated in the application and any change in name, if accompanied by a court order for a change of name.

SEC. 12. Section 103430 of the Health and Safety Code is amended to read:

103430. (a) The petition shall be accompanied by an affidavit of a physician attesting that the person has undergone clinically appropriate treatment for the purpose of gender transition, based on contemporary medical standards, and a certified copy of the court order changing the applicant's name, if applicable. The physician's affidavit shall be accepted as conclusive proof of gender change if it contains substantially the following language: "I, (physician's full name), (physician's medical license or certificate number), am a licensed physician in (jurisdiction). I attest that (name of petitioner) has undergone clinically appropriate treatment for the purpose of gender transition to (male or female). I declare that the foregoing is true and correct to the best of my knowledge."

(b) The petition shall be heard at the time appointed by the court. At the hearing, the court may examine on oath the petitioner, and any other person having knowledge of facts relevant to the application. At the conclusion of the hearing the court shall grant the petition if the court determines that the physician's affidavit shows that the person has undergone clinically appropriate treatment for the purpose of gender transition.

(c) If the judgment includes an order for a new birth certificate and if the petitioner was born in this state, a certified copy of the decree of the court ordering the new birth certificate, shall, within 30 days from the date of the decree, be filed with the State Registrar. Upon receipt thereof together with the fee prescribed by Section 103725, the State Registrar shall establish a new birth certificate for the applicant.

(d) The new birth certificate shall indicate the sex of the registrant as specified in the judgment of the court and shall reflect any change of name specified in the application if accompanied by a court order, as prescribed by Section 103425. No reference shall be made in the new birth certificate, nor shall its form in any way indicate, that it is not the original birth certificate of the registrant.

(e) This section shall become inoperative on September 1, 2018, and shall be repealed on January 1, 2019.

SEC. 13. Section 103430 is added to the Health and Safety Code, to read:

103430. (a) A petition for a court order to recognize a change in the petitioner's gender as female, male, or nonbinary shall be accompanied by an affidavit from the petitioner and a certified copy of the court order changing the petitioner's name, if applicable. The petitioner's affidavit shall be accepted as conclusive proof of gender change if it contains substantially the following language: "I, (petitioner's full name), hereby attest under penalty of perjury that the request for a change in gender to (female, male, or nonbinary) is to conform my legal gender to my gender identity and is not for any fraudulent purpose."

(b) Except as provided in subdivision (e), unless a written objection is filed within 28 days of the filing of the petition and shows good cause for opposing a court order recognizing the change of gender, the court shall grant the petition without a hearing. If an objection is timely filed, the court may set a hearing, at a time designated by the court, only if the objection filed shows good cause for opposing the petition. Objections based solely on concerns over the petitioner's actual gender identity shall not constitute good cause. At the hearing, the court may examine on oath the petitioner and any other person having knowledge of facts relevant to the petition. At the conclusion of the hearing, the court shall grant the petition if the court determines that the petition is not made for any fraudulent purpose.

(c) If the judgment includes an order for a new birth certificate and if the petitioner was born in this state, a certified copy of the decree of the court ordering the new birth certificate, shall, within 30 days from the date of the decree, be filed with the State Registrar. Upon receipt thereof together with the fee prescribed by Section 103725, the State Registrar shall establish a new birth certificate for the petitioner.

(d) The new birth certificate shall indicate the gender of the petitioner, as specified in the judgment of the court, and shall reflect any change of name specified in the court order, as prescribed by Section 103425. No reference shall be made in the new birth certificate, nor shall its form in any way indicate, that it is not the original birth certificate of the petitioner.

(e) (1) If a petitioner is under 18 years of age, the petition shall be signed by either at least one of the petitioner's parents or any guardian of the petitioner, or if both parents are deceased and there is no guardian of the petitioner, by either a near relative or friend of the petitioner or as provided in Section 7638 of the Family Code.

(A) If a petition filed by a petitioner who is under 18 years of age does not include the signature of both living parents, the petitioner shall serve the living parent who did not sign the petition with notice and an order to show cause pursuant to Section 413.10, 414.10, 415.10, or 415.40 of the Code of Civil Procedure, not less than 30 days after the petition was filed. If service cannot reasonably be accomplished pursuant to Section 415.10 or 415.40 of the Code of Civil Procedure, the court may order that service be given in a manner that the court determines is reasonably calculated to give actual notice to the living parent who did not sign the petition.

(B) The order to show cause shall direct the living parent who did not sign the petition to appear before the court at a time and place specified, which shall be not less than 6 weeks nor more than 12 weeks from the time of making the order to show cause, unless the court orders a different time, to show cause why the petition for a court order to recognize a change in the petitioner's gender as female, male, or nonbinary should not be granted. The order to show cause shall direct the living parent who did not sign the petition to make known any objection to the granting of the petition by filing a written objection that includes the reasons for the objection with the court at least two court days before the matter is scheduled to be heard and by appearing in court at the hearing to show cause why the petition should not be granted. The order to show cause shall state that if the living parent who did not sign the petition does not timely file a written objection and appear in the court hearing, the court shall grant the petition without a hearing.

(2) (A) The court shall grant a petition for a court order to recognize a change in the petitioner's gender as female, male, or nonbinary filed by a petitioner who is under 18 years of age without a hearing, unless a living parent who was required to be served with notice and an order to show cause in compliance with subparagraph (B) of paragraph (1) timely filed a written objection and appears in the court hearing.

(B) The court may deny a petition for a court order to recognize a change in the petitioner's gender as female, male, or nonbinary filed by a petitioner who is under 18 years of age, if both parents, if living, did not sign the petition, the living parent who did not sign the petition timely filed a written objection and appeared in the court hearing, and the court, after holding a hearing on the matter, finds that the change of gender is not in the best interest of the petitioner.

(f) This section shall become operative on September 1, 2018.

SEC. 14. Section 103440 of the Health and Safety Code is amended to read:

103440. The new birth certificate established pursuant to this article shall supplant any birth certificate previously registered for the registrant and shall be the only birth certificate open to public inspection. The application and supporting affidavit filed pursuant to Section 103426 shall be filed with the original record of birth, that shall remain as a part of the records of the State Registrar. All records and information specified in this article, other

than the newly issued birth certificate, shall be available only upon written request of the registrant or an order of a court of record.

When a new birth certificate is established under this article, the State Registrar shall transmit copies of the newly established birth certificate for filing to the local registrar and the county recorder whose records contain copies of the original certificate, who shall forward the copies of the original certificate to the State Registrar for filing with the original certificate, if it is practical for the local registrar or the county recorder to do so. If it is impractical for the local registrar or the county recorder to forward the copy to the State Registrar, the local registrar or the county recorder shall effectually seal a cover over the copy of the original certificate in a manner as not to deface or destroy the copy and forward a verified statement of the action to the State Registrar. Thereafter the information contained in the record shall be available only upon written request of the registrant or on order of a court of record.

SEC. 15. Section 12800 of the Vehicle Code, as added by Section 7 of Chapter 524 of the Statutes of 2013, is amended to read:

12800. Each application for an original or a renewal of a driver's license shall contain all of the following information:

(a) The applicant's true full name, age, sex, mailing address, residence address, and, except as provided in Section 12801, social security account number.

(b) A brief description of the applicant for the purpose of identification.

(c) A legible print of the thumb or finger of the applicant.

(d) The type of motor vehicle or combination of vehicles the applicant desires to operate.

(e) Whether the applicant has ever previously been licensed as a driver and, if so, when and in what state or country and whether or not the license has been suspended or revoked and, if so, the date of and reason for the suspension or revocation.

(f) Whether the applicant has ever previously been refused a driver's license in this state and, if so, the date of and the reason for the refusal.

(g) Whether the applicant, within the last three years, has experienced, on one or more occasions, either a lapse of consciousness or an episode of marked confusion caused by a condition that may bring about recurrent lapses, or whether the applicant has a disease, disorder, or disability that affects his or her ability to exercise reasonable and ordinary control in operating a motor vehicle upon a highway.

(h) Whether the applicant understands traffic signs and signals.

(i) Whether the applicant has ever previously been issued an identification card by the department.

(j) Any other information that is necessary to enable the department to determine whether the applicant is entitled to a license under this code.

(k) This section shall become inoperative on the effective date of a final judicial determination made by any court of appellate jurisdiction that any provision of the act that added this section, or its application, either in whole or in part, is enjoined, found unconstitutional, or held invalid for any reason. The department shall post this information on its Internet Web site.

(l) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2019, deletes or extends that date.

SEC. 16. Section 12800 is added to the Vehicle Code, to read:

12800. Each application for an original or a renewal of a driver's license shall contain all of the following information:

(a) (1) The applicant's true full name, age, gender category, mailing address, residence address, and, except as provided in Section 12801, social security account number.

(2) The applicant shall choose their gender category of female, male, or nonbinary.

(3) The department shall not require documentation for an original driver's license applicant's initial choice of a gender category or a licensed applicant's request for an amendment to a gender category other than the following:

(A) The applicant's self-certification of their chosen gender category.

(B) Documentation required by this code and the California Code of Regulations as necessary to establish that an applicant is lawfully entitled to a license.

(b) A brief description of the applicant for the purpose of identification.

(c) A legible print of the thumb or finger of the applicant.

(d) The type of motor vehicle or combination of vehicles the applicant desires to operate.

(e) Whether the applicant has ever previously been licensed as a driver and, if so, when and in what state or country and whether or not the license has been suspended or revoked and, if so, the date of and reason for the suspension or revocation.

(f) Whether the applicant has ever previously been refused a driver's license in this state and, if so, the date of and the reason for the refusal.

(g) Whether the applicant, within the last three years, has experienced, on one or more occasions, either a lapse of consciousness or an episode of marked confusion caused by a condition that may bring about recurrent lapses, or whether the applicant has a disease, disorder, or disability that affects his or her ability to exercise reasonable and ordinary control in operating a motor vehicle upon a highway.

(h) Whether the applicant understands traffic signs and signals.

(i) Whether the applicant has ever previously been issued an identification card by the department.

(j) Any other information that is necessary to enable the department to determine whether the applicant is entitled to a license under this code.

(k) The department shall adopt regulations to provide a process for an amendment to a gender category.

(l) This section shall become operative on January 1, 2019.

(m) This section shall become inoperative on the effective date of a final judicial determination made by any court of appellate jurisdiction that any provision of the act that added this section, or its application, either in whole or in part, is enjoined, found unconstitutional, or held invalid for any reason. The department shall post this information on its Internet Web site.

SEC. 17. Section 12800 of the Vehicle Code, as added by Section 8 of Chapter 524 of the Statutes of 2013, is amended to read:

12800. Each application for an original or a renewal of a driver's license shall contain all of the following information:

(a) The applicant's true full name, age, sex, mailing address, residence address, and social security account number.

(b) A brief description of the applicant for the purpose of identification.

(c) A legible print of the thumb or finger of the applicant.

(d) The type of motor vehicle or combination of vehicles the applicant desires to operate.

(e) Whether the applicant has ever previously been licensed as a driver and, if so, when and in what state or country and whether or not the license has been suspended or revoked and, if so, the date of and reason for the suspension or revocation.

(f) Whether the applicant has ever previously been refused a driver's license in this state and, if so, the date of and the reason for the refusal.

(g) Whether the applicant, within the last three years, has experienced, on one or more occasions, either a lapse of consciousness or an episode of marked confusion caused by a condition that may bring about recurrent lapses, or whether the applicant has a disease, disorder, or disability that affects his or her ability to exercise reasonable and ordinary control in operating a motor vehicle upon a highway.

(h) Whether the applicant understands traffic signs and signals.

(i) Whether the applicant has ever previously been issued an identification card by the department.

(j) Any other information that is necessary to enable the department to determine whether the applicant is entitled to a license under this code.

(k) This section shall become operative on the effective date of a final judicial determination made by any court of appellate jurisdiction that any provision of the act that added this section, or its application, either in whole or in part, is enjoined, found unconstitutional, or held invalid for any reason. The department shall post this information on its Internet Web site.

(l) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2019, deletes or extends that date.

SEC. 18. Section 12800 is added to the Vehicle Code, to read:

12800. Each application for an original or a renewal of a driver's license shall contain all of the following information:

(a) (1) The applicant's true full name, age, gender category, mailing address, residence address, and social security account number.

(2) The applicant shall choose their gender category of female, male, or nonbinary.

(3) The department shall not require documentation for an original driver's license applicant's initial choice of a gender category or a licensed applicant's request for an amendment to a gender category other than the following:

(A) The applicant's self-certification of their chosen gender category.

(B) Documentation required by this code and the California Code of Regulations as necessary to establish that an applicant is lawfully entitled to a license.

(b) A brief description of the applicant for the purpose of identification.

(c) A legible print of the thumb or finger of the applicant.

(d) The type of motor vehicle or combination of vehicles the applicant desires to operate.

(e) Whether the applicant has ever previously been licensed as a driver and, if so, when and in what state or country and whether or not the license has been suspended or revoked and, if so, the date of and reason for the suspension or revocation.

(f) Whether the applicant has ever previously been refused a driver's license in this state and, if so, the date of and the reason for the refusal.

(g) Whether the applicant, within the last three years, has experienced, on one or more occasions, either a lapse of consciousness or an episode of marked confusion caused by a condition that may bring about recurrent lapses, or whether the applicant has a disease, disorder, or disability that affects his or her ability to exercise reasonable and ordinary control in operating a motor vehicle upon a highway.

(h) Whether the applicant understands traffic signs and signals.

(i) Whether the applicant has ever previously been issued an identification card by the department.

(j) Any other information that is necessary to enable the department to determine whether the applicant is entitled to a license under this code.

(k) The department shall adopt regulations to provide a process for an amendment to a gender category.

(l) This section shall take effect on January 1, 2019, and shall become operative pursuant to subdivision (m).

(m) This section shall become operative on the effective date of a final judicial determination made by any court of appellate jurisdiction that any provision of the act that added this section, or its application, either in whole or in part, is enjoined, found unconstitutional, or held invalid for any reason. The department shall post this information on its Internet Web site.

SEC. 19. Section 13005 of the Vehicle Code is amended to read:

13005. (a) The identification card shall resemble in appearance, so far as is practicable, a driver's license issued pursuant to this code. It shall adequately describe the applicant, bear the applicant's picture, and be produced in color or engraved by a process or processes that prohibit, as near as possible, the ability to alter or reproduce the identification card, or prohibit the ability to superimpose a picture or photograph on the identification card without ready detection.

(b) (1) Upon issuance of a new identification card, or renewal of an identification card, the department shall provide information on organ and tissue donation, including a standardized form to be filled out by an individual who desires to enroll in the California Organ and Tissue Donor Registry with instructions for mailing the completed form to the California Organ and Tissue Donor Registrar established pursuant to subdivision (a) of Section 7150.90 of the Health and Safety Code.

(2) The enrollment form shall be simple in design and shall be produced by the department, in cooperation with the California Organ and Tissue Donor Registrar, and shall require all of the following information to be supplied by the enrollee:

(A) Date of birth, gender, full name, address, and home telephone number.

(B) Consent for organs or tissues to be donated for transplant after death.

(C) Any limitation of the donation to specific organs, tissues, or research.

(3) The form shall also include a description of the process for having a name removed from the registry, and the process for donating money for the benefit of the registry.

(4) The registry enrollment form shall be posted on the Internet Web sites for the department and the California Health and Human Services Agency.

(5) The form shall constitute a legal document under the Uniform Anatomical Gift Act (Chapter 3.5 (commencing with Section 7150) of Part 1 of Division 7 of the Health and Safety Code).

(6) The registrar shall ensure that all additions and deletions to the registry shall occur within 30 days of receipt.

(7) Information obtained by the registrar for the purposes of this subdivision shall be used for these purposes only and shall not further be disseminated by the registrar.

(c) A contract shall not be awarded to a nongovernmental entity for the processing of identification cards unless the contract conforms to all applicable state contracting laws and all applicable procedures set forth in the State Contracting Manual.

SEC. 20. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

COMPARISON: JUSTICECORPS and NAVIGATOR PROGRAMS

	JUSTICECORPS	NAVIGATORS
FUNDING SOURCE	AmeriCorps Federal Grant Funding + Court/Judicial Council Match	State General Fund
PROGRAM REQUIREMENTS	<p>Financial or staffing commitment</p> <p>Requires partnership with local UC, State University, or other geographically proximate educational institution; courts provide match of 50% of operational costs, must place a designated number of students, and must provide training and supervision for JusticeCorps members</p>	Each court submits an application describing Navigator need; commitment to data collection
WHO CAN SERVE	Students enrolled at partner campuses and post-grads—recruited as National Service Members (AmeriCorps members, both stipended and unstipended)	Court staff
WHERE STATIONED	Court-Based Self-Help Center	Any court location(s) designated in Court Proposal. Examples: Security Station, Clerk’s Windows, inside courtroom outside courtroom doors, Self-Help Center
SUPERVISED BY	Self Help Attorneys	Court Operations
DUTIES	LEGAL ASSISTANCE – guide litigants through the legal process	NONLEGAL SUPPORT: -guide litigant through court operational processes

Budget Change Proposal - Cover Sheet

Fiscal Year: 2020-21

Business Unit: 0250

Department: Judicial Branch

Priority Number: N/A

Budget Request Name: 0250-083-BCP-2020-GB

Program: 0140–Judicial Council, 0150–Support of Trial Courts

Subprogram: 0140010–Judicial Council, 0150010–Support for the Operation of Trial Courts

Budget Request Description: Court Navigator Program

Budget Request Summary: The Judicial Council requests 2.5 positions and \$8.1 million General Fund in 2020-21 and \$15.5 million annually thereafter to establish and implement a Court Navigator Program in the trial courts which will create a new resource for litigants and courts to help bridge access to justice gaps, improve customer service to court users, such as collaborative court participants, victims, and family petitioners, and increase the positive impacts of existing self-help services. Implementation of the program in the courts will be phased in over two years.

Requires Legislation: Yes No

Code Section(s) to be Added/Amended/Repealed:

Does this BCP contain information technology (IT) components? Yes No

If yes, departmental Chief Information Officer must sign.

Department CIO Name:

Department CIO Signature:

Signed On Date:

For IT requests, specify the project number, the most recent project approval document (FSR, SPR, S1BA, S2AA, S3SD, S4PRA), and the approval date.

Project Number:

Project Approval Document:

Approval Date:

If proposal affects another department, does other department concur with proposal?

Yes No

Attach comments of affected department, signed and dated by the department director or designee.

Prepared By: Charlene Depner

Date: January 6, 2020

Reviewed By: Angela Cowan

Date: January 6, 2020

Department Director: John Wordlaw

Date: January 8, 2020

Agency Secretary: Martin Hoshino

Date: January 8, 2020

Department of Finance Use Only

Additional Reviews: Capital Outlay: ITCU: FSCU: OSAE:

Department of Technology:

PPBA: Emma Jungwirth

Date submitted to the Legislature: January 10, 2020

A. Budget Request Summary

The Judicial Council requests 2.5 positions and \$8.1 million General Fund in 2020-21 and \$15.5 million annually thereafter to establish and implement a Court Navigator Program in the trial courts which will create a new resource for litigants and courts to help bridge access to justice gaps, improve customer service to court users, such as collaborative court participants, victims, and family petitioners, and increase the positive impacts of existing self-help services. Requested staff will manage funding and technical assistance, available to all trial courts, for Court Navigators, who will provide an extensive range of non-legal services to litigants to support the completion of the matters they are bringing to court. Implementation of the program in the courts will be phased in over two years. Navigators will fill service gaps in wayfinding, intake, follow-up steps to finish court transactions, and help litigants connect to external resources available to them. The funding will meet unmet needs in the continuum of services for litigants who are self-represented or who require support to access and navigate court services.

B. Background/History

With more than 4.3 million Californians going to court without a lawyer every year, and court self-help centers with a current capacity to serve less than half a million of those individuals, the judicial branch must continue to look for new ways to bridge the access to justice gap for unrepresented litigants.

Adding Court Navigators to the court employee workforce will build courts' capacity to serve unrepresented litigants and increase efficiencies for litigants, judges, and clerks involved in cases where one or both parties is without legal representation. Court Navigators will serve as an important bridge for unrepresented court users, assisting judges and other court staff in improving access to justice and achieving better case outcomes.

Since the Judicial Council's adoption of The Statewide Action Plan for Serving Self-Represented Litigants in 2004, a system of services has developed for court-based Self-Help Centers, online self-help legal and procedural information, and other resources to facilitate the efficient processing of cases involving self-represented litigants. Self-help assistance is making it possible for more and more self-help litigants to be able to bring their legal issues to courts. At the same time, the Judicial Council recognizes a growing need for assistance across a wider range of case types, including civil matters such as housing, landlord/tenant, debt collection, consumer credit, probate, and name change, along with a need to address the complexities associated with the multiple collaborative court case types, i.e., drug, mental health, DUI, veterans', homeless. A 2017 report from the Legal Services Corporation, identified a serious "Justice Gap." According to the report, resources are insufficient to adequately address

an estimated 86 percent of civil legal problems of low-income litigants. Efforts to improve access to justice will also increase public use of the courts. Meaningful access to courts requires assistance in initiating a case as well as guidance through the complex steps to its completion.

The 2018 Budget Act included funding of \$19.1 million to expand the services provided by Self-Help Centers. Currently, Self-Help Centers in every court provide legal information to help self-represented litigants work through the legal requirements to progress with their cases, explain legal terms, processes, and procedures, and assist with paperwork and forms completion. Under attorney supervision, Self-Help Centers conduct workshops to inform litigants about court procedures in a range of case types and legal actions. The new funding also sets the stage for an increase in assistance to self-represented litigants in a wide range of case types that affect the lives of Californians, including family law, unlawful detainer, probate guardianships and conservatorships, property issues such as foreclosures, small claims matters, domestic violence and other restraining order issues, and other civil law issues, such as consumer debt and expungements.

Funding for an online Self-Help Portal provided in the 2018 Budget Act is adding digital services to branch websites, including the Find My Court app that provides maps, information about court hours, parking, and other logistical information. One example of the strong public demand for online legal information is The California Courts Online Self-Help Center, with over 5 million page views in the past year, including 473,000 page-views of its mirror site in Spanish. Self-Help Centers leverage technology, using these resources, as well as document assembly programs, to facilitate forms completion, remote video assistance, and Live Chat answers to legal questions. Self Help Assistance and Referral Program (SHARP) courts augment their walk-in self-help services by networking 23 member courts at low cost, using video remote technology for workshops and consultation. This innovation is a model best practice for using technology to share services across courts.

These efforts to support self-represented litigants effectively negotiate their matters in court have become an integral part of court case flow management at every phase of court operation, including filing, calendaring, records management, courtroom processing, and orders after hearing. Self-represented litigants who are prepared to complete the steps they need to take in their cases save time and money everywhere from the clerk's desk to the courtroom. In turn, effective case processing enables courts to serve more litigants. To operate at full capacity, Self-Help Center staff must focus on assistance with legal and procedural information.

The success of Justicecorps in seven courts in California (Alameda, Contra Costs, Los Angeles, San Diego, San Jose, San Mateo, and Santa Clara) demonstrates the potential for non-legal assistance as a helpful adjunct to legal assistance that makes it

possible for more litigants to be served and to move successfully through the steps in their cases. Local courts and colleges partner to train students to provide “neutral assistance,” not legal advice, in Self-Help Centers. Justicecorps members offer information, referrals and assistance in workshops and with forms. Evaluation of this program found that litigants served by Justicecorps members had a better general understanding of the procedures in their cases, the steps to complete during their visits, and subsequent steps in their cases.

Although Justicecorps demonstrates the usefulness of nonlegal assistance, the Justicecorps delivery model poses challenges for adoption as a stable court service statewide. Justicecorps fellows work part time during the school year and their term of work is typically one year. Another concern is feasibility of statewide adoption. The required partnership with a local educational institution may not be possible in all jurisdictions. In addition, the required match funding could pose a hardship for local courts.

The Court Navigator Program will realize the advantage of reaching underserved communities across the state. To provide non-legal assistance in all courts, the Judicial Council proposes supporting meaningful access to justice in four key areas: (1) non-legal assistance in Self-Help Centers; (2) referrals, such as language access services, disability accommodations, and other options designed to address barriers to court access; (3) assisting with use of technology for intake, forms completion and other methods to assist case processing, and (4) walking litigants through next steps for case completion. Every service will not be necessary for all courts or for all self-represented litigants. Each court will have the latitude to place court navigators where they are needed most.

Court navigators can provide non-legal support and assistance at different points in a court visit, making sure court users know where to go in the courthouse and beyond to get the information and services they need in their court cases:

Upon arrival

- Litigants enter courts needing to determine where they should report and how to get there. Navigators can reduce wait time by providing wayfinding assistance to make sure that litigants know the correct department and location to receive services and are clear about how to get there. Increasingly, courts are using videos to orient court users. Navigators could run that technology.

- This is also the first point where court navigators could connect litigants with language access, accessibility accommodations, or other services that support meaningful access. Seven million Californians have limited proficiency in English. To assist them in their court transactions, navigators would provide translated forms, direct them to translated online content, or explain connect them with court interpreter services.

In Self-Help Centers

Self-Help Centers do not provide legal advice for a particular case. Litigants receive information about their case type and are assisted with completing forms and other steps to move their case forward. The services provided in Self-Help Centers vary across courts and could include one-on-one sessions, video conferencing, workshops, telephone or mail services, assistance with forms completion, document assembly, information on paper or online. In Self-Help Centers, court navigators can assist with intake forms, check that paperwork is organized and complete, hand out information, help litigants use computer labs to fill out forms, complete transactions that they started online, or to navigate the internet to find necessary information. Court navigators can assist with workshops, run video and other technology, provide information, resources, and referrals to support next steps, and make sure litigants leave the Self-Help Center knowing where to go, online or in person, to conduct the next steps toward completion of their court business.

Self-represented litigants may need to return to Self-Help Centers for assistance with additional steps in their cases. The navigator can play an important role by linking litigants to the unique assistance they need to conduct in the current phase of their cases.

Following Self-Help Services

Many Self-Help Centers do not assist in the courtroom and those who do assist on a limited basis. A Court Navigator Program could include navigators' duties such as: sit with a litigant in the courtroom and provide statements of fact to the judge, if asked by the judge, provide for-the-day or for-the-duration support for unrepresented litigants, and accompaniment during hallway negotiations, and the mediation process for taking notes and assisting with factual inquiries. Court navigators can make sure that litigants are equipped for their next steps following a hearing, providing information and direction about mediation, domestic violence services, local law libraries, transportation to other services.

C. State Level Considerations

This proposal advances the Strategic Plan of California's Judicial Branch:

Goal 1: Access, Fairness, and Diversity: The proposal addresses a documented surge in the public's need for meaningful access to the courts.

Goal IV: Quality of Justice and Service to the Public: The proposal ensures that court procedures and processes are fair and understandable.

Meaningful access is a high priority of California's Chief Justice, Tani G. Cantil-

Sakauye, who strongly advocates for physical, remote, and equal access to justice for all Californians.

D. Justification

Workload for self-help services is mounting at a fast pace. It will continue to increase with population diversity, the growth in the population of litigants who cannot afford representation, and the expansion of self-representation in a wider range of case types. Court navigator programs offer an efficient way to improve customer service by assigning navigators to provide non-legal services, while conserving the time of Self-Help Center employees to deliver legal information.

Initial research has established that, with training and supervision, court navigators with no formal legal training, can provide non-legal assistance at a lower cost than highly skilled self-help professionals and provide the option for continuity of support, when needed, at all phases of the case. In courts today, these services are either unavailable or provided by employees at higher-level positions.

Judicial System leaders endorse the use of court navigators. In its 2015 report on legal assistance programs and services available to low-income Californians, the State Bar Civil Justice Strategies Task Force recommended a pilot Court Navigator program in one or more California courts. Navigator programs have been established in at least five state court systems and there is growing interest in their potential to improve the court experience of self-represented litigants and the effectiveness and efficiency of the courts that serve them.

Navigator programs have been established in New York, Maryland, Hawaii, Colorado, and Illinois. Evaluations demonstrate beneficial results for courts and the people they serve. The first comprehensive evaluation of court navigator programs assessed the appropriateness, efficiency, and sustainability of three projects in the New York City Court Navigator's Program. The research, conducted by the American Bar Foundation and the National Center for State Courts and supported by the Public Welfare Foundation, concluded that trained and supervised navigators, without full formal legal training could provide valuable assistance to self-represented litigants and impact legal and life-changing case outcomes.

The Judicial Council proposes 2.5 positions and \$8.1 million General Fund in 2020-21 and \$15.5 million annually thereafter to establish and implement a Court Navigator Program in the trial courts. Funding will cover navigator salary and benefits, estimated at \$150,000 per FTE; supervision; and operational costs (e.g., technology devices for communication, electronic intake, maps, handouts; setup of Navigator Stations). The Court Navigator Program will be phased in over two years to implement successful

programs. Court needs for navigators will vary. Some courts will be able to identify immediate needs for navigators. Others will require more time and technical support from program staff to design and implement successful navigator programs. As mentioned in the Implementation Plan section below, courts will apply for funding to support Court Navigator positions. In 2020-21, an initial 50 navigators are requested, and an additional 50 navigators in 2021-22, for an ongoing total of 100. Estimates of need are based on self-help customer contacts recorded in the statewide Self-Help Center tracking system (STARS) and estimates for other non-legal support for court access and case completion (e.g., facilitate language access or other services impeding meaningful court access, assisting litigants with technology for intake, forms completion, kiosks, referral to appropriate services, wayfinding to locate that service, and, upon completion of court services, follow-up steps to conclude the matter or move to the next step).

Delegating non-legal assistance to navigators will free up time for Self-Help Center staff to focus on legal assistance. This is critically important due to the rate of growth in court users resulting from self-help expansion. Counts of current customer contacts recorded in the STARS database, show that brief customer encounters hover consistently around 40 percent of all self-help services. Projections from STARS data are that by 2021–2022, 1.5 million self-represented litigants will be served annually, 600,000 of these in brief customer interactions. Once fully implemented, 100 court navigator FTEs statewide could address the non-legal Self-Help Center workload (888 hours annually per navigator FTE). In addition to services provided by the Self-Help Center, we estimate that a similar amount of time needs to be dedicated to non-legal support for litigants to complete their business in court (888 hours per navigator FTE). The initial workload estimate for all support provided by navigators is shown below. As noted above, the number of self-represented litigants is expected to continue to rise. We also anticipate that as a result of training, assistance, and experience, navigators will be able to serve the projected number of litigants and cover additional increases in the short run. Navigator interactions with litigants will be tracked beginning in 2020-21 to provide further data about the numbers of litigants who receive particular navigator services and to make more precise projections about future navigator needs.

Court Navigator Workload Estimates (per FTE)

	Daily Hrs/Customers	Annual Hrs/Customers
Self-Help Center assistance: direct assistance to customers attending or calling Self Help Center: brief service, referral, materials, direction, guiding litigants to other services	4/45	888/9,900
Linking customers to language access services and other services to facilitate		

access to court	1/5	222/1,110
Assisting customers with technology for intake, forms completion, kiosk usage	1/5	222/1,110
Assisting security officers and others in helping persons coming to court with navigation, referral, brief intake and follow up services	2/20	444/4,440
1776 working year	8/75	1776/16,650

The Court Navigator Program staff will provide an online reporting system to log the number of people served by the navigator, services provided, and whether the litigant was able to complete court procedures. Client feedback will also measure navigator impact on litigant understanding of locations, steps in their court process, and ability to complete those steps. Court Navigator Program staff will gather ongoing feedback from courts through visits and online communications, and assist progress and trouble-shoot problems. Program staff will also provide training to navigators and develop online/on demand materials and tools to assist their work. The Program will also develop a website for courts to share resources developed for their programs.

The Judicial Council requests positions and associated to achieve the program objectives.

- 1.0 Senior Analyst: lead statewide project implementation plan (see Section G), with responsibility for design and completion of each implementation step, consultation with court leadership, communication, progress reports, timely successful completion of the project plan, budget, and timelines and annual briefing on costs and benefits.
- 1.5 Analyst: responsible for day-to-day work to advance the statewide implementation plan, including reporting program metrics, maintaining program management software, technical assistance to the court (including recruitment, training, managing communication, managing Navigator Network that facilitates communication among courts, and maintaining the program archives).
- \$50,000 one-time funding to create a database to track the work done by the navigators, and \$26,000 ongoing for staff travel and training.
- \$15,000 Indirect Administrative Support – As additional programmatic workload and funding drives the need for additional administrative funding, an administrative overhead rate has been developed to derive the costs of additional administrative

functions associated with each budget change proposal. This additional funding will be used to support successful implementation of this request.

E. Outcomes and Accountability

The following information will be collected and reported back to courts:

- Descriptive information about program design, implementation, progress, challenges, and solutions will be gathered from court visits, and communications with the courts
- A database on the same platform that measures Self-Help program metrics will include:
 - Court level data on impact on no show rates, process completion, efficiencies, costs
 - Navigator checklist of litigants served, type of service, whether litigant completed their court business
- User feedback
 - Rating of how well service improved understanding of: wayfinding, basic procedures for completing court business, steps to complete, court proceedings and outcomes, and where to find more information
 - Satisfaction with services provided
- A Program Archive will include materials developed by program staff or individual courts, such as job aids, recruitment and training materials, wayfinding materials and directions, steps for litigants to complete procedures, links to Law Libraries and recommended information resources.

Projected Outcomes

Workload Measure	CY	BY	BY+1	BY+2	BY+3	BY+4
Litigants Served	0	832,500	1,665,000	1,665,000	1,665,000	1,665,000

F. Analysis of All Feasible Alternatives

Alternative #1: Approve 2.5 positions and \$8.1 million General Fund in 2020-21 and \$15.5 million annually thereafter to establish and implement a Court Navigator Program in the trial courts which will create a new resource for litigants and courts to help bridge access to justice gaps, improve customer service to court users, such as collaborative court participants, victims, and family petitioners, and increase the positive impacts of existing self-help services.

Pros:

- Improve access to justice for court users and achieve better case outcomes
- Address demonstrated needs of litigants in court without representation
- Improve efficiency and reduce costs by increasing attorney time available for legal assistance
- Needed services available to guide litigants through their court visit
- Opportunity to integrate a system of services available to the public
- More efficient use of legal and non-legal assistance
- Engage courts in sharing information and resources

Cons:

- Impact on the General Fund

Alternative #2: Provide funds to a small group of pilot courts; Approve 2.5 positions and \$4.05 million General Fund in 2020-21 and \$15.5 million annually thereafter to implement a statewide Court Navigator Program in the trial courts.

Pros:

- Less impact on the General Fund

Cons:

- Does not meet immediate needs in all courts
- Fewer opportunities for all courts to engage in defining best practices
- Will not include the full range of unique navigator services needed in each court
- Based on just 25 navigators, the pilot would provide less data about the possible scope of navigator services across locations and jurisdictions.

Alternative #3: Do not approve funding for the Court Navigator Program.

Pros:

- No impact on the General Fund

Cons:

- Unmet needs of self-represented litigants
- Adverse impact on caseload management
- Fewer cases completed
- Decreased public trust and confidence in the courts

G. Implementation Plan

Implementation milestones for the project:

- Initial announcement and communication with the courts: Explain the goals of the program and seek input from court leadership
- Circulate online survey to all courts to determine which courts intend to submit a request for navigator funding in 2020-21
- Send an application packet to courts that wish to apply for 2020-21 funds. Packet will include a list of navigator services provided (by courthouse location, if there are multiple courthouses in the county), implementation timetable, number for FTEs requested, costs of supervision and technology, and agreement to provide ongoing data.
- Reach out to courts that did not apply in 2020-21 to offer technical assistance in navigator program design
- Design database for gathering program metrics, and providing dashboard data
- Set up state level program management software
- Invite courts to communicate on Navigator Network and post materials for comment or adoption by other courts
- Post recruitment and training materials on the Network
- Schedule webinars
- Issue progress reports
- Set up court visits
- Year-end financial and program reconciliation
- Annual Report

H. Supplemental Information

N/A

I. Recommendation

The Judicial Council recommends approval of Alternative 1. Approve 2.5 positions and \$8.1 million General Fund in 2020-21 and \$15.5 million annually thereafter to establish and implement a Court Navigator Program in the trial courts which will create a new resource for litigants and courts to help bridge access to justice gaps, improve customer service to court users, such as collaborative court participants, victims, and family petitioners, and increase the positive impacts of existing self-help services.

BCP Fiscal Detail Sheet

BCP Title: Court Navigator Program

BR Name: 0250-083-BCP-2020-GB

Budget Request Summary

Personal Services

Personal Services	FY20 Current Year	FY20 Budget Year	FY20 BY+1	FY20 BY+2	FY20 BY+3	FY20 BY+4
Positions - Permanent	0.0	2.5	2.5	2.5	2.5	2.5
Total Positions	0.0	2.5	2.5	2.5	2.5	2.5
Salaries and Wages Earnings - Permanent	0	245	245	245	245	245
Total Salaries and Wages	\$0	\$245	\$245	\$245	\$245	\$245
Total Staff Benefits	0	140	140	140	140	140
Total Personal Services	\$0	\$385	\$385	\$385	\$385	\$385

Operating Expenses and Equipment

Operating Expenses and Equipment	FY20 Current Year	FY20 Budget Year	FY20 BY+1	FY20 BY+2	FY20 BY+3	FY20 BY+4
5301 - General Expense	0	31	9	9	9	9
5302 - Printing	0	1	1	1	1	1
5304 - Communications	0	4	3	3	3	3
5320 - Travel: In-State	0	15	15	15	15	15
5322 - Training	0	11	11	11	11	11
5324 - Facilities Operation	0	33	33	33	33	33
5340 - Consulting and Professional Services - External	0	50	0	0	0	0
5344 - Consolidated Data Centers	0	6	6	6	6	6
5346 - Information Technology	0	9	4	4	4	4
539X - Other	0	15	15	15	15	15
54XX - Special Items of Expense	0	7,500	15,000	15,000	15,000	15,000
Total Operating Expenses and Equipment	\$0	\$7,675	\$15,097	\$15,097	\$15,097	\$15,097

Total Budget Request

Total Budget Request	FY20 Current Year	FY20 Budget Year	FY20 BY+1	FY20 BY+2	FY20 BY+3	FY20 BY+4
Total Budget Request	\$0	\$8,060	\$15,482	\$15,482	\$15,482	\$15,482

Fund Summary

Fund Source

Fund Source	FY20 Current Year	FY20 Budget Year	FY20 BY+1	FY20 BY+2	FY20 BY+3	FY20 BY+4
State Operations - 0001 - General Fund	0	560	482	482	482	482
Total State Operations Expenditures	\$0	\$560	\$482	\$482	\$482	\$482
Local Assistance - 0001 - General Fund	0	7,500	15,000	15,000	15,000	15,000
Total Local Assistance Expenditures	\$0	\$7,500	\$15,000	\$15,000	\$15,000	\$15,000
Total All Funds	\$0	\$8,060	\$15,482	\$15,482	\$15,482	\$15,482

Program Summary

Program Funding

Program Funding	FY20 Current Year	FY20 Budget Year	FY20 BY+1	FY20 BY+2	FY20 BY+3	FY20 BY+4
0140010 - Judicial Council	0	560	482	482	482	482
0150010 - Support for Operation of Trial Courts	0	7,500	15,000	15,000	15,000	15,000
Total All Programs	\$0	\$8,060	\$15,482	\$15,482	\$15,482	\$15,482

Personal Services Details

Positions

Positions	FY20 Current Year	FY20 Budget Year	FY20 BY+1	FY20 BY+2	FY20 BY+3	FY20 BY+4
VR00 - Various (Eff. 07-01-2020)	0.0	2.5	2.5	2.5	2.5	2.5
Total Positions	0.0	2.5	2.5	2.5	2.5	2.5

Salaries and Wages

Salaries and Wages	FY20 Current Year	FY20 Budget Year	FY20 BY+1	FY20 BY+2	FY20 BY+3	FY20 BY+4
VR00 - Various (Eff. 07-01-2020)	0	245	245	245	245	245
Total Salaries and Wages	\$0	\$245	\$245	\$245	\$245	\$245

Staff Benefits

Staff Benefits	FY20 Current Year	FY20 Budget Year	FY20 BY+1	FY20 BY+2	FY20 BY+3	FY20 BY+4
5150350 - Health Insurance	0	45	45	45	45	45
5150500 - OASDI	0	19	19	19	19	19
5150600 - Retirement - General	0	72	72	72	72	72
5150900 - Staff Benefits - Other	0	4	4	4	4	4
Total Staff Benefits	\$0	\$140	\$140	\$140	\$140	\$140

Total Personal Services

Total Personal Services	FY20 Current Year	FY20 Budget Year	FY20 BY+1	FY20 BY+2	FY20 BY+3	FY20 BY+4
Total Personal Services	\$0	\$385	\$385	\$385	\$385	\$385

	<p>Very specific set of duties, including:</p> <p>1) Triage: Conducting the initial assessment of litigants' needs to make a referral or direct them to a JusticeCorps member for one-on-one service, or to center staff for assistance.</p> <p>2) Case Management: Assessing litigants' case status, assisting them about next steps.</p> <p>3) Referrals: Assisting litigants on their options and making referrals to appropriate services.</p> <p>4) Forms Assistance: Assisting litigants to identify and complete legal forms and procedures.</p> <p>5) Court Follow-up: Helping litigants understand court orders and next steps after courtroom sessions.</p> <p>6) Language Assistance: Providing assistance to litigants in their native language.</p>	<p>Duties described in court navigator application</p> <p>Examples:¹</p> <p>Wayfinding: directing litigants, witnesses, family members, volunteers who are not volunteers, the Navigator can inform them about where to sit, about the process for closed courtrooms. They can also provide information about drug testing center locations, sign up procedures and costs, how to sign up for supervised visitation, how to contact caseworkers and other important information. In criminal courts, the Navigator could give information about services and locations of the Office of Victims of Crime. Often, litigants and victims are experiencing trauma and cannot understand instructions given to them in the moment. The Navigator could be present in the courtroom, at the clerk's office and other places where they might write down the information for the person so they can look at it when they are more capable of understanding.</p>
PROHIBITED DUTIES	Administrative work	
LANGUAGE SERVICES	<p>Not a requirement</p> <p>May be bilingual and assist litigants in their preferred languages</p> <p>Not providing interpreter services</p>	<p>Not a requirement</p> <p>May be bilingual and speak to litigants in their preferred languages</p> <p>Not providing interpreter services</p>
WHO THEY SERVE	Limited to customers in court-based self-help centers	Any court user covered in specific court navigator application
TRAINING	Trained in legal content to supplement Self-Help functions only	No legal training; may be trained in specific non-legal

		services included in the Court's Navigator Application
PROGRAM DATA	<p>Performance measurements: Understand case, do today; next steps; confidence Number of Instances of assistance (IOAs)-daily data collection Numbers of forms assisted with—daily data collection Details on IOAs of 15-minutes-plus (case type, language assistance, etc.)—quarterly snapshot data collection Litigant feedback on confidence, preparedness, and understanding—quarterly snapshot data collection—</p>	<p>Application Data Navigator service information (type of service, time, etc.) Staff operational interviews with programs Site visits Program Archive of Best Practices</p>
WEEKLY TIME COMMITMENT	<p>219 members statewide—Los Angeles, San Diego, and Bay Area</p> <ul style="list-style-type: none"> • 44 stipended members serving 5 days/week (Fellows) • 275 unstipended members serving 1 day/week (Student members) 	FTE will vary based on court application
ANNUAL TIME COMMITMENT	<p>Fellows—12 months Student members—1 academic year (approx. 10 months)</p>	As determined by court
USE OF TECHNOLOGY		Portable devices for real time data collection; assist self-represented litigants to access forms programs and other court web-based products.
PROGRAM BENEFITS	<p>Improved Customer Experience Increased Self-Help Center efficiencies</p> <p>As a National Service program, must serve a defined community need. Professional development of members</p>	<p>Ongoing coordination with Information Technology to adopt; potential to reduce cost to the court by helping people get to their hearings on time; provide needed assistance to LEP court users by identifying those who need language services and providing information</p>

	Education award for members—Federally funded award upon completion of service term Possible career path for members	
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¹ A longer list of possible duties is included in the response to questions from LAO



The Human Impact of Bypassing Foster Care for At-Risk Children:

Building a Continuum of Support for Families Diverted



ALLIANCE
for **CHILDREN'S**
RIGHTS

kids-alliance.org
3333 Wilshire Blvd.
Los Angeles, CA 90010



LINCOLN
ADVOCACY

lincolnfamilies.org
1266 14th Street
Oakland, CA 94607

DRAFT
JANUARY 2020

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Project Coordinators:

Angie Schwartz, Vice President, Policy and Advocacy, Alliance for Children's Rights

Kristin Power, Government Relations Director, Alliance for Children's Rights

Susannah Faulkner, Policy & Advocacy Manager, Lincoln

PROJECT SUMMARY

In early 2019, the Alliance for Children’s Rights and Lincoln partnered to explore the scope of issues created when child welfare professionals bypass juvenile court for children at risk of entering foster care. This occurs when relatives are identified and encouraged to care for the child outside of foster care or to petition for probate court guardianship, resulting in a hidden foster care system.¹ The goal of the project is to develop a set of recommendations and strategies to provide diverted families greater access to information, supports, and services to promote systemic changes to meet families’ need. These issues were approached holistically: we endeavored to seek and understand the impacts on children, parents, and caregivers and develop recommendations that account for the needs and rights of everyone.

Over the course of 2019, we conducted a series of focus groups and surveys in order to engage various stakeholders including diverted families, child welfare workers, kinship service providers, minors’ and parents’ counsel, and social services agency staff across California. In addition, we reviewed literature and studies focused on this population. Our goal is to understand how diversion from the child welfare system occurs and the impact of diversion practices on all involved in the chain: the children and parents, the relatives and non-related extended family members who care for the children, and the professionals dedicated to serving the children and families.

Specifically, the focus groups and surveys were intended to solicit the experiences of those impacted by diversion practices and their insights on what improvements could be made to the process to better support children and their caregiver families. Through the focus groups’ discussion and survey input, the Alliance and Lincoln gathered information to help service providers and policy makers to address significant impacts in the following areas:

- Supporting Children and Families: Ensuring Available Supports and Resources
- Avoiding Legal Limbo and Safeguarding Children While Promoting Family Choice
- Tracking Our Progress and Moving Toward Holistic Reform

The report summarizes the focus group discussions and survey information and includes selected quotes from participants illustrating the recurring themes. Moreover, the report distills the information from the lived experiences of families and service providers in the hidden foster care system and incorporates recent research and policy analysis in the form of recommendations to better support children and families.

¹The term “hidden foster care” was coined by Josh Gupta-Kagan in the article *America’s Hidden Foster Care System*, 72 *Stanford Law Review* (forthcoming 2020), p.10, available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3437849.

INTRODUCTION



"The father is incarcerated, the mother left and never returned, so I filed a missing person report. I was told if I didn't get guardianship she would go to CPS/Foster Care."²

"Kinship families are rife with trauma ... on the part of the child as well as the caregiver. There is something traumatic about having your life changed in a matter of days. Trauma effects are ongoing for the child but supports are not readily available."

"Hidden foster care not only follows CPS agency involvement but is usually specifically requested by CPS authorities. Still, legal custody does not transfer, and certainly does not transfer to the state leaving parents, children, and kinship caregivers without a clear legal status governing the situation insisted upon by the CPS agency."³

While foster care is the catch-all term used for children living in out-of-home care from their biological parents, the boundaries of foster care are less clear when kin are involved. Although the term "kinship caregiver" is used generically, there are different subgroups of kinship families. In general, kinship caregivers fall into one of four categories: (1) **private kinship care**: the child came to live with the relative without any current or past involvement by the child protective system (sometimes these relatives establish guardianship through a probate or family court, other times they do not); (2) **diverted kinship care**: the child came to live with the relative through involvement of the child protective system but a dependency case was not opened (i.e., the care, custody and control of the child remains vested with the parent unless the relative established guardianship through the probate or family court); (3) **unlicensed kinship foster care**: the child is placed with relative as a result of involvement with the child protective system, but the relative is not licensed or

² All quotes emphasized are from primary research through focus groups, surveys, and interviews.

³ Josh Gupta-Kagan, *America's Hidden Foster Care System*, 72 *Stanford Law Review* (forthcoming 2020), p.10.

approved as a foster parent; (4) **licensed kinship foster care**: the child is placed with relative as a result of involvement with the child protective system and the relative is licensed or approved as a foster placement.⁴ For the purposes of this report and recommendations, we are focused on those children who are involved with the child protective system. In other words, our focus is on those children that came to the attention of the child welfare agency and the child welfare agency facilitated the movement of the child into the relative's home. This includes those children in diverted kinship care as well as licensed kinship foster care (notably, California does not allow unlicensed kinship foster care).

Increasingly in California, child welfare professionals are recognizing the importance of formal foster care placements with relatives. However, this change in practice and culture is occurring against a backdrop of decades of child welfare policies and practice during which kinship foster families were treated differently – and often separate from – the formal child welfare system, regardless of whether the child was placed formally into a relative's home or diverted to that relative's home by the child protective agency with no further involvement by the child welfare system.

Historically, regardless of whether a child was formally placed through the dependency court or instead informally left in the care of a relative, systemic barriers often prevented the kinship families from receiving the financial support and other assistance that they needed. Over the last eight years, there has been significant progress in California to ensure that those relatives who take in a child through a formal foster care placement have access to the same funding, supports, and services available to all other foster care placements. As a result of concerted and collective advocacy, led by the Alliance for Children's Rights, relative foster families now receive equal funding, initiated at the time that children enter their care, to help them provide for those children's needs.

However, this tremendous victory only benefits that subset of relative caregivers who receive formal placement of the child in foster care. Data is essentially non-existent for kinship care outside of formal foster care, creating an opportunity for an inquiry into the opportunities and challenges for these families who are diverted away from the formal foster care system into the hidden foster care system in well-intentioned efforts to “keep kids out of the system.”

The Alliance for Children's Rights and Lincoln facilitated 19 focus group discussions with over 200 participants from May-July 2019 and received a total of 326 additional surveys from those involved in hidden foster care. The focus groups and surveys were conducted to solicit information from caregivers who provided care to children and youth outside the formal child welfare system, youth who were cared for by relatives or non-related extended family members outside the formal child welfare system, and service providers supporting the families and children – including child welfare workers, kinship service providers, minors' and parents' counsel, and social services agency staff. Discussion was designed to gather information from the focus group participants and survey respondents:

- To assess whether families and service providers understand diversion practices;
- To assess whether families understand supports and services available through the formal child welfare system to relative and non-related extended family members;
- To understand the supports and services available and used by hidden foster care caregivers and parents to support the children in their care;
- To understand the financial resources provided to families caring for children in hidden foster care;
- To understand the legal arrangements (if any);
- To understand both benefits and challenges encountered, if any, in caring for children outside the formal child welfare system; and
- To seek suggestions for improvements/changes to support children and families.

⁴ Matthew D. Bramlett, Ph.D., Laura F. Radel, MPP and Kirby Chow, Ph.D., *Health and Well-Being of Children in Kinship Care: Findings from the National Survey of Children in Nonparental Care*, *Child Welfare*. 2017: 95(3): 41 – 60; Laura Alison Caliendo, *State Law and Child Welfare Policy Role in Nonparental Family Composition*, Dissertation Submitted in Partial Fulfillment of Requirement for Doctor of Philosophy – Public Affairs, School of Public Policy and Leadership, Greenspun College of Urban Affairs, University of Nevada, Las Vegas (May 2019).

BACKGROUND

“My life changed with a phone call. They said you either pick her up or she’s going to Polinsky. Polinsky is for San Diego County child welfare where they place the kid, if they cannot place right away with a relative. It’s a shelter care facility.”

Find Family to Support Children: Types of Kinship Care

Stable placements with loving caregivers and supports and services that attend to the needs of the child are core to achieving well-being for children who cannot remain safely in the home of their parent. For this reason, relatives are the preferred setting for a child who cannot remain in the home of a parent.⁵ When a child welfare agency determines that a child cannot remain safely in the home of a parent, relatives are looked to first to provide care because connecting a child with a known family member increases child well-being, improves educational outcomes, minimizes trauma, creates stability for the child, and enables children to remain together with siblings.⁶

Most kinship caregivers are grandparents, aunts, uncles, cousins, siblings, and extended family members who step up in a moment of crisis and accept a child into their home. These caregivers share similar stories: they were unexpectedly contacted by a child welfare worker and asked to take in a young relative who could no longer safely remain at home. These families have little time to prepare financially, to arrange time off from work, or to prepare their homes for children. They are noticeably lower income than the general population and put their own family stability at risk to take care of children in urgent need.⁷

Typically, they also are unfamiliar with the complicated web of services, agencies, and funding streams that make up the foster care system or the dearth of services and supports available to families that take in children outside of foster care. The emotional first hours after a relative is contacted by a child protection agency are just the beginning of multiple contacts with an extensive bureaucracy. Sometimes the child is placed formally into the caregiver’s home through a foster care placement. Other times, the child is informally left in the care of their relative, without the full benefits of foster care.

“My grandson was born to a drug addict mother. Being paternal grandparents, CPS told us the baby was coming home with us. Gave us 24 hours to make our home safe for the baby. Two years later, our granddaughter was born. Same mother. Child was dropped off [by CPS] at our house. They are now eight and 10 years old.”

Diverted from Foster Care into Hidden Foster Care

The decision about whether to formally place a child with a relative through foster care or encourage that relative to take the child in without the involvement of the child welfare system has broad implications for the child, parent, and the caregiver. Diversion away from foster care, or hidden foster care, occurs because of presumptions about foster care, a desire to protect and promote family choice and private decision-making, and/or attempts to increase efficiency for the foster care system. Indeed, “both staff and kinship caregivers reported that being involved with the child protective services agency meant adhering to many rules and regulations, which both types of participants considered intrusive and not family-friendly.”⁸

⁵ 42 U.S.C § 671(a)(19); Calif. Welf. & Inst. Code §§ 361.3, 16000(a); Calif. Family Code § 7950.

⁶ Jill Duerr Berrick and Barbara Needell, *Recent Trends in Kinship Care: Public Policy, Payments, and Outcomes for Children, Policies and Practices* (1999).

⁷ Gretchen Livingston, *At Grandmother’s House We Stay: One-in-Ten Children Are Living with a Grandparent*, Pew Research Center (2013), p. 2.

⁸ *Ibid.*, p. 3.

There is significant concern over the licensing requirements within the formal foster care system, or the resource family approval program (RFA), and its inaccessibility to kin caregivers. “Foster care licensing typically imposes multiple requirements that could disproportionately limit licenses for poor families—such as minimum bedroom space requirements or limits on the total number of people in a home, or criminal background checks.”⁹

In California, diversions away from foster care have no clear statutory basis; California law contemplates that when the state or county removes children from the home of a parent as a result of allegations of abuse or neglect, they become wards of the state, with all the rights and protections that entails.¹⁰ Despite these laws, our findings through the surveys and focus groups reveals that many children in California are diverted to care by a relative at the urging of a child welfare worker and without an understanding of the consequences that decision has on their futures. Similarly, federal law offers “no guidelines on when kinship diversion is appropriate, how to assess whether a particular caregiver is appropriate, or what services should be available in kinship diversion arrangements.”¹¹

When children are diverted from the system to a relative’s home, the supports, rights, services, and representation provided through foster care are denied to the child, parent, or the caregiver. Diversion away from foster care also means that the child and caregiver do not receive support through the child welfare system, including monthly financial support, education rights, case management, and other supportive services. Beyond access to the services, “[t]he absence of a change in legal custody can also raise questions about kinship caregivers’ authority to make health care, educational, or other decisions for children in kinship caregivers’ home.”¹²

The discrepancies in financial support alone are significant: a child placed with a relative in foster care in California in 2020 receives a minimum of \$1,000 in monthly assistance and that amount can be increased to provide for the specialized needs of the child or to support a parenting youth. By comparison, the maximum amount of financial support available to support a child in informal kinship care is \$606 per month through the CalWORKs grant. Further, for those relatives who take in sibling groups, the CalWORKs payment decreases with each child. For example, three siblings placed together in foster care with a relative would receive a minimum of \$3,000 per month in financial support. Those same siblings who are diverted to a relative’s home would receive a total of \$983 through CalWORKs (less than the monthly support for a single child in foster care), and there is no additional funding available to support youth with specialized needs unless the child qualifies for Supplemental Security Income (SSI).

The disparities in funding is just one of many differences in supports and services available to children placed formally through foster care as compared to those diverted away from foster care into a relative’s home. When a child is placed into foster care with a relative, both the child and parent receive representation by an attorney, reunification services, and case management. As a foster child, the young person gains specific rights such as the right for the child to remain in their school of origin and receive partial credits for work completed at one school in the event that the child does have to transfer to a new school. In addition, caregivers can receive other critical supports like child care, respite, and funding to reimburse the cost of transporting the child to their school of origin each day.

⁹ Josh Gupta-Kagan, *America’s Hidden Foster Care System*, 72 *Stanford Law Review* (forthcoming 2020), p.30.

¹⁰ *Welf. and Inst. Code §16507.4(b)*

¹¹ Karin Malm and Tiffany Allen, *A Qualitative Research Study of Kinship Diversion Practices*, *Child Trends Research Brief* (2016), p. 1.

¹² Josh Gupta-Kagan, *America’s Hidden Foster Care System*, 72 *Stanford Law Review* (forthcoming 2020), p.37.

	INFORMAL KINSHIP CARE (Probate Guardianship)	FOSTER CARE PLACEMENT WITH RELATIVE (dependency court)
Funding for Caregivers?	Limited funding available to support kin caregiver – for most families, only CalWORKs	Full foster care funding – in CA this includes access to specialized care, clothing allowance, infant supplements, etc.
Who receives services?	No requirement for services to be provided or to assign counsel to parent or child. No eligibility for respite, emergency child care funding, training, etc.	Reunification services and legal representation for parent. Child receives legal representation and case management services. Caregiver can receive respite, emergency child care bridge funding, and training
Duration of services?	N/A	No limitation on reunification services while child is in foster care + 15 months of post-reunification services
Reunification options and funding for permanency?	No reunification services and opportunity for reunification is limited. No funding: Relatives who get guardianship outside of juvenile court are not eligible for Kin-GAP	Child is either reunified or can remain with relative through adoption, guardianship, or as a fit and willing relative and receive continued funding for kin families (AAP, KinGAP, or continued foster care funding)
Supports for TAY?	No eligibility to receive extended foster care, independent living services, or Education and Training Vouchers	Eligible to receive extended foster care (if in care at age 18) independent living skill services (if in care at age 14) or Education and Training Vouchers (if either in care at 16 or adopted/guardianship at 14 or older)
Education rights to promote school stability?	No right to school of origin placements or funding, immediate enrollment, partial credits, etc.	Child has the right to attend their school of origin , the ability to utilize partial credit and immediate enrollment laws, funding for transportation to SOO

Diversion practices also have grave implications for the parent and child's right to be reunified and to be together as a family. The separation of a child from a parent is of enormous consequence, and federal and state laws are aimed at ensuring that separation only occurs after reasonable efforts have been made to avoid the separation and through a process that provides the parent and the child due process and the chance to reunify. Gupta-Kagan writes:

The loss of these two critical protections—reasonable efforts to reunify and case planning obligations—is particularly acute when hidden foster care lasts longer than a few days. Then the invasion of family integrity becomes even more severe, and the need for a meaningful plan to resolve the case even more important. When such separations are triggered by real concerns

about parents' ability to raise their children, rehabilitation is crucial to address those concerns. But the CPS agency may perceive the case as lower priority—there is no legal obligation for the state to develop a detailed case plan or provide rehabilitative services, no pending court hearing to prepare for and thus no moment when a judge will question the agency's efforts to prevent removal or reunify the child, and the agency may perceive the child as stable in the kinship caregiver's home and thus deprioritize the case compared to others with pressing concerns.¹³

Hidden foster care practices also impact child safety. When a child is diverted to a relative's home, there is no change in legal custody (unless the relative independently seeks guardianship through another court process, such as through probate court). As a result, the parent has the legal right at any time to take the child, thus "when parents are an immediate physical danger to children, hidden foster care provides weak protection."¹⁴

"We settled on guardianship because we were told that the kids could be taken back from us, and the social workers really pushed the issue. Had we known what we do now, we would have left them in the foster system while living with us."

Impacts of Hidden Foster Care on Special Populations: Native American Children and Youth Involved in the Juvenile Justice System

The ways in which hidden foster care occurs varies for certain populations and the policy implications for these groups deserve special consideration. Specifically, Indian children and youth involved in the juvenile justice system have unique needs and rights that are impacted through the practice of hidden foster care, as described below.

Indian Children

The Indian Child Welfare Act (ICWA) was enacted in 1978 in response to large numbers of Indian children being separated from their parents, extended families, and communities by state child welfare and private adoption agencies.¹⁵ Research found that 25% - 35% of all Indian children were being removed, with 85% of those children being placed outside of their families and communities—even when fit and willing relatives were available.¹⁶

According to the 2017 California ICWA Compliance Task Force Report, "voluntary" safety plans are used in California counties to circumvent the minimum federal standards of ICWA, thereby eliminating the very protections in place to ensure the required active efforts to provide culturally appropriate services are provided to prevent the break-up of the Indian family or to reunify the family where removal is required.¹⁷ Importantly, these safety plans, while voluntary in name only, do not allow a parent to have the right of return of the child upon demand, in violation of ICWA.

Guardianship proceedings are often a component or requirement of a safety plan, used in lieu of taking the child into foster care. This has the result of shifting the requirements of ICWA from the county social worker and juvenile court to the guardian and probate court, meaning the guardian is responsible for providing active efforts. However, in reality, very few guardians have the resources necessary for these services to be meaningful. The other minimum federal standards required are simply lost in most guardianship proceeding, namely producing a qualified expert witness, producing evidence to meet the evidentiary standards, and

¹³ Josh Gupta-Kagan, *America's Hidden Foster Care System*, 72 *Stanford Law Review* (forthcoming 2020), p.35.

¹⁴ Josh Gupta-Kagan, *America's Hidden Foster Care System*, 72 *Stanford Law Review* (forthcoming 2020), p.51.

¹⁵ H.R. Rep. 95-1386, 1978 U.S.C.C.A.N. 7530, 7531

¹⁶ *Indian Child Welfare Program: Hearings Before the Subcommittee on Indian Affairs of the Senate Committee on Interior and Insular Affairs (1974) 93rd Cong., 2d Sess. 3* (statement of William Byler) (<http://narf.org/icwa/federal/lh/hear040874/>, last visited May 15, 2012).

¹⁷ *California ICWA Compliance Task Force, Report to the California Attorney General's Bureau of Children's Justice, 2017.*

ensuring the notice requirements are met. Further, probate courts are not well versed in ICWA or the state law requirements often failing to provide notice, court appointed attorneys and understanding the requirements of ICWA.

The law is clear when a parent of an Indian child or Indian custodian voluntarily consents to a foster care placement, such consent “shall not be valid unless executed in writing and recorded before a judge of a court of competent jurisdiction and accompanied by the presiding judge’s certificate that the terms and consequences of the consent were fully explained in detail, and were fully understood by the parent or Indian custodian. The court shall also certify that either the parent or Indian custodian understood the explanation in English or that it was interpreted into a language that the parent or Indian custodian understood.”¹⁸ This consent may be withdrawn at any time and “upon such withdrawal, the child shall be returned to the parent or Indian custodian.”¹⁹

The remedial intentions of ICWA are effectively negated by these unlawful practices. This results in what may be unwarranted removals of Indian children and an associated deprivation of the protections of the federal laws in place to prevent these very situations.

Youth Involved in the Juvenile Justice System

Though the majority of youth in foster care are dependents in the child welfare system, some youth obtain foster care status through the delinquency system. This includes youth who are determined to be victims of abuse and neglect who cannot remain safely at home, or be returned home, after that youth has committed a crime or status offense. Other times, these young people start as dependents in the child welfare system and cross over into the delinquency system, sometimes referred to as “crossover youth.” When a child involved in the juvenile delinquency system cannot return to the home of a parent, but also does not require ongoing detention, the juvenile delinquency court can order another “suitable placement” for the child.²⁰ These suitable placements are considered foster care placements and probation youth in foster care placements have the same rights as all foster youth.²¹

However, while the juvenile delinquency court has the authority to make a placement order, they often do not make this order and instead “release” the child to the relative utilizing what is often referred to as a Home of Parent Order.²² The impact of a release to a relative through a Home of Parent Order is that care, custody, and control are not transferred from the probation officer for placement with a relative, leaving relatives without the ability to make health or educational decisions for the child.²³ In addition, these children are not considered in a foster care placement and are denied the funding, services and supports that probation youth who have a suitable placement order receive.

The practice of **releasing** children to a relative rather than **placing** with a relative occurs for a number of reasons: probation agencies are less familiar with Resource Family Approval (RFA) – the formal approval process for foster caregivers – and, in many cases, the process to complete RFA is determined to be too cumbersome, resulting in children being released to a caretaker who has no legal requirement to care for them nor the resources often needed to create a stable living environment. Further, when a probation agency decides to move forward with a suitable placement, they often detain the youth unnecessarily while working to approve the home rather than using their authority to do an emergency placement prior to resource family approval. This results in youth experiencing lengthy and harmful periods of detention, often exacerbating their trauma.

¹⁸ 25 U.S.C. § 1913.

¹⁹ 25 U.S.C. § 1913.

²⁰ Welf. and Inst. Code § 727(a)(3)-(4).

²¹ See California Department of Justice, *Information Bulletin: Probation Officer Obligations for Probation Youth in Foster Care (December 2016)*, available at <https://oag.ca.gov/sites/all/files/agweb/pdfs/bcj/ib-2016-04-probation.pdf>.

²² Welf. and Inst. Code § 772(a)(3).

²³ Welf. and Inst. Code § 772(a)(3).

Shifting Political Landscape: Changes to Federal and State Law

In January 2017, California introduced a new approval process, known as Resource Family Approval, that combined elements of the prior foster care licensing system, relative approval process, and approvals for adoption or guardianships.²⁴ The changes in standards were most dramatic for relatives seeking to care for children through a formal foster care placement, requiring relatives to complete pre-approval training and an extensive family evaluation. In addition, families are now approved as both foster and adoptive homes at the time of approval. While the new approval process is intended to be a streamlined, family-friendly process, in practice, RFA has created delays in approving kinship families and resulted in the denial of approval as a resource family of some families who were previously approved under the old relative approval standards. While counties can approve a placement using child-specific approval to ensure children can be placed in the home of stable and appropriate relatives, child-specific approval does not appear to be standard practice and is underutilized as a tool for placing with relatives. The Alliance, Lincoln and our statewide partners have collected hundreds of stories of kinship families encountering barriers in approval as a result of RFA which, in turn, fuels the practice of hidden foster care as families or well-meaning case workers seek to avoid RFA while ensuring that children will be placed in the home of a relative.

In addition, recent changes to federal law are encouraging states to pursue strategies to prevent children from entering foster care, including using relatives as the prevention strategy. In February 2018, the Family First Prevention Services Act (FFPSA) was signed into law which, for the first time, provides states with the option of drawing down federal funding in support of diversion practices. The stated purpose of the Act is to “provide enhanced support to children and families and prevent foster care placements through the provision of mental health and substance abuse prevention and treatment services, in-home parent skill-based programs, and kinship navigator services.”²⁵ Specifically, FFPSA seeks to prevent placement of children into foster care by allowing states to utilize federal funds to support children at imminent risk of foster care by developing a prevention plan that “identif[ies] the foster care prevention strategy for the child so that the child may remain safely at home, live temporarily with a kin caregiver until reunification can be safely achieved, or live permanently with a kin caregiver.”²⁶ “Congress thus explicitly envisioned that these new federal funds would be available to provide services to children and their family members when state action temporarily—or even permanently—changed their custody.”²⁷ The mechanics and ramifications of FFPSA remain unclear at this time, but the new law threatens to fuel the practice of hidden foster care.

Finally, when a relative pursues guardianship in probate court at the direction of a county agency and is awarded temporary guardianship, it can be difficult to get the case to dependency court even if that would be the more appropriate venue to serve the parent and the child. The probate court has no mandatory duty to refer cases involving child abuse or neglect to child welfare for investigation. Further, even when a case is referred, the juvenile court is limited in its ability to take jurisdiction because the Court of Appeal held that in addition to finding that the child comes within the standards set forth in Welf. and Inst. Code § 300 the juvenile court must make an additional finding about whether a dependency petition is necessary to protect the child.²⁸ The Court of Appeal determined that once a temporary guardian has been established, if the guardian is determined to be a “suitable custodian and able to protect the child from the risk posed by the parents’ behavior” then there is no risk to the child sufficient to bring the child under the jurisdiction of the dependency court. This holding makes it nearly impossible for a probate court to provide for the temporary custody of a child and also ensure the case gets before the appropriate tribunal.

In short, the combination of changes in state approval standards, recent case law, and federal law changes that increase political pressure to reduce foster care caseloads and utilize relatives as a prevention strategy makes it increasingly difficult to ensure children are appropriately connected to kin and served within the foster care system.

²⁴ Welf. and Inst. Code § 16519.5. For more information, see CDSS Programs: Resource Family Approval <https://www.cdss.ca.gov/inforresources/resource-family-approval-program>.

²⁵ Public Law 115-123, Bipartisan Budget Act of 2018, Section 50702 (emphasis added).

²⁶ 42 U.S.C. § 671(4)(A).

²⁷ Josh Gupta-Kagan, *America’s Hidden Foster Care System*, 72 *Stanford Law Review* (forthcoming 2020), p.51.

²⁸ *In re Kaylee H.*, 205 Cal.App.4th 92 (2012)

FOCUS GROUPS AND SURVEY PARTICIPANT DEMOGRAPHICS & FINDINGS

Focus groups were conducted in California's Bay Area, Central Coast and Central Valley, and in the counties of Los Angeles and San Diego. Five focus groups were conducted for caregivers only, one for service providers only, and 13 included both. Two focus groups were supported by Spanish translators. Participant caregivers care for children placed with them by county social workers and probation officers.

Focus Groups Participants

Caregivers

Caregivers from across the state participated in the focus group discussions including monolingual Spanish speakers. Participants included grandmothers and grandfathers, aunts and sisters, and non-related extended family members. Most participants took the children in their care into their homes to “prevent them from being put into the foster care system.” Circumstances ranged from parents unable to care for their children due to incarceration to mental health issues to drug-related issues. The children in their care range from less than a year old to 17 years in age and include single child placements, multiple sibling group placements, and multiple extended family child placements. Legal arrangements were categorized into five categories: informal/no legal arrangement, probate guardianship, voluntary placement agreement (VPA), dependency guardianship, and formal foster care.

Service Providers

Service providers supporting diverted children and families participated in the focus groups including county social workers, public health nurses, kinship service providers, minors' and parents' counsel, independent living program coordinators, and foster family agency staff.

Surveys

Surveys were made available in English and Spanish and responses were collected both electronically and in writing. Surveys were targeted to diverted caregivers and youth, direct service organizations providing support to diverted families, Foster and Kinship Care Education (FKCE) providers, kinship support groups, and foster youth organizations.

Survey Respondents

Surveys were completed and returned by 326 individuals in 22 counties, representing input from across the state.

Summary of Findings

“The worker threatened me that if I didn’t take them, they would take them away from me.”

The focus groups and surveys provided key insights into both the reality and perception of those impacted by the hidden foster care system.

Legal Status of Case

Many families were unable to identify whether the child(ren) in their home was there as a result of formal government involvement:

- 24% of caregivers who indicated they were an informal kinship arrangement also indicated they receive foster care benefits, and
- 24% of kinship caregivers who said they had a guardianship through probate court also indicated they received foster care benefits.

Under California law, only children placed formally through foster care or a voluntary placement agreement (VPA) are eligible for foster care benefits. Therefore, children who were diverted from foster care or had guardianship established by probate court would not be eligible for foster care benefits. We cannot establish from the survey answers whether the families were actually formal placements or whether the funding stream was misunderstood. It is equally likely that the family was receiving CalWORKs (public assistance cash aid) and characterized it as a foster care benefit or that they were receiving foster care benefits because the placement was actually a formal foster care placement that they characterized as being outside of foster care. This theme was repeated in the comments and discussion in the focus groups.

Additionally, many families were unable to determine whether and how child welfare was involved in their case. For probate guardianships, 69% indicated that they had no child welfare involvement and 18% of respondents with dependency guardianships answered the same, highlighting this misunderstanding.

The responses make it clear that families generally do not have a clear sense of whether the court they appeared before was the probate or dependency court, and when or how child welfare was involved in the case.

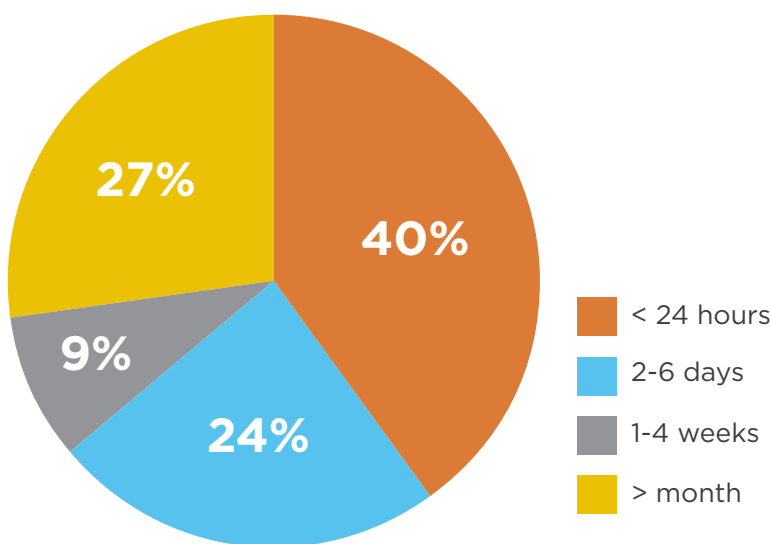
“When I hear foster care, I hear stranger care. As opposed to foster care means kinship care. How do we get rid of that belief?”

“Fear” of Foster Care and Lack of Information

Many families surveyed and who participated in focus groups were either skeptical or fearful of involvement with the foster care system. Many families who characterized their actions as keeping the child out of foster care also spoke about their dissatisfaction with the Resource Family Approval (RFA) process, the process by which families accepting placement through the foster care system are approved by the placing agency. A service provider noted that “there is a lot of confusion and very little knowledge of what foster care actually is or their role. There is also role confusion about private non-profit versus county child welfare organizations and almost no education provided at the time of placement about the general approval requirements or requirements of how to meet the child’s needs.” The survey found that only 26% of service providers felt that diverted kin caregivers are prepared to meet the RFA requirements.

Many families lamented the lack of information available to them at the time they took the children into their care and throughout the time the children remained in their care: specifically, about the implications related to financial support and medical and mental health resources. Additionally, families noted the difficulty in finding supports and information like respite care, education support, caregiver support groups, childcare, and other available resources. This speaks to the need for better information for all families so they can understand the different paths available to them and the services and supports available through each of those mechanisms. This reality for families in hidden foster care was consistently conveyed in the surveys, as 42% of families indicated that they received “no information” about the different types of legal arrangements available to them, and only 26% received information on “all the legal options available.” Adding to the challenges of information and transparency, 40% of caregivers had less than 24-hours notice of the child being placed in their home, as seen in Figure 1.

FIGURE 1:
Amount of notice to caregivers of placement



“Yes, you’re doing this and in the meantime you’re saving the state all this money. Not only are we not going to help you, it seems to me like you’re going to punish us for this. Because I rose to the occasion, now you’re kicking me. It makes you feel somehow that somebody has done you wrong. It’s always in the back of your mind.”

Inequities in Kinship Care

Both caregivers and service providers iterated the inequities that exist between formal and hidden foster care on all levels – funding, services, supports, legal rights, treatment by government and agency workers, and more. When asked if the foster care system values kin and non-kin caregivers equally, 65% of service providers and 64% of caregivers disagreed – showing a majority see a significant inequality. This is of particular concern given that “there appears to be general alignment in the literature to suggest that kin caregivers are, on average, more vulnerable than the average U.S. parent or substitute caregiver, and the children they care for suffer greater vulnerabilities than is typical among U.S. children.”²⁹

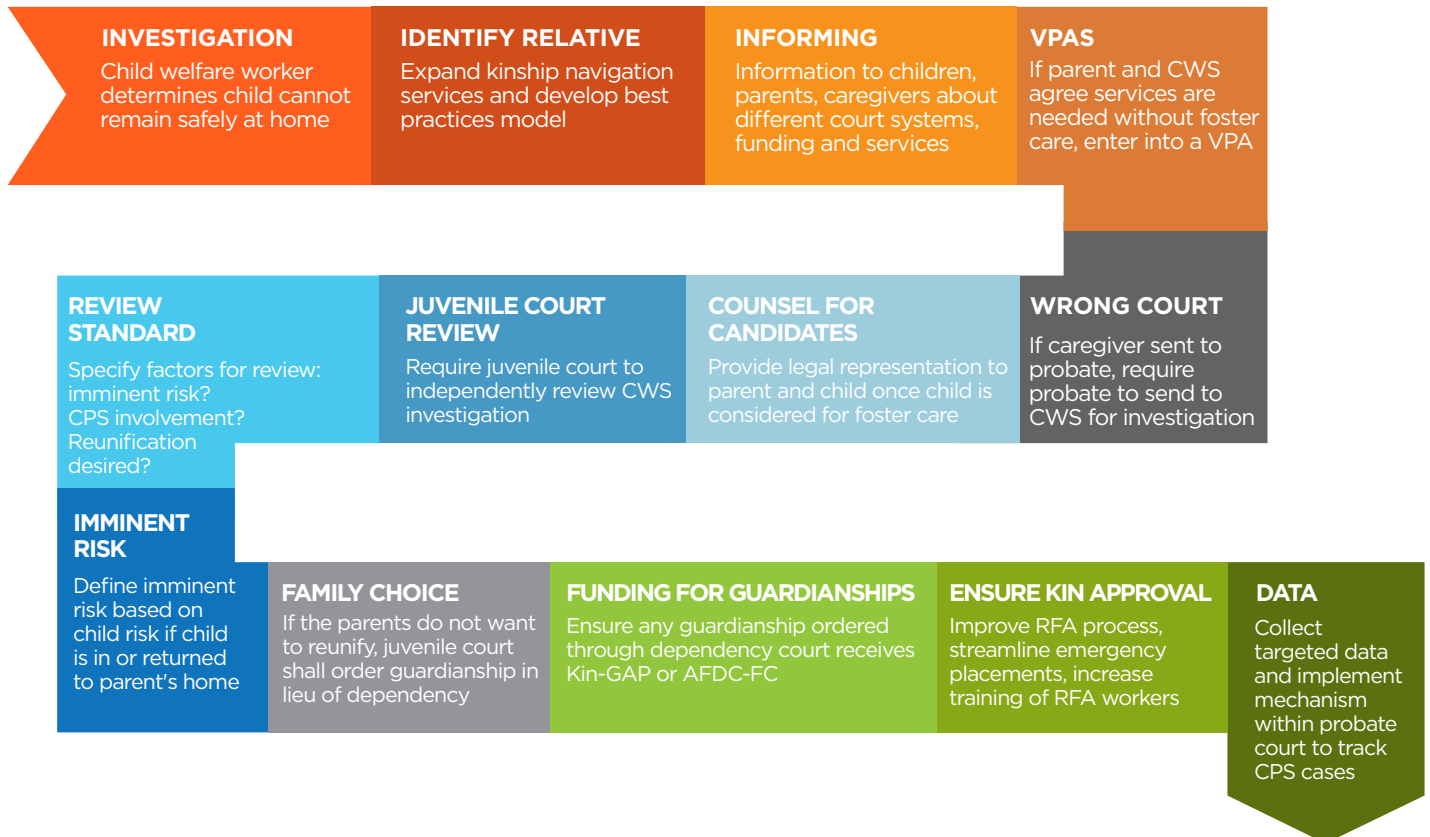
Considering that 92% of service providers indicated that the demand for kinship support services is on the rise, there is a great urgency to meet the needs of the families stepping up to care for vulnerable children in hidden foster care. When asked about the top three greatest threats to stability in their homes, all five identified legal arrangement populations suggested that respite care was a top concern, with access to mental health services following closely behind. While these services are made available in formal foster care (though often difficult to navigate and secure), they are alarmingly inaccessible to those families caring for children in hidden foster care, further exacerbating inequities between these families and placing both children and caregivers at greater risk given the lack of opportunity for readily accessible respite care and mental health services.

²⁹ Jill Duerr Berrick and Julia Hernandez, *Developing consistent and transparent kinship care policy and practice: State mandated, mediated, and independent care*, 68 *Children and Youth Services Review* (2016), p. 30.



HIDDEN FOSTER CARE PERSPECTIVES & RECOMMENDATIONS

FIGURE 2:
Roadmap of Draft Recommendations



Our literature review identified, and the focus group and survey participants confirmed, the often unintended consequences of the hidden foster care system and the necessity and importance of keeping children safe while providing support and services to the children and families. One caregiver noted, “We are not valued by the system. The formal kin caregivers are connected to services and financial support that my community is denied. We have the same responsibility without the financial support. It is most unfair.”

The following recommendations incorporate specific proposals and themes from the focus groups and survey feedback, focused on positive and timely interactions and supports for children, parents, and caregivers as well as streamlined processes. The intention of the recommendations is to ensure that the child's, parent's, and caregiver's interests, the parties impacted by hidden foster care, are all acknowledged and addressed. In addition, these recommendations are intended to be considered holistically as many require several of the recommendations to be implemented together to address all facets of the issue and to prevent unintended consequences. While several of the recommendations could be enacted in the short-term, ultimately, comprehensive reform would require action on the broader set of recommendations proposed.

The recommendations are focused on three areas:

- **Supporting Children and Families: Ensuring Available Supports and Resources**
- **Avoiding Legal Limbo and Safeguarding Children While Promoting Family Choice**
- **Tracking Progress and Moving Toward Holistic Reform**

Supporting Children and Families: Ensuring Available Supports and Resources

“Please make it to where DCFS [Department of Children and Family Services] social workers are to not tell family members, who volunteer to take on such a huge responsibility with these children, to go to probate court instead of doing their job and opening up a case for the child's welfare. It is extremely hard to raise someone else's child/children, that has suffered tremendous trauma, on public assistance. If you are trying to help keep these kids from turning into violence as they get older and or end up being part of the juvenile justice system, please I'm begging you, to help stop these social workers from turning away family members who are able to care for these kids with the help from outside resources such as foster care.”

“I would have liked to get information from anyone who would give it to me. I would have liked to know what my rights were, what to do. When I had my own child, I was prepared. But with my grandchild, I had no information or preparation. I didn't know what to do or not to do.”

“I wish everyone would receive a manual. And in that manual for it {sic} to have support groups, regional centers, mental health services, educational services, the whole range of what it takes in order to feel like you're not psychologically incarcerated.”

RECOMMENDATION #1: Schedule and conduct a Child and Family Team meeting any time a child welfare worker or probation officer determines a child cannot remain safely at home

Issue: A Child and Family Team (CFT) meeting is required to be convened by the placing agency within the first 60 days of a youth coming into foster care.³⁰ There is no requirement that a CFT meeting be convened at the point that a child is separated from a parent and moved into a relative's home.

Background: Typically, families are unfamiliar with the complicated web of services, agencies, and funding streams that make up the foster care system. The emotional first hours of an emergency placement are just the beginning of multiple contacts with an extensive bureaucracy. The first relative that a county agency identifies may not be the best or most appropriate placement for the child. In addition, there is no forum established to make sure families, inclusive of the parent, child and the relative caregiver, are brought together to receive information about the different types of placements that are available to a family (i.e., voluntary placement agreement, formal foster care placement) or other options that may be available to the family (i.e., guardianship in lieu of dependency, probate court guardianship, etc.). Because CFTs are not convened until 60 days after a youth enters foster care, there is no engagement of the family at the moment that the child is being separated from the parent. If a CFT were convened at the point it is determined that the child cannot remain in the home of a parent, it could be a forum to allow family members to jointly determine who is the best placement for the child and to receive information about the foster care system and other options, as appropriate, such as Voluntary Placements and juvenile court guardianships.

Caregiver survey respondents who had sought probate guardianship were the least informed of all groups, and had the greatest negative sentiment related to financial supports for kinship families.

Solution:

- Hold a CFT as soon as a child is going to be moved away from a parent so that the child, parent, and family have a forum to share information about available options.
- Develop an information brochure to be provided to caregivers requesting probate guardianships on the differences between probate guardianship and the foster care system including supports and services and RFA and other requirements.
- In cases where an investigation involves an Indian child, and the child's tribe is known, require the county social worker to work cooperatively with the tribal social worker to conduct relevant assessments and case planning measures, including the determination of whether a dependency case should be initiated, to identify an appropriate home for the child, and to determine what services should be offered to the family.

"I don't think there is anyone more scared of child welfare than a parent – it's the removal of a child. Goes back to the lack of control. The unknowns. The secrecy. But there are reasons for that secrecy because of protections of these children. But these parents really lose in their ability to reunify with their children. At least with child welfare and the juvenile court, they have a chance at being parents."

"In my opinion, until the Department drops the foster parent versus the kinship family mentality, the kinship families will continue to be marginalized in this system."

³⁰ All County Letter 16-84.

RECOMMENDATION #2: Provide the child and parent legal representation at the point a child is determined to be a “candidate for foster care”

Issue: In California, children and parents are not provided representation until the child welfare agency files a petition with the dependency court to formally remove the child from the parent’s home. However, the child welfare agency is often involved with the child and parent for weeks or months prior to the petition being filed. And, when a relative is identified, the agency often coerces the parent and relative to accept the removal of the child without the advice of counsel, adequate information about the child and parent’s options, or the ramifications of that decision. Gupta-Kagan asserts:

Crucially, the legal obligation to help parents reunify with their children is triggered by placing children in foster care—thus agencies avoid it by using hidden foster care. Agencies must also make reasonable efforts to prevent the need to remove children from their parents, but that obligation is only adjudicated if the agency brings the case to court, which an agency relying on hidden foster care need not do. As at least one CPS agency has acknowledged explicitly, using hidden foster care means the agency ‘has no further legal obligation to the parent in terms of reunification.’³¹

Background: A child is considered a “candidate for foster care” when they are at “serious risk of removal” and the State child welfare agency is “either pursuing his/her removal from the home or making reasonable efforts to prevent such removal.”³² “A child may not be considered a candidate for foster care solely because the State agency is involved with the child and his/her family. In order for the child to be considered a candidate for foster care, the State agency’s involvement with the child and family must be for the specific purpose of either removing the child from the home or satisfying the reasonable efforts requirement with regard to preventing removal.”³³ At the point a child is considered a “candidate for foster care”, the state may claim federal funding to offset the administrative costs associated with the case, including the cost of providing the child and parent with independent legal representation.³⁴

High quality parent representation in child welfare cases has been shown to reduce the length of time in foster care without impacting child safety or maltreatment rates and also to hasten permanency for children in foster care.³⁵ And, as a matter of due process, action by the state to facilitate a change of the child’s physical custody “should trigger a right of parents to obtain legal counsel (appointed if necessary) to advise them of their rights and negotiate appropriate plans with CPS agencies.”³⁶ Without representation, “[s]tate agencies infringe on parents’ and children’s fundamental right to family integrity with few meaningful due process checks.”³⁷

Solution:

- Provide legal representation to the child and parent at the point a child is determined to be a “candidate for foster care,” which would include any time the probate court invokes section 1513(b) and refers the case over to child welfare for an investigation or any time parents are asked to sign a Voluntary Placement Agreement or safety plan placing the child outside of their home.

“I had to really look hard and find people who could help me, and there was no help out there. And just out of the blue, I was talking to someone and they mentioned Kinship Center and I called. And it saved my life.”

³¹ Josh Gupta-Kagan, *America’s Hidden Foster Care System*, 72 *Stanford Law Review* (forthcoming 2020), p.35.

³² *Child Welfare Policy Manual*, Section 8.1D (Question 2).

³³ *Child Welfare Policy Manual*, Section 8.1D (Question 2).

³⁴ *Child Welfare Policy Manual*, Section 8.1B (Question 31).

³⁵ Lucas A. Gerbera, Yuk C. Panga, Timothy Rossa, Martin Guggenheim, Peter J. Pecorac, Joel Miller, *Effects of an interdisciplinary approach to parental representation in child welfare*, 102 *Child and Youth Services Review* (2019) 42-55.

³⁶ Josh Gupta-Kagan, *America’s Hidden Foster Care System*, 72 *Stanford Law Review* (forthcoming 2020), p.6.

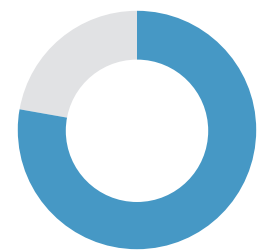
³⁷ Josh Gupta-Kagan, *America’s Hidden Foster Care System*, 72 *Stanford Law Review* (forthcoming 2020), p.1.

“I finally found out about kinship services through a family member who was a social worker on the East Coast. How pathetic is that. This system is really broken. I have spoken to many other kinship caregivers who were never told about kinship services or other help available.”

“I did not receive any information about support or options. I am an attorney practicing juvenile law. I have heard that CalWORKs assistance may be available as a non-needy caregiver. I spent over an hour searching the internet to finally get the application. The application seems overwhelming and daunting. Keep in mind, I am an attorney practicing juvenile law and that it took an hour to find the application with me already knowing the name of what I was looking for. I am under the impression the county wants to prevent people from applying for help.”

RECOMMENDATION #3: Expand kinship navigation services to ensure fully-informed decision-making

Issue: Relatives and extended family members often take placement of children without prior notice or during times of trauma and may be pressured by caseworkers to pursue guardianship in lieu of opening a foster care case or establishing formal placement through the delinquency court. In addition, relatives may pursue probate guardianship without knowledge or understanding of other options available. Probate court personnel may be unaware of the significant differences in resources and requirements available to kin caregivers and the children in their care. Lacking adequate and timely information about the differences in resources and requirements of probate guardianship and the foster care system results in uninformed decision-making which has significant financial implications for the kin caregiver and the child, including access to extended foster care educational support to pursue higher education goals.



78% of service provider survey respondents do not think kinship families receive the necessary amount of mental health services to thrive.

Kinship support services programs and kinship navigator programs offer relatives a range of services including case management, support groups, respite care, information and referrals, mentoring/tutoring, tangible supports, and legal assistance. These programs are often a lifeline for relatives who have taken in a family member unexpectedly and are navigating a complex web of services and supports. However, only 20 counties across California have a kinship support program. Further, since realignment, many of these programs have seen drastic budget cuts. County systems may be fragmented/regionally diverse or available only through calling the county hotline – which may require providing contact information prior to receiving resources information.

Background: As a result of passage of the Family First Prevention Services Act (FFPSA) in 2018, states will soon be able to access federal funding for kinship navigator programs. In order to be eligible for federal funding, any kinship navigator program adopted and funded with federal dollars must be determined to be an evidenced-based practice. To date, there have not been any kinship navigator programs evaluated by the new Prevention Clearinghouse and determined to meet the standard of an evidenced-based practice. However, as of October 2019, there are two navigator programs under review by the Prevention Clearinghouse. As soon as a program is determined to meet an evidenced-based practice, other states will have the opportunity to modify their existing kinship support programs to have fidelity to the program approved in the Clearinghouse and begin drawing down federal funds for the operation of the program.

Solutions:

- Once a kinship navigator program is approved for inclusion in the Prevention Clearinghouse, work with kinship support programs across the state to conform program models to meet the standards of the evidenced-based practice and leverage additional federal funds for the expansion of kinship support services to all counties.
- Ensure updated and accurate information is made available on state resources (such as websites, brochures, and hotlines) on kinship navigator programs in all counties.
- Make clear, concise, and comprehensive information available at the time of any placement explaining the differences between guardianships granted through different courts, placement options, and the funding and services that are associated with each option and ensure that county welfare workers or probation officers provide this information to all caregivers.
- Work with state and national accreditation organizations, such as the Council on Accreditation (COA), to align the best practice model of kinship navigator programs with their existing Standards for Family Foster Care and Kinship Care Services.

“At a Child and Family Team meeting prior to removal, I brought up the possibility of a voluntary placement agreement but was told the county doesn't really practice that. The emergency worker and her supervisor decided to detain.”

“Sometimes families need help but don't want to ask for it because they are afraid their kids will be taken away. So, if there were some way for families to do voluntary plans on their own somehow – we {the families} don't want to do guardianship or have my kids taken away. I know my daughter needs help with drug issues, but they could opt to receive services.”

RECOMMENDATION #4: Increase use of formal Voluntary Placement Agreements and clarify that safety plans or alternative forms of voluntary agreements are not allowed

Issue: In California, many counties facilitate the movement of a child to a relative's home without any documentation or use variations of a “safety plan,” which is not authorized by statute and does not provide any protections to the parent or child, funding to support the child, or result in a transfer of legal custody and control to the child welfare agency or the caregiver. Because safety plans are not time limited, children can remain in a relative's home indefinitely without ever establishing legal permanency and without ever determining whether the initial removal from the home was appropriate or providing the child and parent the opportunity to reunify. Safety plans trigger a change in the physical custody of the child without any of the protections of the child welfare system to ensure that change in custody was appropriate, that the child who experienced the abuse and neglect is appropriately provided for through funding and services, and that the ongoing legal permanency of the child is accounted for. Further, “when investigators give parents an ultimatum – sign this plan, or I will remove your child – it should trigger due process protections. Unfortunately, current case law says otherwise.”³⁸

Caregiver survey respondents who had sought VPAs experienced the highest involvement of biological parents in the placement decision and had the highest positive sentiment regarding access to mental health services.

Similarly, for youth involved in the delinquency system, children are released to relatives without establishing a formal or voluntary placement. In order to establish a formal transfer of care and custody of the child

³⁸ Ryan C. F. Shellady, *Martinis, Manhattans, and Maltreatment Investigations: When Safety Plans Are a False Choice and What Procedural Protections Parents Are Due*, 104 *Iowa Law Review* (2019), p. 1613.

away from the parent, the delinquency courts should utilize VPAs when they believe a formal placement (and RFA approval) will not be necessary.

For Native American youth, these voluntary agreements are only valid if the consent for the placement is before a judge.

Background: When children are removed from a parent outside of the foster care system, the child and parent are deprived of significant due process protections and the caregiver is deprived of monthly financial support and services to address the child’s experiences of trauma. In addition, hidden foster care leaves caregivers without the ability to make educational and health care decisions for the child and deprives the child of important educational rights afforded in foster care.

One of the primary arguments in favor of hidden foster care for kin is that “families should retain responsibility and be empowered to drive the planning and decision making” because it is the family that is “best able to keep the child safe.”³⁹ “This supposed voluntariness exempts hidden foster care from both court oversight and federal data tracking requirements.”⁴⁰ However, in practice, it appears diversion is often coerced and families are often not aware of the different options available to them. Further, federal and state child welfare law already provide an option for a voluntary agreement between a county agency and a parent in order to allow the parent to work toward reunification without having a formal petition filed with the court. Voluntary Placement Agreements (VPAs) must be voluntary, are time-limited, can be terminated at any time by the parent, and offer the parent and child services aimed at reunification while the child is cared for in the home of a relative or family friend.⁴¹ VPAs protect the due process interests of the parent and child, because they are limited in time, can be withdrawn or terminated by the parent at any time, and require the agency to take additional formal action if the child cannot be returned home within 180 days. They also protect the caregiver because custody is transferred to the caregiver, allowing them to make decisions on behalf of the child. Further, children in a VPA receive the rights associated with being in foster care, such as the right to remain in their school of origin, and these children are supported through a monthly foster care stipend.

In California, a VPA is the only legal option a child welfare agency has to facilitate an out-of-home placement outside of a petition filed with the juvenile court: An out-of-home placement of a minor without adjudication by the juvenile court may occur only when all the following conditions exist: (1) there is a mutual decision between the child’s parent, Indian custodian, or guardian and the child welfare department in accordance with regulations promulgated by the State Department of Social Services; (2) There is a written agreement between the county welfare department and the parent or guardian specifying the terms of the voluntary placement. The State Department of Social Services shall develop a form for voluntary placement agreements that shall be used by all counties.⁴²

Because there are only two legal ways for a county agency to separate a child from a parent in California, through a petition filed in the juvenile court or through a VPA, counties are opening themselves up to increased liability through the use of unsanctioned alternatives to the VPA. Safety plans or actions to move a child to a relative without any official and documented action means that the child welfare agency likely remains liable “because the state role in arranging hidden foster care placements could be viewed as a state-created danger; if a kinship placement in hidden foster care creates a danger for the child, the state created the danger by arranging the placement.”⁴³

³⁹ Karin Malm, Kristin Sepulveda, and Sam Abbott, *Variations in the use of kinship diversion among child welfare agencies: Early Answers to Important Questions*, *Child Trends* (2019), p. 2.

⁴⁰ Josh Gupta-Kagan, *America’s Hidden Foster Care System*, 72 *Stanford Law Review* (forthcoming 2020), p.7.

⁴¹ 42 U.S.C. section 672(e) - (g); CA Welf. & Inst. Code §§ 16507.4, 16507.5, and 16507.6.

⁴² CA Welf. & Inst. Code § 16507.4(b).

⁴³ Josh Gupta-Kagan, *America’s Hidden Foster Care System*, 72 *Stanford Law Review* (forthcoming 2020), p.40.

Solutions:

- Permit parents or children to seek court review of any safety plan or informal care arrangement that did not utilize the state-sanctioned VPA form either at the time the safety plan or informal care arrangement is initiated or at any time thereafter. “Providing a mechanism for parents to challenge a safety plan in court without triggering an abuse or neglect petition or removal would provide a more meaningful check on CPS agency authority while respecting the occasional benefits of safety plans. Parents should be able to insist on a court hearing to review a safety plan under the same standards that govern pre-adjudication removals.”⁴⁴
- Require delinquency courts to utilize VPAs when placement into the relative’s home is agreed to by the parent in order to provide for the temporary care and custody of the child. Absent a VPA, the delinquency court should be utilizing suitable placement orders to place children into the home of a relative and not utilize juvenile hall as a replacement for emergency placements orders.
- Require consent for any “voluntary” placement of an Indian child to occur before a judge in compliance with ICWA.

Avoiding Legal Limbo and Safeguarding Children While Promoting Family Choice

“Even though three misdemeanor child abuse charges were filed, somehow DCFS was not involved.”

“Other cases where they call CWS [child welfare services] and then the judge will say that CWS said there’s no problem and they didn’t open a case so there must not be a problem. Judges sometimes assume child welfare involvement means one thing or another, when CWS didn’t intend for that meaning. So, it isn’t always that CWS intended for that meaning and there isn’t communication between the court and the child welfare system. Both sides are assuming something is happening.”

“Even though juvenile court is scary – it’s built to protect child’s rights and parent’s rights and the perception of the community is not that. It is that it is a scary system and that the focus is on taking families away. Probate, like family court, is not equipped to handle the needs of the family and children. With probate, the challenge is that they are not working towards reunification with the children’s parents and there are situations where they can benefit from services and they have a right to reunify with their parents. And if they are going to reunify, then the caregivers are left without the financial support to be able to give these kids the childhood they deserve.”

⁴⁴ Josh Gupta-Kagan, *America’s Hidden Foster Care System*, 72 *Stanford Law Review* (forthcoming 2020), p.61.

RECOMMENDATION #5: Increase authority of the probate court to require the filing of a dependency petition

Issue: Currently, probate courts in California are not required to refer cases that involve allegations of parental unfitness or child abuse or neglect to the child welfare system for investigation.

Background: Under existing law, when a relative files a petition for the appointment of a guardian of a minor in probate court, a court investigator is required to make an investigation as well as file a report and recommendation with the court, unless waived by the court. If the investigation finds that any party to the proposed guardianship alleges the minor's parent is unfit, the probate court can, but is not required to, refer the case to the social services agency designated to investigate potential dependencies.⁴⁵

Solution:

- Require the probate court to refer cases involving allegations of parental unfitness or that involve the abuse or neglect of the minor to the county social services agency designated to investigate potential dependencies.⁴⁶
- Provide annual training to probate judges, child welfare professionals, and juvenile court judges on the obligation to refer cases that involve allegations of parental unfitness or abuse and neglect to child welfare for investigation.

"My overall experience with the caseworkers is that once the child is placed, their job is done, and they are non-responsive to your needs and concerns."

"There is a great disparity between kinship families that are not involved in the juvenile dependency system and those that are. These families do not have access to Kin-Gap, wrap around services, respite services that are fully paid for, and other supports that are offered to those families involved in the juvenile dependency system."

RECOMMENDATION #6: Require the juvenile court to independently review the decision by child welfare not to file a dependency petition and allow the juvenile court to assess imminent risk based on the circumstances of the child if they were to be in the home of the parent

Issue: Juvenile courts are not required to independently review the decision of a social worker not to file a dependency petition following an investigation required as a result of the probate court referring the case to child welfare. Further, even when the juvenile court exercises its discretion to independently review the decision, the juvenile court is limited in its authority to adjudicate a child under Welf. and Inst. Code § 300 or to require the dependency petition to be filed once a child has already been placed through a temporary guardianship in the relative's home.

⁴⁵ Prob. Code § 1513(b)

⁴⁶ Prob. Code § 1513(b) was amended after the decision in *Guardianship of Christian G.* (2011), 194 Cal.App.4th 581, which held that the Probate Court had a mandatory duty to refer cases involving allegations of abuse or neglect to CPS and that the referral is "intended for the benefit and protection of abused and neglected children."

Background: If the probate court refers a case to the social services agency, Welf. and Inst. Code § 329 directs the social worker to immediately investigate the referral as he or she deems necessary to determine whether proceedings in the juvenile court should be commenced. If the local child welfare agency determines that the case does not fall within Welf. and Inst. Code § 300, or, perhaps more likely, that the case does fall under Welf. and Inst. Code § 300 but that there is no longer any imminent threat of harm to the child because the child now resides with a relative, the child welfare agency is not required to initiate a dependency proceeding.

The juvenile court has discretion, but not the obligation, to review the social worker's decision not to file a petition. Even when the juvenile court exercises its discretion to review the social worker's decision, the juvenile court is limited in its independent review of the case. According to the California Court of Appeal, the juvenile court must determine two things in its independent review in order to compel the finding of a petition. First, the juvenile court must determine that the child falls within Welf. and Inst. Code § 300. If the child does fall under Welf. and Inst. Code § 300, the juvenile court must further find that a dependency petition is required to protect the child.⁴⁷ However, if the probate court has already taken action to provide for the temporary custody needs of the child by granting a temporary guardianship, then the child is determined to no longer be at risk of harm.⁴⁸

If, instead, the probate court determines that the child would benefit from reunification services and supports through the juvenile court and therefore does not grant a temporary guardianship in order to avoid the holding in *Kaylee H.*, the child and caregiver are left in legal limbo until the child welfare agency completes its investigation and until some court finally takes action.

The end result is that caregivers who accept temporary guardianship of a child at the urging of a child welfare worker may not have any recourse to ensure the parent and child can receive appropriate services and supports through the foster care system. Alternatively, these families may risk further harm to the child by failing to seek a temporary guardianship, as there is nothing stopping a parent from reclaiming the child until the child protective agency takes official action or a guardianship is ordered. It's a catch-22 for families that the law does not resolve.

Solution

- Require the juvenile court to independently review the decision any time a social worker determines not to file a petition after an investigation pursuant to Probate Code § 1513(b).
- Clarify that granting a temporary guardianship through probate court is not considered to be the establishment of a suitable custodian or a determination that the temporary guardian is able to protect the child from the risk posed by the parents' behavior permanently.
- In the juvenile court's independent review of the social worker's decision not to file a dependency petition, the court must determine: (1) Whether the family would benefit from reunification, a Welf. and Inst. Code § 360 legal guardianship, or other child welfare services; (2) Whether the parent or child objects to the guardianship that was proposed in the probate court or to the temporary guardianship ordered by the probate court; (3) If a temporary guardianship was established, whether the temporary guardian served as the caregiver for the child prior to the initiation of the guardianship proceeding or any child protection investigation; and (4) The length of time that

⁴⁷ *In re Kaylee H.*, 205 Cal.App.4th 92 (2012).

⁴⁸ *Id.* (the Court of Appeal held that it was an abuse of the juvenile court's discretion to order a dependency petition filed "if the guardian is a suitable custodian and able to protect the child from the risks posed by the parent's behavior" even though the juvenile court's reason for requiring the petition to be filed was because the juvenile court had mechanisms to help the parent reunify and the parent did not have access to court-appointed legal counsel in probate court.

the child has resided in the home of the relative or with the temporary guardian, if a temporary guardianship was established.

- If the court determines that the juvenile court is best able to serve the family and protect the child, the juvenile court shall order the social worker to commence juvenile court proceedings.
- If the court determines both the parent and caregiver both agree that they desire guardianship and the parents do not desire to reunify, and the parent and child were represented by counsel in making that decision, then the court can order a guardianship pursuant to Welf. and Inst. Code § 360(a) (see below).

“The kinship families feel that the children are left in their care in order to close a referral and avoid court proceedings, however, with lack of regard for the resources that the caregivers will require to turn their lives inside out and make a safe place for children to adjust to a new life and heal their trauma.”

“Four children were placed through DCFS and I eventually received guardianship. The first two children were placed through probate court, they were neglected, and I contacted DCFS and a social worker told me to take them to probate court (being that I was naïve about how the system worked back in 2004) I did, and it was the worst mistake. I have been having trouble with services and resources for those two children ever since, the only services I qualified for were public assistance which is known as CalWORKs and CalFresh. The other four children of whom was {sic} placed years later were through DCFS and the wealth of services/resources that were available to those four children really helped them as time passed.”

RECOMMENDATION #7: Increase use of Welfare and Institutions Code § 360(a) guardianships

Issue: California law allows for juvenile courts to order guardianship in lieu of ordering a child into a foster care placement, protecting parental choice and family integrity for those parents who do not wish to receive reunification services and want an alternative plan for their child. However, these types of guardianships are not widely utilized. Instead, relatives are encouraged to seek guardianship in probate court, despite the fact that the probate court is not equipped to adjudicate cases involving child abuse and neglect.

Background: California law includes a mechanism by which a juvenile court can find that a child comes within Welf. and Inst. Code § 300 but not order the child into foster care, as long as the parent is not interested in family maintenance or family reunification services.⁴⁹ This provision of law overcomes the argument that allowing counties to divert families to probate court is necessary to preserve family integrity and decision-

⁴⁹ *“Notwithstanding any other provision of law, if the court finds that the child is a person described by Section 300 and the parent has advised the court that the parent is not interested in family maintenance or family reunification services, it may, in addition to or in lieu of adjudicating the child a dependent child of the court, order a legal guardianship, appoint a legal guardian, and issue letters of guardianship, if the court determines that a guardianship is in the best interest of the child, provided the parent and the child agree to the guardianship, unless the child’s age or physical, emotional, or mental condition prevents the child’s meaningful response. The court shall advise the parent and the child that no reunification services will be provided as a result of the establishment of a guardianship. The proceeding for the appointment of a guardian shall be in the juvenile court. CA Welf. & Inst. Code § 360(a).”*

making about where their children should live. This is particularly true because there is no requirement that the relative be approved as a resource family or be required to complete Resource Family Approval to become the guardian under Welf. and Inst. Code § 360(a). Thus, if the parent does not object to the guardianship, there is no reason to refer the caregiver to the probate court because the juvenile court can order the guardianship without adjudicating the child a dependent and without requiring the relative to go through the arduous resource family approval process. Conversely, if the parent does object to the guardianship, it is a violation of the parent and child's due process rights for a child welfare agency to refer a case to probate court and avoid the protections of the child welfare system.

Given that juvenile courts have the authority to order guardianships in lieu of dependency and given that juvenile court judges are trained in child welfare law and are thus better able to assess the facts of the case and engage the parent to ensure they truly understand their rights, guardianships in lieu of a dependency case should go through the juvenile court and not the probate court. Further, by routing cases through the juvenile court which may qualify for a guardianship order, the parents would have access to legal counsel through the process of deciding whether to seek reunification or consent to the guardianship. The child(ren) would likewise have legal representation and be meaningfully advised and heard during the court process.

Solution⁵⁰:

- If following the juvenile court's review the court determines that the child falls within Welf. and Inst. Code § 300 but the parent(s) do not desire to reunify and consent to the guardianship, following the assistance of and representation of counsel, the court can order a guardianship pursuant to Welf. and Inst. Code § 360(a).

"Nothing except Medi-Cal for the first three years. We did not know we were eligible. It was very hard. We felt very isolated as we were not seniors and did not know about the programs just beginning to be put into place. It seems that, at least 10 years ago, the outreach was to seniors or caregivers already in the system in some way."

"There are not enough funds to help us with kids going back to school. It's expensive to feed, clothe them for school. We need more funds in general. I wish CalWORKs would increase their funds to kinship families."

RECOMMENDATION #8: Fund all guardianships ordered pursuant to Welfare and Institutions Code § 360(a)

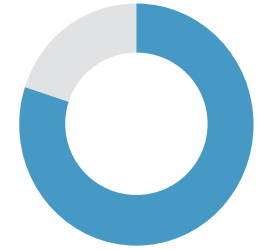
Issue: Not every guardianship that is ordered through the juvenile court is eligible to receive subsidized guardianship funding through either the Kinship Guardianship Assistance Payment Program (Kin-GAP) or through the AFDC-FC (foster care benefits) program. Specifically, those individuals who are granted a guardianship pursuant to Welf. and Inst. Code § 360(a), which occurs when the parent consents to the guardianship and does not desire reunification or family maintenance services, are ineligible for support unless

⁵⁰ The solutions for recommendations #6 and #7 are the same because the end result is that cases that involve abuse and neglect are properly adjudicated by the juvenile court and the probate courts should be relieved of the responsibility of deciding matters that involve fundamental rights of parents in cases involving abuse and child separation. Further, matters that go through juvenile court can be appropriately connected to the supports and services available through the child welfare system.

the child was previously living with the relative for six consecutive months through a Voluntary Placement Agreement (VPA).⁵¹

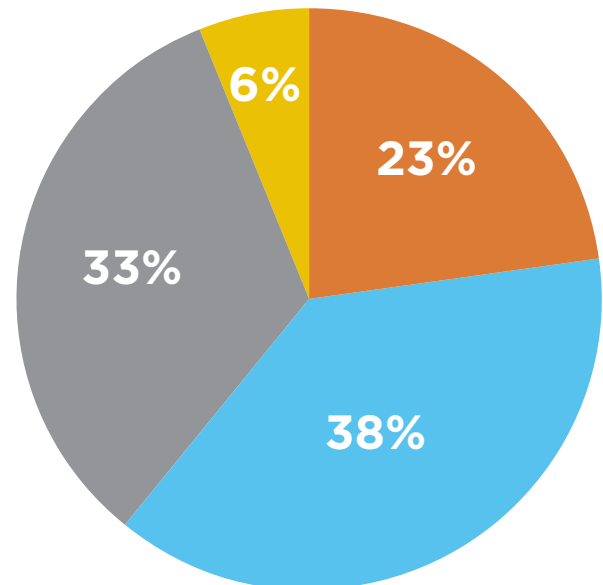
Background: A Welf. and Inst. Code § 360(a) guardianship permits a child who has experienced abuse and neglect and has been found to come within Welf. and Inst. Code § 300 to avoid coming into foster care if the parent is not interested in family maintenance or reunification, agrees to the guardianship, and the guardianship is found to be in the child’s best interest. In these circumstances, it is unusual for the Welf. and Inst. Code § 360(a) guardianship to be preceded by six months of a Voluntary Placement Agreement. And yet, only those children who spend six months in a VPA with the relative can receive subsidized guardianship funding once the Welf. and Inst. Code § 360(a) guardianship is ordered.

The purpose of the state-funded Kin-GAP program is to “enhance family preservation and stability” for children when there is “no need for continued governmental intervention in the family life through ongoing, scheduled court and social services supervision of the placement.”⁵² The state-funded Kin-GAP program was maintained even after federal funding became available to offset the cost of subsidized guardianships because the state recognized that there would be children who would need the support of the subsidized guardianship program who would not be eligible for federal reimbursement. The requirement that a child has to be living in the home of a relative through a foster care placement or a VPA for six consecutive months comes from federal law.⁵³ The presumption under federal law is that children are separated from a parent through either a VPA or a petition filed with the juvenile court.⁵⁴ In California, juvenile courts are permitted to order guardianship in lieu of adjudicating the child a dependent of the court, as long as the parent has consented to that arrangement. Given that these children are otherwise identical to the group of children who are provided Kin-GAP support (i.e., they were found to have been abused and neglected, they are being separated from a parent, legal permanency is established, and the goal is to enhance family stability), they should be eligible for funding through the Kin-GAP program. Failure to comply with the federal rules would mean that the state could not claim federal reimbursement for those guardianships. However, California has a state-only Kin-GAP program in order to provide subsidized guardianship funding for those families



80% of service provider survey respondents do not think kinship families receive the necessary level of financial support to thrive.

FIGURE 3: The current structure of support and benefits available for kin caregivers reflect the national priority and practice to place a child with a relative



- Completely Disagree
- Disagree
- Agree
- Completely Agree

⁵¹ “On and after the date that the director executes a declaration pursuant to Section 11217, if the court appoints an approved relative caregiver as the child’s legal guardian, the child has been in the care of that approved relative for a period of six consecutive months under a voluntary placement agreement, and the child otherwise meets the conditions for federal financial participation, the child shall be eligible for aid under the Kin-GAP Program as provided in Article 4.7 (commencing with Section 11385) of Chapter 2. The non-federally eligible child placed with an approved relative caregiver who is appointed as the child’s legal guardian shall be eligible for aid under the state-funded Kin-GAP Program, as provided for in Article 4.5 (commencing with Section 11360) of Chapter 2.” CA Welf. & Inst. Code § 360(a).

⁵² CA Welf. & Inst. Code § 11361.

⁵³ 42 U.S.C. § 672(d)(3).

⁵⁴ As a result of FFPSSA, states seemingly have an additional mechanism to separate a child from a parent by utilizing a “prevention plan” and avoiding a foster care placement; although, these children would not have access to federal subsidized guardianship benefits, as federal law still requires a child to be separated through a VPA or a petition with the juvenile court before they can access guardianship payments.

that do not qualify for the federal Kin-GAP program.

Solution:

- Amend Welf. and Inst. Code § 360(a) to allow for the provision of state-only Kin-GAP benefits to any child who has a guardianship established under Welf. and Inst. Code § 360(a), regardless of the amount of time the child was residing in the relative's home or whether a VPA was in place prior to the establishment of the guardianship.
- In order to be able to claim federal funds for the subsidized guardianship payment, amend Welf. and Inst. Code § 360(a) to allow the juvenile court to order a VPA in lieu of a guardianship in situations where the parent does not wish to receive reunification services and consents to the placement of the child with the relative. After six months in a VPA, the juvenile court can order the guardianship pursuant to Welf. and Inst. Code § 360(a) and federal reimbursement for the subsidized guardianship payment would be available.

“. . . many of the caregivers I work with would not pass RFA due to prior criminal convictions, CPS history, or simply not meeting the space requirements for children. The uncertainty about whether a caregiver would pass RFA has also convinced many caregivers to not seek assistance through CPS.”

“After three years of going to court attempting to get them placement in my home from foster care, the judge finally allowed them to be placed in my home.”

RECOMMENDATION #9: Continue child welfare reforms to ensure that kinship caregivers can be fully licensed and approved within the foster care system

Issue: For a child to be placed into a relative's home through a formal foster care placement, the home must be approved as a resource family. Although children can be immediately placed with a family member through an emergency placement, and the RFA process initiated after the placement, emergency placements are not always allowed, particularly if a county worker believes that the individual might not meet RFA standards. Although there is flexibility in law to allow social worker discretion to place into a relative's home (i.e., using criminal exemption waivers) and utilize alternative mechanisms for approving that home (i.e., child specific approval), in practice, this flexibility is not utilized consistently across the state. Barriers to immediately connecting children to their relatives and to approving relatives as foster placements only increases the incentives to divert children away from foster care.

Caregiver survey respondents with formal foster placements received the most training and had the highest positive sentiment about financial supports out of the five arrangement groups.

Background: RFA is intended to be a family-friendly and child-centered caregiver approval process that eliminates duplication of existing processes to approve families. However, in practice, RFA has created bureaucratic hurdles to connecting children to relatives in a timely manner, supporting those relatives through the approval process, and completing approval in a timely and efficient manner. In addition, because the RFA process requires a more extensive family evaluation that allows the family to be approved as both a foster and adoptive home at the point of approval, many counties are interpreting approval standards in a manner that results in relatives being denied, even though there are exceptions in law and policy to ensure that relatives can be approved to care for their kin. Relatives who could gain approval to care for a child through the formal foster care system under the Adoption and Safe Families Act (the federal law that sets

forth the basic health and safety standards a home must meet to be able to receive federal funding) are now being denied as resource families. Because RFA increases the burden on families to gain approval and has resulted in many families being screened out and denied approval, the incentive to divert children away from foster care (and, in turn, deprive them of their basic due process rights, ability to reunify, and critical services and supports) is heightened.

Solution:

- Improve RFA processes to ensure that kin families can complete RFA:
 - Revise child specific approval policy to require approval of families as long as basic health and safety standards are met and placement with that relative is in the best interest of the child.
 - Create a timeline for consideration by the court of a relative's request for placement and an appeal system to ensure a relative who is denied placement of a family member can expeditiously appeal that denial.
 - Clarify that capacity alone cannot be the basis for denying placement of siblings together in a relative's home.
 - Create a rebuttal presumption in the law that if the relative was considered a safe home for the child in hidden foster care then that relative can be approved to care for the same child through a formal foster care placement (counties would have to provide clear and convincing evidence of a relative's inability to be approved as a formal foster care placement that would not have otherwise disqualified them for caring for that child outside of formal foster care).
 - Streamline emergency placement procedures and ensure these processes apply to all youth, including youth in the probation system, to ensure that children can be connected to a known family member within 24 hours of being separated from a parent.
 - Increase training of RFA workers and county welfare workers across the state to improve understanding of the options to approve a relative's home available in RFA and the intent of such options to ensure children can remain connected to family and community.

Tracking Progress and Moving Toward Holistic Reform

“There is a woefully inadequate system of getting necessary information on services available and resources to kinship families. This is particularly glaring in the area of the education system. This is particularly disturbing as so many of the children in kinship care have special needs and mental health challenges, some of which become permanent in the absence of early intervention. I speak from first-hand experience.”

“I think the system often treats kinship like second hand citizens and is blind to the additional complications the families must endure.”

RECOMMENDATION #10: Enhanced data collection

Issue: California does not track the number of cases that are diverted away from foster care. “Such data reporting is important everywhere, and especially in states using flexible federal funding pursuant to the Family First Act, lest removals via safety plans become a way for states to use federal dollars to prevent foster care without preventing children’s removals.”⁵⁵ Further, “states interested in the well-being of vulnerable children would be well advised to develop mechanisms that, at a minimum, track the incidence of children served by

⁵⁵ Josh Gupta-Kagan, *America’s Hidden Foster Care System*, 72 *Stanford Law Review* (forthcoming 2020), p.63.

state mediated programs to better understand patterns of family care that include state involvement.”⁵⁶

Background: The precise number of children diverted to a relative’s home through the urging of the child welfare system is unknown, further mystifying the scope of hidden foster care. Additionally, no one knows what happens with these children and families once the diversion has occurred. When a child enters foster care, counties collect data on the number of placement changes, the time it takes to achieve reunification or legal permanency, health and educational outcomes, how many of those youth are placed together with their siblings, and placement stability over time. There is no similar data gathered on behalf of those children diverted to a relative’s home. And, without access to supports and services to address the trauma that alerted the child welfare system to the child and family in the first instance, there is continued risk to the family. However, there is no data kept determining how many of these youth end up coming into foster care at some point in the future due to a failure to meet the needs of the child and caregiver. Nor do we have information on how many of these youth end up homeless or involved in other systems, like the juvenile justice system. Child safety is also not tracked, and it is unknown how many of these children achieve legal permanency or return to unsafe environments.

Solution:

- Collect targeted data, as California has one of the best data networks in the country and tracks the experiences and outcomes of youth in foster care. California should expand its data network to “track the number of cases in which [county] actions lead to parent-child separations without formal foster care, and what happens to affected children and their families.”⁵⁷
- Implement tracking mechanisms in the probate court system specifically, as most hidden foster care cases are presented there, and expand it to include the dependency and family courts as well.

Data that should be tracked includes:

- Children moved to a relative via a voluntary placement agreement;
- Children moved to a relative through other child welfare involvement;
- Entry into foster care within six months, 12 months, 18 months, and 24 months following a voluntary placement agreement, and
- Entry into foster care within six months, 12 months, 18 months, and 24 months following a safety plan.
- Reunification following voluntary placement agreement.
- The number of days youth spend in detention awaiting a placement.

“I believe that juvenile court should have jurisdiction whenever there is a child that isn’t being cared for by the parent. Period.”

“One court that dealt with all children – my perfect world.”

RECOMMENDATION #11: Create a children’s court to unify probate, delinquency, family, and dependency courts and concentrate children’s advocacy issues into a single court

Issue: Some families experience “legal limbo” when a child’s case is suspended between a dependency court and a probate court without either taking jurisdiction as allegations are investigated or placement is contested. Kaylee H., along with the 2012 amendments to Probate Code § 1513 and Welf. and Inst. Code § 329 (AB 1757; Stats. 2012, Ch. 638), have eroded Guardianship of Christian G.’s determination that family members do not “have the right to pursue a different judicial path [i.e., probate court] to guardianship of

⁵⁶ Jill Duerr Berrick and Julia Hernandez, *Developing consistent and transparent kinship care policy and practice: State mandated, mediated, and independent care*, 68 *Children and Youth Services Review* (2016), p. 31.

⁵⁷ Josh Gupta-Kagan, *America’s Hidden Foster Care System*, 72 *Stanford Law Review* (forthcoming 2020), p.6.

an abused or neglected child than would be pursued if the abuse or neglect came to the county's attention ... they must cross the bridge into juvenile court." Further, children adjudicated through the delinquency system who are also in need of placement outside the home of a parent are often denied the protections and supports of foster care because the case is not appropriately adjudicated and children are released to relatives who are not their parent.

Background: Juvenile dependency cases are the jurisdiction of the dependency court – the court tasked with focusing on the care and custody of children who do not have a safe home in which to live and are in need of alternative care. The dependency court has the authority to remove a minor from the parents' custody for the child's well-being and safety. The other courts that deal with issues of child safety and custody are intended to serve other purposes, but it is often the child's safety concerns that have led to their appearance before these separate tribunals. For example, the probate court is intended to establish custody for children who have been orphaned, not to adjudicate cases alleging parental unfitness or abuse. Further, the probate court can only grant a probate guardianship if the child is not involved in a family court or juvenile court action. Similarly, the delinquency court is intended to deal with cases involving status offenses or the criminal acts committed by a minor, but these cases are infinitely more complicated when the child accused of the crime does not have a safe home to return to and is, themselves, the victim of abuse and neglect.

A 2008 report by the Judicial Council of California notes that "cases involving families and children are some of the most complex and sensitive matter that courts hear" and that unification can provide "increased levels of public trust and confidence in the courts," "increased service coordination and referrals," "greater court-community collaboration," and "more informed judicial decision making."⁵⁸

Solution:

Create a children's court to replace probate, family, delinquency and dependency courts to concentrate children's advocacy issues in a single court thereby taking advantage of the expertise of all court-related personnel, including judges, minors' and parents' counsel, and caseworkers. This would avoid unintentional legal limbo, ensure the due process rights of the child and parent are accounted for, and provide children and families access to the full panoply of services, funding, case management, and general support available through the child welfare system.

⁵⁸ *Judicial Council of California/Administrative Office of the Courts, Unified Courts for Families: Improving Coordination of Cases Involving Families and Children (2008)*, available online at <https://www.courts.ca.gov/documents/ImprovingCoordination.pdf>.



CONCLUSION

The complexity of the foster care system is evident in the myriad of circumstances that lead to children being placed in kinship care, and this report aims to demystify the practice of diversion from foster care and the scope of hidden foster care. This is a work in progress to weave together the lived experience of those in the hidden foster care system in California with the limited data available and the firsthand insights of impacted families and experts to provide clarity and transparency to the existing network of supports and services.

Moving into the second year of this partnership, the overarching goal continues to be a child-centered system, where each child receives services, funding, and support commensurate with their needs. To achieve this goal, we will build on our learning about the practice and impacts of hidden foster care, and we will work to create policies, practices, and institutional cultures that give kinship caregivers the best opportunity to provide stable, loving homes, parents the necessary assistance to work toward reunification when possible, and children being raised by relatives the services, funding, and support to meet their individual needs.

California is well-positioned to meet the individualized needs and circumstances of children, parents, and caregivers to provide an accessible, equitable, and positive foster care system for all.

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Jill Duerr Berrick, *Zellerbach Family Foundation Professor, School of Social Welfare, U.C. Berkeley*

Mariel Cepeda, *Marketing & Events Manager, Lincoln*

Laura Delehunt, *Deputy District Attorney, Contra Costa County*

Tondra Gardner, *Crystal Stairs, Inc.*

Dafna Gozani, *Policy Attorney, Youth Justice Institute, National Center for Youth Law*

Carolyn Griesemer, *Executive Director,*

and Maria Diaz, *CLS4 Conflict Staff Attorney & Special Projects Manager, Children’s Legal Services of San Diego, Inc.*

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Antoinette Harris, *Regional Manager, Uplift Family Services*

Erica Hickey-Smith, *Policy Coordinator, VOICES Youth Center*

Donna Moore, *Kinship Program Director,*

and Cheryl Smith, *Chief Executive Officer, Family Support Services*

Grisel Morales, *Manager of Care Coordination, Partners for Children South LA*

Kimberly Murphy, *Director of Social Services Programs, A Better Way, Inc.*

Erik Nix, *Analyst, Lincoln*

Pam Plimpton, *Intergenerational Coordinator, Aging & Independence Services, County of San Diego Health & Human Services Agency*

Khea Pollard, *Policy Advisor/Community Representative, Office of Vice-Chairman Supervisor Greg Cox, San Diego County Board of Supervisors, District 1*

Carol Ramirez, *Chief Operating Officer, Lilliput*

Glenda Roberts, *Kinship Program Coordinator, West Contra Costa Youth Service Bureau*

Anabel Rodriguez, *Kinship Support Services Program Supervisor,*

and Dynell Garron, *Community Based Program Director, Lincoln*

Delia Sharpe, *Executive Director, California Tribal Families Coalition*

Norma Smith, *Program Director of Family Ties/Child & Family Team Partnership, Kinship Center, Seneca Family of Agencies*

David White, *Guardianship Project Lead Attorney,*

and Jen Daly, *Dependency Project Lead Attorney, Legal Services for Children*

DRAFT

JANUARY 2020

Good morning. My name is Ana and my family has experienced both foster care and hidden foster care. In 2012, the child welfare agency picked up my nieces and nephew at school and then dropped my oldest niece, who was a senior in high school at the time, off at her house before taking the other 3 children to the Polinsky Children's Center to start the process of placing them into foster care resulting in two of my nieces and my nephew being formally placed into my home. My oldest niece also came to live with us, but was never placed in our home through foster care. I was willing to provide a home to all of them and didn't understand the ramifications of the different ways they came to live with us at the time.

Placement through foster care for my younger two nieces and my nephew was in no way perfect – particularly in the days when we received less support simply because we were relatives. But, because they were in foster care, they were offered key supports that were important to my family. I became the guardian for my youngest my niece and because she had been in foster care in our home, I was able to get Kin-GAP funding once we were her guardians. My middle niece who was formally placed in our home qualified for extended foster care when she

turned 18. As a result, she went into a transitional housing program where she received the supports and services to help her transition to independence while still having our emotional support and knowing that we are always her family.

I also have seen what happens when children are denied these services and fall through the cracks of these systems. The lack of a formal foster care placement was devastating for my oldest niece. As soon as she graduated from high school, I was told by our social worker that she had to move out because the county considered her a risk to the other children because of her violent outbursts - we had to ask her to leave our home because the county would have taken the other children away. Because she was not in foster care, she did not qualify for extended foster care and she lost her Medi-Cal. It was a terrible feeling to be helpless to do anything for her. And, it took her years to begin healing from her trauma and get back on her feet.

My nephew, who was initially placed in our home, also fell between the cracks of the system. All 3 children placed through foster care received reunification services while they were living with us and my nephew actually reunified with his

father and lived with him for about 4 years. Unfortunately during that period, he got arrested and went to juvenile hall. We were called on to step up once again. By this point, my nephew had a lot of issues. You could tell he was very emotionally damaged. He was struggling with mental illness and had not been getting any help. He was placed on probation and released to our home. Now that I know more, I realize that the way he came to us was a Home of Parent Order, even though we were not the parents. He was not placed in our home by the Probation Department. He was simply released to us.

He was signed up in his school as a homeless student because the school did not consider us to be his caregiver. We didn't really have any rights to advocate for his needs because we were not actually the parents and there was no formal placement. I tried to enroll him in Medi-Cal, but I couldn't do that either. I was told by a probation officer to get a guardianship so that he could be put on insurance through our private insurance. That seemed wrong to me – it seemed like my nephew should be able to receive Medi-Cal. But, we couldn't get anyone to help us get him the supports he needed.

We did our best to support him, but without any funding and without any access to mental health services, we were stymied. Before long, he got locked up again. When they released him to us the second time, I felt like he had slipped even further away. I kept asking his probation officers to help us and, finally, one of them agreed to request a special hearing to start the process to be approved as a resource family so that I could actually be his placement - there was no such thing as resource family approval when I took in my nieces. I started the classes to be approved, but in the meantime I still didn't get any support for my nephew and he desperately needed mental health services.

I had one class left to go for RFA approval, but was then told by the RFA probation officer that the court was prepared to close his probation case if my nephew finished the terms of his probation. She said RFA wouldn't do any good because once they closed the case he wasn't eligible for a foster care placement.

Essentially, because he had never been in placement with us, whatever happened to him once they closed his probation case was not their responsibility.

However, at his next court hearing it was determined he did not successfully meet the terms of probation. They wanted to release him back to me but, knowing that

there would be no support coming if he returned to our home, I signed a statement saying that I couldn't meet his needs and that he belonged in a residential facility. I didn't want to do that. I wanted him to be with us. But, without any support, we couldn't meet his needs. So, my nephew went to a group home and after a short time there, ran away. He was homeless when he turned 18, but because he technically had a foster care placement in a group home, he actually qualifies for extended foster care.

What happened to my oldest niece and nephew shouldn't have happened. But, because the dependency system never opened a case for my niece, likely because they thought she was too close to turning 18, and because the delinquency system treated us as a parent and refused to place in our home, my nephew was denied services and supports for years. I fear that at this point, any thing that is offered may be too little too late.

I am so glad that this discussion around hidden foster care is happening today because it is critical that our systems that are supposed to serve children who have experienced abuse and neglect be reformed to deliver that support.

Families like mine cannot do this alone – we're asking for help in the way of supports and services to provide opportunities for these young people.



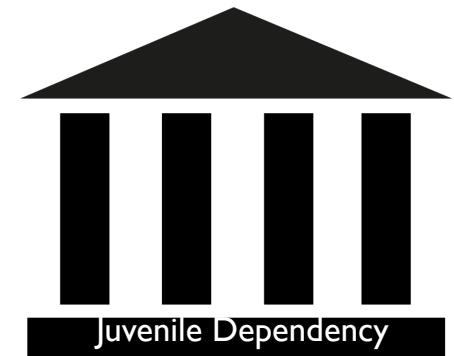
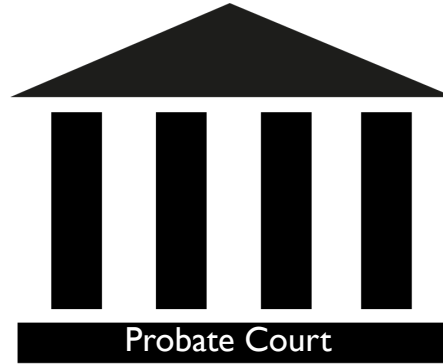
THE HUMAN IMPACT OF BYPASSING FOSTER CARE FOR AT-RISK CHILDREN

SOUTHERN CALIFORNIA POLICY SUMMIT

HOW DOES HIDDEN FOSTER CARE OCCUR IN CALIFORNIA?

UNDERSTANDING INTERPLAY &
LOOPHOLES BETWEEN THE COURT
SYSTEMS THAT CONTROL CHILD
CUSTODY DECISIONS

A TALE OF THREE COURTS



FAMILY COURT



Purpose of Family Court

Assist families with the litigation of domestic disputes, including the health, safety, and welfare of children.

Ensure children are exposed to frequent and continuing contact with both parents after the dissolution of marriage or end of a relationship.

Encourage parents to share their parental rights and responsibilities as co-parents.



What do parents receive?

Judicial review and orders on their domestic disputes, including child custody orders.

Due process rights - notice, an opportunity to be represented by an attorney (not court appointed), court mandated family counseling, and the opportunity to advocate for their children's best interest.



What do children receive?

No Due Process rights as children are not parties to family court matters.

No automatic right to an attorney unless one is appointed by the court upon its own motion or motion of the parties.

No right to be heard on issues that will affect their lives.

No right to services or reunification with a noncustodial parent.



What do caregivers receive?

Non-parent caregivers, often relatives, may be granted custodial rights.

Services and financial assistance for the children are limited. They may petition for child support and/or qualify for CalWORKs.



What is the goal of the system?

Establish custodial arrangements between parents and order child support

Do not focus on reunification of the child with their parent(s) nor provide for procedural safeguards such as appointment of counsel for the child and parents.

PROBATE COURT



Purpose of Probate Court

Appoint legal guardians for children in cases wherein they are orphans or children of absent parents



What do parents receive?

Notice of Petition for Guardianship.

Parents are afforded other due process rights, including the right to be represented by an attorney but are not appointed counsel.



What do children receive?

No Due Process rights as children are not parties to the probate case (kids 12 and over can petition Probate Court for guardianship themselves).

No automatic right to an attorney unless one is appointed by the court upon its own motion or motion of the parties.

No right to be heard on issues that will affect their lives.

No right to services or reunification with their parents.



What do caregivers receive?

Relative caregivers granted guardianship can receive CalWORKs (they can also receive CalWORKs without the guardianship being established)

Non-relative caregivers granted guardianship through probate can receive AFDC-FC benefits.



What is the goal of the system?

Establish custodian of child in cases where both parents were deceased or absent. Probate courts do not focus on reunification of the child nor provide for procedural safeguards such as appointment of counsel for the child and parents because probate court guardianships historically were limited to cases where the parents were deceased or absent.

JUVENILE DEPENDENCY COURT



Purpose of Juvenile Court

To provide maximum safety and protection for children who are currently being abused, neglected, or exploited and to ensure their well-being

The focus is on the preservation of the family



What do parents receive?

Parents receive formal supports including the services of an appointed attorney to enforce their constitutional due process rights, a caseworker and subsidized services tailored to assist them in preserving their family and remedying the child safety issues that exist.



What do children receive?

Children appointed counsel representing their interests and advocating for their protection, safety, and well-being.

The child's constitutional rights to preserve familial relationships are protected by ensuring reasonable efforts were made prior to their removal, they receive adequate visitation with parents and siblings, and a focus on family reunification.

Statutorily protected rights such as education and mental health services are triggered.



What do caregivers receive?

Relative caregivers receive emergency caregiver funding until approved as a resource family and then receive foster care benefits including specialized care to support a child's additional needs.

Respite, funding to transport the child to their school of origin, emergency child care bridge, and training.



What is the goal of the system?

Keep minors with their families and make the families stronger.

If the minor is removed from the home to protect safety and well-being, the court will work with the family and the minor to improve the home conditions so the child can move back home.

If the minor is removed from the home, the court will make sure that someone has custody of the minor. The minors will get the care and discipline they need to be safe and protected.

IS HIDDEN FOSTER CARE AUTHORIZED IN STATUTE?

- An out-of-home placement of a minor **without adjudication by the juvenile court** may occur only when all of the following conditions exist:
 - (1) There is a mutual decision between the child's parent, Indian custodian, or guardian and the county welfare department in accordance with regulations promulgated by the State Department of Social Services.
 - (2) There is a written agreement between the county welfare department and the parent or guardian specifying the terms of the voluntary placement. The State Department of Social Services shall develop a form for voluntary placement agreements that shall be used by all counties. The form shall indicate that foster care under the Aid to Families with Dependent Children program is available to those children. **WIC §16507.4(b)**
- Probate Courts can require child welfare to investigate cases that involve allegations of parental unfitness or where the child appears to have suffered or be at risk of abuse or neglect. **Probate Code § 1513(b)**

THREE OPTIONS WHEN A COUNTY IS SEPARATING A CHILD FROM A PARENT

Voluntary Placement Agreement

- VPAs limited to 180 days
- Parents provided support/services aimed at reunification while child is placed through VPA
- Funding available to support child/caregiver in a VPA

360(a) Guardianship

- After receiving and considering evidence for disposition of the case
- Parent must agree and are provided counsel
- Funding through Kin-GAP if guardianship follows 6 months of VPA

Removal of child by court and placement into foster care

- Reasonable efforts finding
- Parent provided counsel
- Relatives are preferred placement
- Emergency Caregiver funding
- Child-specific approval through RFA

Voluntary Placement Agreements

Definition	“voluntary placement agreement’ means a written agreement, binding on the parties... between the State agency, any other agency acting on its behalf, and the parents or guardians of a minor child which specifies, at a minimum, the legal status of the child and the rights and obligations of the parents or guardians, the child, and the agency while the child is in placement.” WIC 11400(o)
County Discretion in Creating VPAs or Safety Plans?	No. The VPA must be in accordance with the state regulations promulgated by CDSS and must utilize the VPA form created by CDSS. WIC 16507.4(b).
Who consents?	Agreement between parent/guardian and child welfare agency utilizing the SOC 155 (or the SOC 155C for an Indian Child)
Care, custody & control	Child’s placement into a VPA and care, custody and control transfers to child welfare agency
Funding	Children placed in a VPA are eligible for federal foster care maintenance payments or state foster care payments when the child is not federally eligible
Time limits	Limited to 180 days unless there is a judicial determination (within the first 180 days) that placement is in the best interests of the child
Right to terminate	Parent has right to terminate or withdraw from the VPA at any time

How do VPAs End?

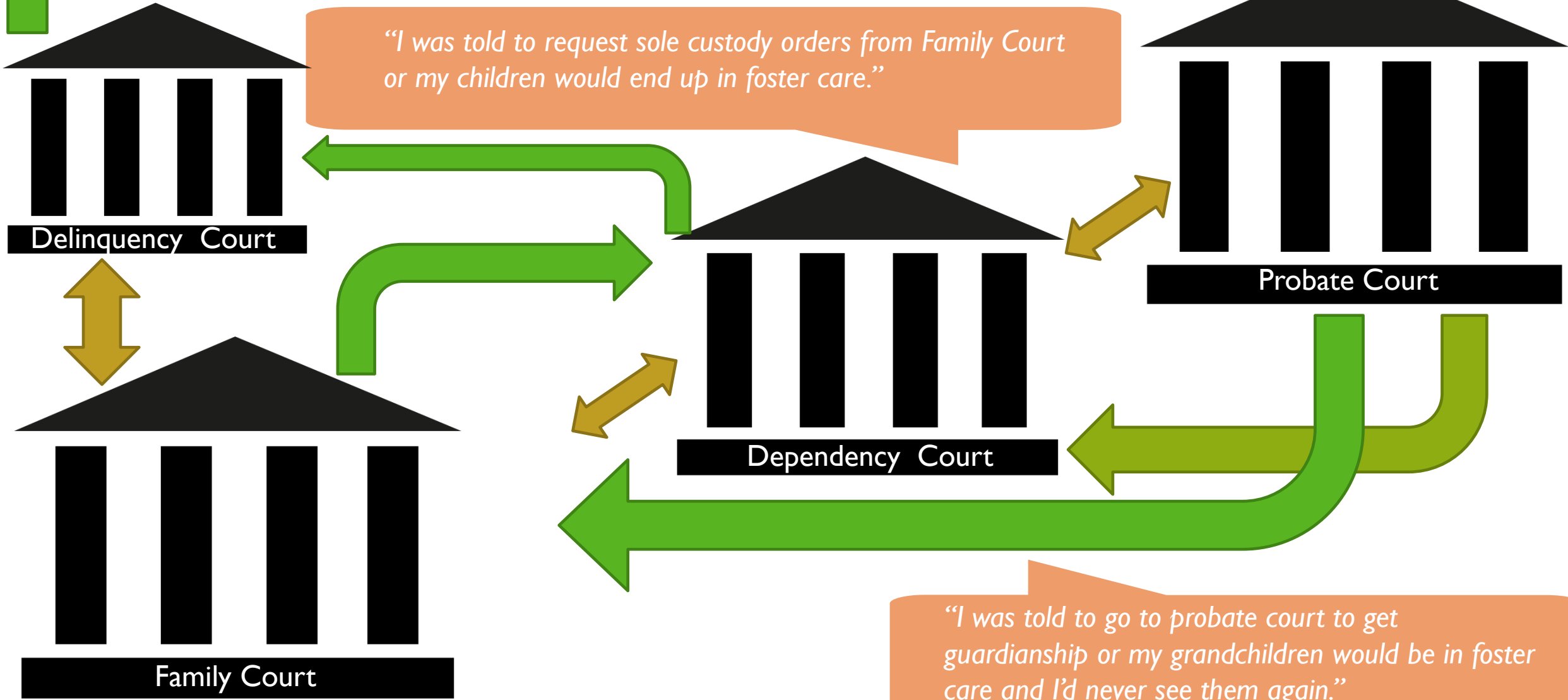
If a minor has been voluntarily placed and the minor has remained out of their physical custody for a consecutive period not to exceed 180 days or at least 90 days before the minor attains 18 years of age, the department shall do one of the following:

- Return minor to the physical custody of their parents or guardians.
- Refer minor to a licensed adoption agency for consideration of adoptive planning and receipt of a permanent relinquishment of care and custody rights from the parents pursuant to § 8700 of the Family Code.
- Apply for a petition pursuant to § 332 and file the petition with the juvenile court to have the minor declared a dependent child of the court under § 300, in that return to the parental home would be contrary to the best interests of the child. The petition shall be filed, and the juvenile court shall issue a dispositional order in the case, if appropriate, prior to the minor attaining 18 years of age.
- Refer minor to an interagency administrative review board. One member of the board shall be a licensed mental health practitioner. The review board shall review the appropriateness and continued necessity of six additional months of voluntary placement, the extent of the compliance with the voluntary placement plan, and the adequacy of services to the family and child. If the minor cannot be returned home by the 12th month of voluntary placement services, the department shall proceed pursuant to subdivision (b) or (c).
- Refer minor to an administrative review board. If the minor cannot be returned home by the 12th month of voluntary placement services, the department shall proceed as described in subdivision (b), (c), or (d).



The End.

CALIFORNIA'S HIDDEN FOSTER CARE SYSTEM

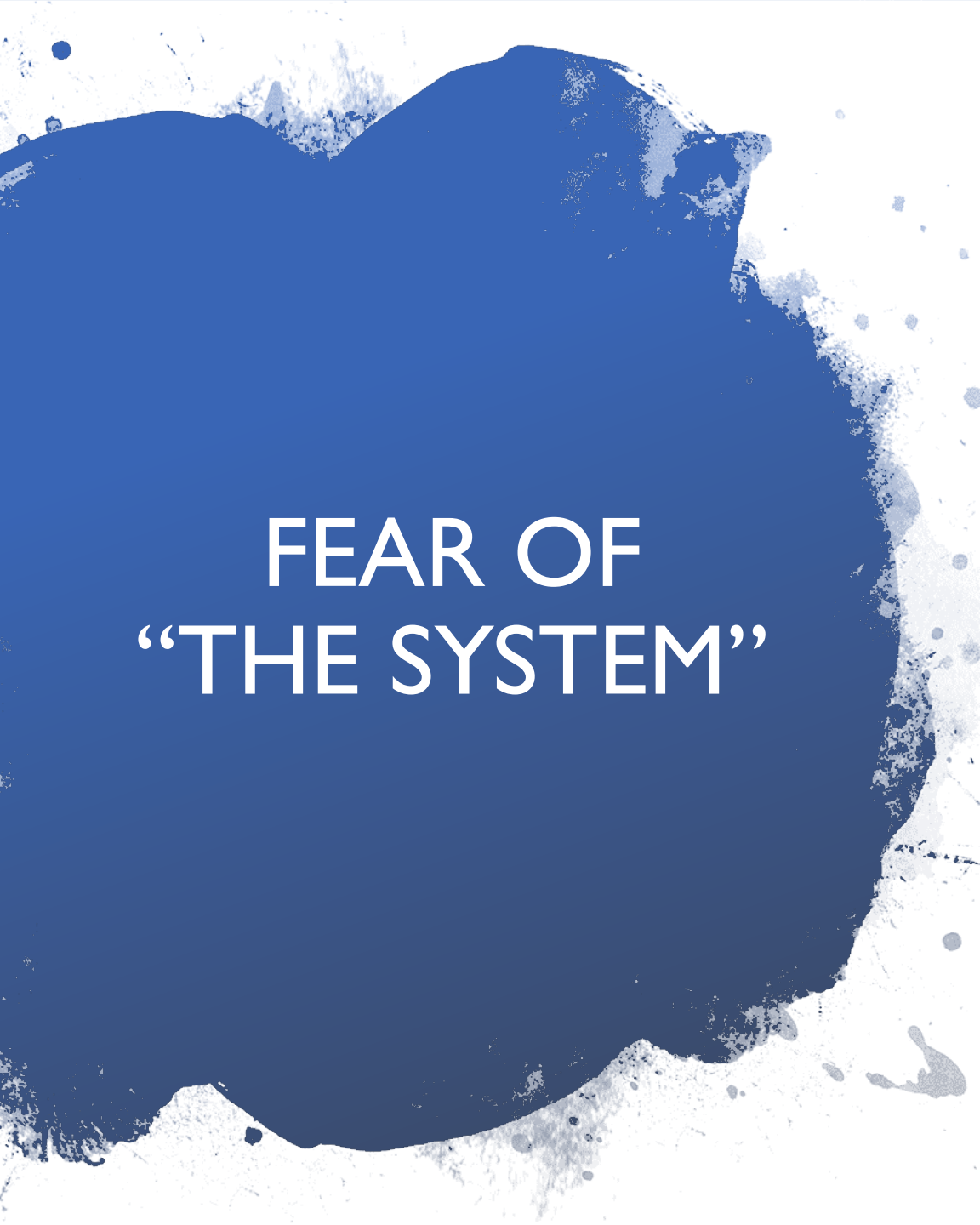


"I was told to request sole custody orders from Family Court or my children would end up in foster care."

"I was told to go to probate court to get guardianship or my grandchildren would be in foster care and I'd never see them again."

WHY DOES HIDDEN FOSTER CARE OCCUR?

SHIFTING POLITICAL LANDSCAPE



FEAR OF “THE SYSTEM”

“The worker threatened me that if I didn’t take them, they would take them away from me.”

“We put our son through rehab. No system involvement. When we took the girls from him, we didn’t want them to go through the system. We were fearful of that. Dreadful things happen there. We didn’t want any part of it.”

“As a family member caring for a young child there is a fear of the child being removed to someone you don’t know and the long drawn out process.”

“They have the power. They hold the power of taking away the kids from the grandparents. The grandparents are really afraid. They don’t tell them what is right. They just tell them what is wrong.”

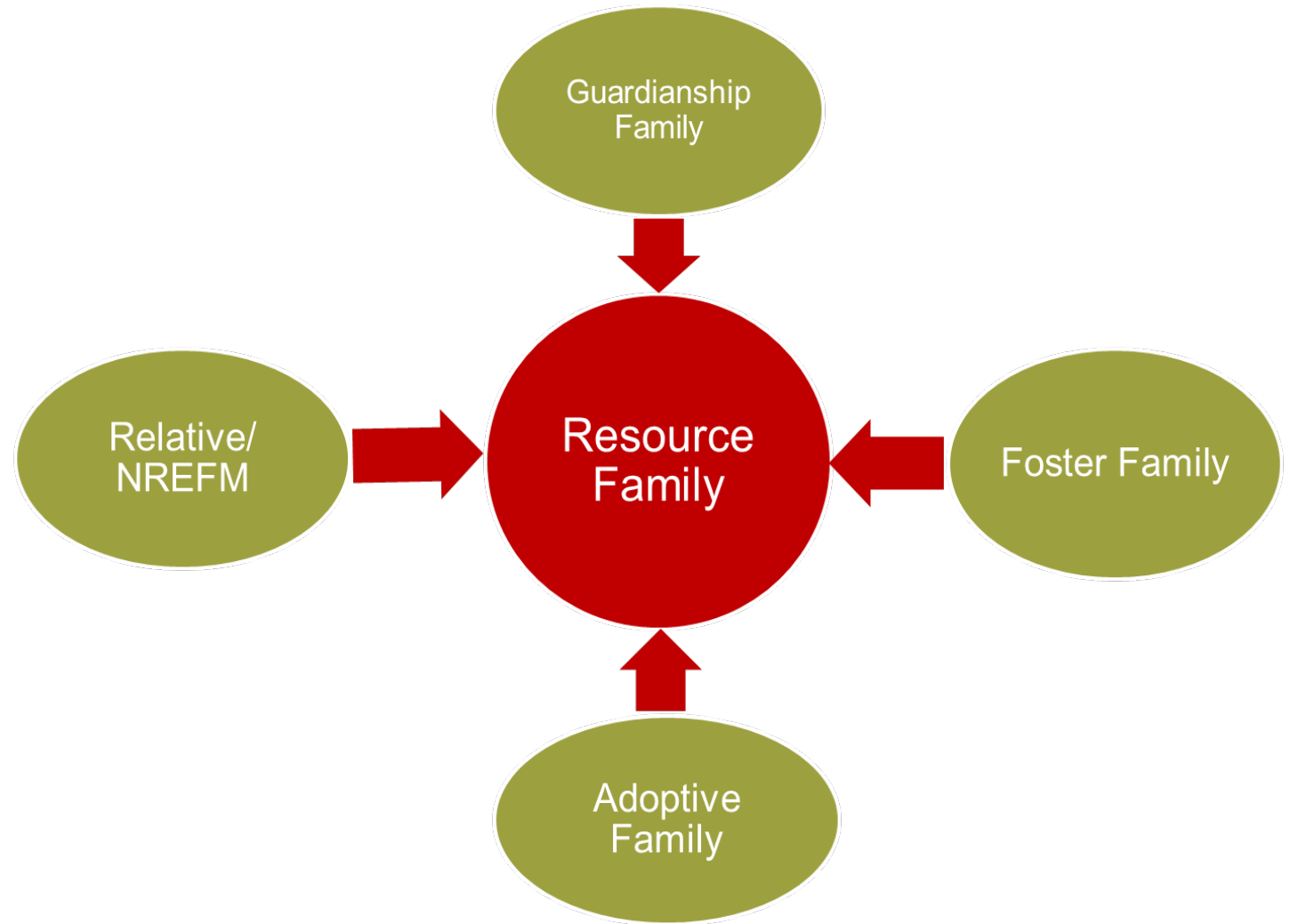
“That’s our fear – if mom ever gets her act together – she is in jail now. I’m afraid if she starts seeing the baby he is going to be retraumatized.”

“The fear of the unknowns is right below every one of these problems. We don’t know what we don’t know. The fear crosses over everyone.”

“Speaking from personal experience. You don’t know what you don’t know. All I knew was that I was the person that got the call. There were a lot of fears and protective instincts that came into play when I got the call.”

CONTINUUM OF CARE REFORM: NEW FOCUS KINSHIP PLACEMENTS

- Equal funding for relatives
- Emergency Caregiver funding
- Foster parent recruitment and retention
- Resource Family Approval



Approval Standards

	Adoption (Pre-RFA)	Relative/NER FM (Pre-RFA)	Foster Home (Pre-RFA)	RFA
Criminal Records/Child Abuse Review	✓	✓	✓	✓
Standardized Criteria for Criminal Record Exemptions		✓	✓	✓
Home Health and Safety Assessment	✓	✓	✓	✓
Training Required			✓	✓
Family Evaluation	✓			✓
Screen for Risk Factors	✓		✓	✓
Applicant References	✓			✓
Yearly (minimum) Updates on all families		✓		✓

FAMILIES THAT START AT PROBATE COURT FIND IT DIFFICULT TO REVERSE COURSE



Probate court is **not** required to refer cases involving child abuse or neglect to child welfare for investigation. (statutes changed after In re Christian G. which held that “[t]he Probate Code is intended to work hand in hand with the dependency laws as a cohesive statutory structure that aims to subject all cases alleging parental unfitness to the rigors of a dependency investigation.”)



Even if the probate court refers to child welfare for investigation, there is not requirement that the juvenile court review the decision of the social worker as to whether to file a petition in juvenile court



If the probate court takes action to protect the child (i.e. orders a temporary guardianship) and then refers the case to child welfare, the juvenile court is limited in its ability to order a petition to be filed due to Court of Appeal decision In re Kaylee H.

FAMILIES LACK INFORMATION TO MAKE INFORMED DECISIONS



- **Lack of information** provided to families about implications of different court systems or the benefits and services available to support children
 - 42% of families indicated they received “no information” about different types of legal arrangements
 - 40% of families had less than 24 hours notice before the children were placed in their home
- Many families were **unable to identify whether the child in their home was there as a result of a formal foster care placement or an informal arrangement**
 - 24% of caregivers indicated they were an informal kinship arrangement but also that they received foster care funding
 - 24% of caregivers indicated they had guardianship through probate court but received foster care funding
 - 18% of those that indicated they had guardianship through dependency court also said there was no child welfare involvement

Indicator	Child welfare involved	NO child welfare involvement
Less than 24 hr notice of placement	34.92%	50%
No information about legal arrangements	33.33%	58.33%
Receiving foster care benefits	58.46%	11.11%
Children having multiple placements	46.15%	11.11%
Bio parents not involved in placement decision	38.10%	22.86%
Parenting classes for bio parents	78.43%	43.48%
No training provided to the caregiver	35.94%	62.86%
Kinship families reported financial insecurity	58.07%	75.86%

Indicators Different When Families Are Involved with Child Welfare

Top 3 threats/challenges by caregivers	1	2	3
Informal	Access to mental health services	Respite (tie)	Boundaries with bio parent (tie)
Probate guardianship	Funds for basic needs (tie)	Boundaries with bio parents (tie)	Respite
Voluntary Placement Agreement	Respite (tie)	Childcare (tie)	Affordable housing
Dependency guardianship	Respite (overwhelmingly)	Access to mental health services (tie)	Boundaries with bio parent (tie)
Formal foster care placement	Respite	Access to mental health services (tie)	Childcare (tie)

PRIMARY CHALLENGES FAMILIES FACE BY PLACEMENT TYPE

IMPACT OF HIDDEN FOSTER CARE

DENIAL OF DUE PROCESS PROTECTIONS AVAILABLE THROUGH FOSTER CARE



A codified system of checks and balances intended to fulfill the twin aims of dependency court: Protect children and preserve the family.



Attorneys appointed to parents and children to enforce these checks and balances and ensure all parties constitutional and statutory rights are fully represented. Counsel also give voice to the children and families that interact with the system and ensure that educational, mental, physical and emotional needs are met.



Accountability via Judicial Review of state action that impinges on the families' constitutional right to association.



Statutory rights for children while in out-of-home placement, including checks ensuring their safety and well-being.



Reunification services

OPPORTUNITY FOR REUNIFICATION LIMITED

- Family Code § 3041 was amended to require a finding that parental custody would be detrimental to the child before an order giving custody to a nonparent only if the parent objected (had been required in the absence of parental consent). Also created the presumption of detriment if the child had been in the custody of a nonparent for a substantial period.
 - Fam Code § 8804 allows option of placing a child whose parent did not place the child for adoption or consent to an adoption in the custody of a nonparent under FC 3041.
- Probate Code § 1601 was amended to preclude the court from terminating a guardianship because the guardianship was no longer necessary. Best interest of the child is now the sole ground.
- Probate Code §§ 1610 and 1611 were added to make it riskier to petition to terminate a guardianship by authorizing the court to determine that a person who files a petition for visitation, termination of the guardianship, or instructions to the guardian that is “unmeritorious, or intended to harass or annoy the guardian” is a vexatious litigant if the person has previously filed such a petition in the same guardianship proceeding.
- Probate Code § 1516.5, added authorized a proceeding to terminate parental rights for a child who had been in the physical custody of a guardian for at least two years if the child would benefit from adoption by the guardian.



CHILD SAFETY CONCERNS

“Hidden foster care not only follows CPS agency involvement but is usually specifically requested by CPS authorities. Still, legal custody does not transfer, and certainly does not transfer to the state leaving parents, children and kinship caregivers without a clear legal status governing the situation insisted upon by CPS agency.”

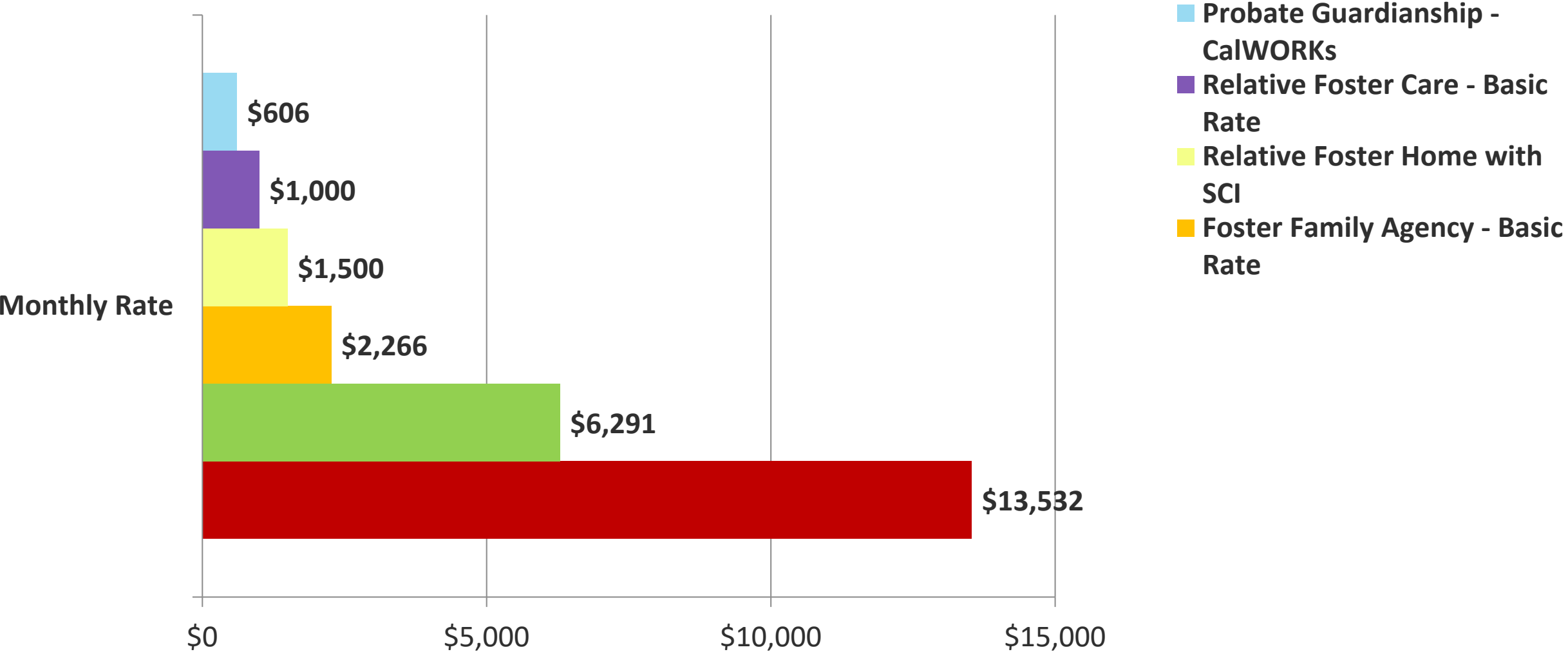
Josh Gupta-Kagan, *America's Hidden Foster Care System*, 77 Stan. L. Rev. (forthcoming 2020)



Two Paths for Children in Kinship Families

	Informal Kinship Care (probate court)	Foster Care Placement with Relative (dependency court)
Funding for Caregiver?	Limited funding available to support kin caregiver – for most families, only CalWORKs	Full foster care funding – in CA this includes access to specialized care, clothing allowance, infant supplements, etc
Who receives services?	No requirement for services to be provided or to assign counsel to parent or child. No eligibility for respite, emergency child care funding, training, etc.	Reunification services and legal representation for parent. Child receives legal representation and case management services . Caregiver can receive respite, emergency child care bridge funding, and training
Duration of services?	N/A	No limitation reunification services while child is in foster care + 15 months of post-reunification services
Reunification options and funding for permanency?	No reunification services and opportunity for reunification is limited . No funding : Relatives who get guardianship outside of juvenile court are not eligible for Kin-GAP	Child is either reunified or can remain with relative through adoption, guardianship, or as a Fit and willing relative continued funding for kin families (AAP, KinGAP, or continued foster care funding) – all options offer
Supports for TAY?	No eligibility to receive extended foster care, independent living services, or Education and Training Vouchers	Eligible to receive extended foster care (if in care at age 18) independent living skill services (if in care at age 14) or Education and Training Vouchers (if either in care at 16 or adopted/guardianship at 14 or older)
Education rights to promote school stability?	No right to school of origin placements or funding, immediate enrollment, partial credits, etc.	Child has the right to attend their school of origin , the ability to utilize partial credit and immediate

Huge Expense if Family Placements Fail and Children Are Placed in Residential Care



Funding to Support Permanency


	Kin-GAP	AFDC-FC	AAP	CalWORKs
Non-Related Legal GUARDIANSHIP through PROBATE	Not eligible	<ul style="list-style-type: none"> Eligible for AFDC-FC until youth turns 18 NO re-entry 	Not eligible	Not eligible
Non-Related Legal GUARDIANSHIP through DEPENDENCY	<ul style="list-style-type: none"> If youth meets federal requirement eligible for KinGAP until youth is 18 (and in some cases 21) Re-entry rights 	<ul style="list-style-type: none"> Whenever the youth is not eligible for Kin-GAP, they are eligible for AFDC-FC until 21 Re-entry rights 	Not eligible	Not eligible
Relative GUARDIANSHIP: Through PROBATE	Not eligible	Not eligible	Not eligible	<ul style="list-style-type: none"> Eligible until youth turns 18 or, in some cases, age 19 or HS graduation No re-entry
Relative GUARDIANSHIP: Through DEPENDENCY	<ul style="list-style-type: none"> Youth eligible for federal or state Kin-GAP until age 18 and, in some cases, until age 21. Re-entry rights after 18. 	Not eligible	Not eligible	<ul style="list-style-type: none"> Eligible for CalWORKs if not receiving Kin-GAP (but these kin should get Kin-GAP)
ADOPTION through Family Court or private adoption agency (relatives or non-relatives)	Not eligible	Not eligible	Not eligible UNLESS child meets criteria for SSI	<ul style="list-style-type: none"> Relatives can receive CalWORKs until youth turns 18 or, in some cases, until 19 or HS graduation No re-entry
ADOPTION through DEPENDENCY court (relatives or non-relatives)	Not eligible	Not eligible	<ul style="list-style-type: none"> Youth eligible for federal or state AAP until age 18 and, in some cases, until age 21. Re-entry rights after 18. 	<ul style="list-style-type: none"> Relatives can receive CalWORKs if not receiving AAP (but these kin should get AAP)


SUPPORTING THE CHILD, PARENT AND CAREGIVER

PERSPECTIVES AND RECOMMENDATIONS

GOAL OF OUR RECOMMENDATIONS

- Intention of the recommendations is to ensure that the child, parent and the caregiver's interests and rights are acknowledged and addressed
- Focused at point in time when the child welfare agency has determined the child cannot remain with the parent. Goals in three areas:
 - Supporting Children and Families: Ensuring Services and Resources are Provided to the Child and Family
 - Avoiding Legal Limbo, Safeguarding the Child, and Promoting Family Integrity
 - Tracking Progress and Moving Toward Holistic Reform

CFT to Identify Relative
 Child and family voice regarding which relative is the preferred placement – include navigators

Counsel for Candidates
 Provide legal representation to parent and child at the point the child is a candidate for foster care


Identify relative
 Expand kinship navigation services and develop best practices model

Informing
 Information to children, parents caregivers about different types of court systems, funding and services


Review Standard
 Specify factors for review: imminent risk? CPS involvement? Reunification desired?

Juvenile Court Review
 Require juvenile court to independently review CWS investigation

Temporary Guardianship Not a Bar to Dependency
 granting a temporary guardianship through probate is not considered to be the establishment of a suitable custodian


Wrong Court
 If caregiver sent to probate, require probate to send to CWS for investigation

VPAs
 If parent and CWS agree services are needed without foster care, enter into a VPA

Juvenile Guardianship
 If the parents do not want to reunify and desire guardianship, juvenile court shall order guardianship in lieu of dependency

Funding for Guardianships
 Ensure any guardianship ordered through dependency court receives Kin-GAP or AFDC-FC

Ensure Kin Approval
 Improve RFA process, streamline emergency placements, increase training of RFA workers

Data
 Collect targeted data and implement mechanism within probate court to track CPS cases

Children's Court




Supporting Children and Families: Ensuring Services and Resources are Provided to the Child and Family

- Once child welfare is involved and it is determined that the child will be placed through a VPA, petition with juvenile court, or considered for a § 360(a) guardianship, convene a CFT to ensure family is fully informed of options and to ensure child voice in selection of preferred relative.

Supporting Children and Families: Ensuring Services and Resources are Provided to the Child and Family



Counsel for Candidates

Provide legal representation to parent and child at the point the child is a candidate for foster care

- Provide legal representation to the parent and child at the point a child is determined to be a “candidate for foster care”. As a matter of due process, action by the state to facilitate a change of the child’s custody should trigger the right of parents and children to obtain legal counsel (appointed if necessary) to advise them of their rights and negotiate appropriate plans with CPS agencies.

ATTORNEYS ARE EFFECTIVE

- A multi-year study of child welfare cases brought in the New York City courts to determine whether the kind of legal representation provided to parents can make a difference in the outcome of cases.
- A few key findings included:
 - Multidisciplinary representation reduced children's time in foster care by nearly 4 fewer months during the 48 months following the petition filing, through faster early reunification outcomes, as compared to Panel representation. This amounts to up to nearly \$40 million annual savings in foster care board rates for NYC.
 - The family defense offices allowed children to be permanently released to relatives more than twice as often in the first year of a case and 67% more often in the second year. These families may otherwise have been permanently dissolved or the children may have spent their childhood separated from their family and aged out.
 - 27 % more children would be reunified with their families within six months if their parents had multidisciplinary representation than if their parents had panel attorneys.
 - Of those children who could not be returned to their families, 40% more children ended up with a permanent disposition of guardianships when their parents had multidisciplinary representation than children whose parents were represented by panel lawyers.

Jurisdictions can now seek federal reimbursement for the cost of legal representation for eligible children and their parents.



The Children's Bureau has been clear that their preference is that newly available federal funds support improved representation for parents and children – not act as a substitute or state investment. The new federal funds should be used to invest in improved representation.



The title IV-E agency may also claim administrative costs for independent legal representation provided by an attorney for a candidate for foster care

IV-E FUNDING FOR COUNSEL FOR CHILDREN & PARENTS



Supporting Children and Families: Ensuring Services and Resources are Provided to the Child and Family



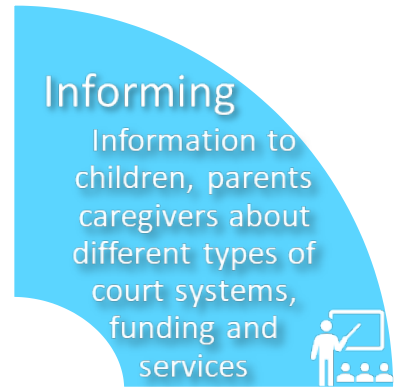
Identify relative

Expand kinship navigation
services and develop best
practices model



- Increase availability of Kinship Navigator programs across California by leveraging new federal funds (once a kinship navigator program has been included in the new Prevention Clearinghouse) and conform program models to ensure consistency in support and services
- Ensure kin are immediately connected to a navigator at the time a child is moved into their home
- Provide clear, concise and comprehensive information available at time of placement

Supporting Children and Families: Ensuring Services and Resources are Provided to the Child and Family



- Increase availability of information and legal advice across California by leveraging new federal funds for counsel to parents and children.
- Require that social workers coming into contact with families provide clear, concise and comprehensive information available at time of any placement of children outside of natural parents' home.
- Develop information brochure to be provided to caregivers, natural parents, and children requesting probate guardianships.

**Supporting
Children and
Families:
Ensuring Services
and Resources
are Provided to
the Child and
Family - AND -
Avoiding Legal
Limbo and
Safeguarding
Children While
Promoting
Family Choice**

- Talk to families about Voluntary Placement Agreements
- Utilize the SOC 155 any time the parent and child welfare agency are agree to a plan for temporary care of the child outside the parent's home

VPAs

If parent and CWS agree services are needed without foster care, enter into a VPA



- Require the probate court to refer cases involving allegations of parental unfitness or that involve the abuse or neglect of the minor to the county social services agency designated to investigate potential dependencies.
- Provide annual training to probate judges, child welfare professionals, and juvenile court judges on the obligation to refer cases that involve allegations of parental unfitness or abuse and neglect to child welfare for investigation.



Avoiding Legal Limbo and Safeguarding Children While Promoting Family Choice



Wrong Court

If caregiver sent to probate, require probate to send to CWS for investigation

Avoiding Legal Limbo and Safeguarding Children While Promoting Family Choice

Temporary Guardianship Not a Bar to Dependency

granting a temporary guardianship through probate is not considered to be the establishment of a suitable custodian

To address impact of Kaylee H., clarify that granting a temporary guardianship through probate court is not considered to be the establishment of a suitable custodian or a determination that the temporary guardian is able to protect the child from the risk posed by the parents' behavior permanently.

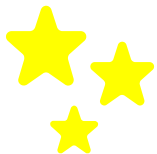


Avoiding Legal Limbo and Safeguarding Children While Promoting Family Choice

Review Standard

Specify factors for
review: imminent
risk? CPS
involvement?
Reunification
desired?

- In the juvenile court's independent review, require the court to determine:
 - Whether the child comes with § 300 parameters
 - Whether the child would be at imminent risk of harm if the child were living in the home of the parent
 - Whether the child welfare agency facilitated the removal of the child to the kinship caregiver's home within the last 12 months
 - Whether the parent wishes to attempt to reunify (assuming the parent is represented by counsel in making that determination).
- If the child comes under § 300, the child is at imminent risk of harm if in the home of the parent, the agency facilitated the placement of the child with the relative within the last 12 months, and the parents desire reunification – order petition for removal to be filed.



Avoiding Legal Limbo and Safeguarding Children While Promoting Family Choice

- Talk to families about § 360(a) guardianships
- Utilize VPA for six months prior to the § 360(a) guardianship to ensure the kinship caregiver can receive Kin-GAP support

Juvenile Guardianship

If the parents do not want to reunify and desire guardianship, juvenile court shall order guardianship in lieu of dependency



Supporting Children and Families: Ensuring Services and Resources are Provided to the Child and Family

\$ Funding for Guardianships

Ensure any guardianship
ordered through dependency
court receives Kin-GAP or
AFDC=FC



- Amend § 360(a) to allow for the provision of state-only Kin-GAP benefits to any child who has a guardianship established under § 360(a), regardless of the amount of time the child was residing in the relative's home or whether a VPA was in place prior to the establishment of the guardianship.

- Improve RFA processes:
 - Child specific approval
 - Right to appeal denial of relative placement
 - Rebuttal presumption: if the relative was considered a safe home for the child in hidden foster care, presumption that the relative can be approved to care for the same child through a formal foster care placement



Avoiding Legal Limbo and Safeguarding Children While Promoting Family Choice

Ensure Kin Approval

Improve RFA process, streamline emergency placements, increase training of RFA workers

- Increase training of RFA workers and county welfare workers across the state to improve understanding of the options to approve a relative's home
- Develop timelines for court hearing to consider relative's request for placement
- Clarify capacity alone cannot be used to deny placement of siblings together



Tracking Progress and Moving Toward Holistic Reform

DATA

- Track:
 - Children moved to a relative via a Voluntary Placement Agreement
 - Children moved to a relative through other Child Welfare involvement
 - Entry into foster care within 6 months, 12 months, 18 months, and 24 months of a VPA
 - Reunification following Voluntary Placement Agreements
 - Entry into foster care due to a failed guardianship that was not subsidized



Data

Collect targeted data and
implement mechanism within
probate court to track CPS
cases

Moving Toward Holistic Reform



- Create a Children's Court to unify probate, family court, and juvenile dependency crossover issues.
- Concentrate children's custody and advocacy issues into a single court thereby taking advantage of the expertise of all court-related personnel, including judges, minors' and parent's counsel.



DISCUSSION



Good morning. I'm Linda and I'm so excited to be here this morning.

I have been working with the Alliance for Children's Rights and Lincoln for the last 10 years and cannot tell you the number of times I have urged them to focus on this issue because of my experience and the experience of many other relative caregivers I have befriended over the years.

I am the primary caregiver of my two granddaughters and know just how difficult it is to raise children who have suffered abuse, neglect and trauma without any funding, any services or any supports. I have been caring for my granddaughters for almost 15 years, and in that time, all I have received to support them is CalWORKs.

And, it is NOT just about the financial support. My entire family has dealt with the impact of the child welfare system essentially dropping my grandchildren at my house and urging guardianship as opposed to providing supports and services to my grandchildren and my daughter to help them reunify. In fact, about 2 years in when I asked for services to help my daughter reunify, at her request, we were denied because we had a guardianship. Several years later I had a conversation with her— when she said to me that she felt like

it all went so fast.

Her girls were taken from her and I was pushed into guardianship – and once that happened, she felt cut off.

There was no support for her to reunify.

My daughter felt like if she had been given the opportunity to reunify, she would have reunified. But instead, the social worker found me – a grandma willing to provide a safe place for my grandchildren – and that was it.

This is in sharp contrast to what happened about a couple of years later, when my daughter also lost her youngest daughter, Laura. When Laura was removed, my daughter was offered services and a plan. My daughter worked the plan and was

able to get Laura back. That could have happened with her older daughters, but the system just washed their hands of her. I felt pressured to do things on their timeline and in their way – we didn't get any support or really any options.

In my situation, I had to try to make it work on my own. I reached out to CPS and mental health. I know how to work a bureaucracy. I came up with my own reunification plan. But, I didn't have any support and the professionals in the system did not try to meet me where I was. Even after I got guardianship, at their urging, they kept pushing for adoption. They threatened me - saying that if I didn't adopt my grandchildren, their mom could just come back and take the kids. But, I wanted my daughter to be able to get her kids back – I wanted support. The problem was, the system wasn't offering services.

Today, I still have guardianship of my granddaughters and they are doing great. Kaylin is 19 and Kyah is 16. They both spend a lot of time with their mom. The goal of our system should be to help get the parents back on track.

But when foster care doesn't really work with the families, we are all deprived of that opportunity. Let's work together to ensure the child welfare system truly supports the children, parents and caregivers.

I'm so excited that this work is starting and that we've all come together to figure out how to better support our families – the caregivers, like me, the parents who are part of our families, and the children who depend on all of us. Thank you for being here today and thank you for listening.



AB-465 Firearm relinquishment: persons under protective orders. (2019-2020)

As Amends the Law Today

SECTION 1. *Section 3044 of the Family Code is amended to read:*

3044. (a) Upon a finding by the court that a party seeking custody of a child has perpetrated domestic violence within the previous five years against the other party seeking custody of the child, or against the child or the child's siblings, or against any person in subparagraph (C) of paragraph (1) of subdivision (b) of Section 3011 with whom the party has a relationship, there is a rebuttable presumption that an award of sole or joint physical or legal custody of a child to a person who has perpetrated domestic violence is detrimental to the best interest of the child, pursuant to Sections 3011 and 3020. This presumption may only be rebutted by a preponderance of the evidence.

(b) To ~~overcome~~ *rebut* the presumption set forth in subdivision (a), the court shall find that paragraph (1) is satisfied and shall find that the factors in paragraph (2), on balance, support the legislative findings in Section 3020.

(1) The perpetrator of domestic violence has demonstrated that giving sole or joint physical or legal custody of a child to the perpetrator is in the best interest of the child pursuant to Sections 3011 and 3020. In determining the best interest of the child, the preference for frequent and continuing contact with both parents, as set forth in subdivision (b) of Section 3020, or with the noncustodial parent, as set forth in paragraph (1) of subdivision (a) of Section 3040, may not be used to rebut the presumption, in whole or in part.

(2) Additional factors:

(A) The perpetrator has successfully completed a batterer's treatment program that meets the criteria outlined in subdivision (c) of Section 1203.097 of the Penal Code.

(B) The perpetrator has successfully completed a program of alcohol or drug abuse counseling, if the court determines that counseling is appropriate.

(C) The perpetrator has successfully completed a parenting class, if the court determines the class to be appropriate.

(D) The perpetrator is on probation or parole, and has or has not complied with the terms and conditions of probation or parole.

(E) The perpetrator is restrained by a protective order or restraining order, and has or has not complied with its terms and conditions.

(F) The perpetrator of domestic violence has committed further acts of domestic violence.

(G) The perpetrator is, or has been, in possession or control of a firearm or ammunition while subject to a protective order, in violation of Section 6389.

(c) For purposes of this section, a person has "perpetrated domestic violence" when the person is found by the court to have intentionally or recklessly caused or attempted to cause bodily injury, or sexual assault, or to have placed a person in reasonable apprehension of imminent serious bodily injury to that person or to another, or to have engaged in behavior involving, but not limited to, threatening, striking, harassing, destroying personal property, or disturbing the peace of another, for which a court may issue an ex parte order pursuant to Section 6320 to protect the other party seeking custody of the child or to protect the child and the child's siblings.

(d) (1) For purposes of this section, the requirement of a finding by the court shall be satisfied by, among other things, and not limited to, evidence that a party seeking custody has been convicted within the previous five years, after a trial or a plea of guilty or no contest, of a crime against the other party that ~~comes within the definition of domestic violence contained in Section 6211 and of abuse contained~~ *constitutes domestic violence, as defined in Section 6211, or abuse, as defined* in Section 6203, including, but not limited to, a crime ~~described specified~~ in subdivision (e) of Section 243 of, or Section 261, 262, 273.5, 422, or 646.9 of, the Penal Code.

(2) The requirement of a finding by the court ~~shall is~~ also ~~be~~ satisfied if a court, whether that court hears or has heard the child custody proceedings or not, has made a finding pursuant to subdivision (a) based on conduct occurring within the previous five years.

(e) When a court makes a finding that a party has perpetrated domestic violence, the court may not base its findings solely on conclusions reached by a child custody evaluator or on the recommendation of the Family Court Services staff, but shall consider any relevant, admissible evidence submitted by the parties.

(f) (1) It is the intent of the Legislature that this subdivision be interpreted consistently with the decision in *Jaime G. v. H.L.* (2018) 25 Cal.App.5th 794, which requires that the court, in determining that the presumption in subdivision (a) has been ~~overcome; rebutted~~, make specific findings on each of the factors in subdivision (b).

(2) If the court determines that the presumption in subdivision (a) has been ~~overcome; rebutted~~, the court shall state its reasons in writing or on the record as to why paragraph (1) of subdivision (b) is satisfied and why the factors in paragraph (2) of subdivision (b), on balance, support the legislative findings in Section 3020.

(g) In an evidentiary hearing or trial in which custody orders are sought and ~~where there has been~~ an allegation of domestic ~~violence; violence has been made~~, the court shall make a determination as to whether this section applies prior to issuing a custody order, unless the court finds that a continuance is necessary to determine whether this section applies, in which case the court may issue a temporary custody order for a reasonable period of time, provided the order complies with Section 3011, including, but not limited to, subdivision (e), and Section 3020.

(h) In a custody or restraining order proceeding in which a party has alleged that the other party has perpetrated domestic violence in accordance with the terms of this section, the court shall inform the parties of the existence of this section and ~~shall give~~ *provide* them a copy of this section prior to custody mediation in the case.

SEC. 2. *Section 6390 is added to the Family Code, to read:*

6390. *(a) (1) When a court issues a protective order, including, but not limited to, a temporary protective order, pursuant to this part, the court shall determine, by a preponderance of the evidence, whether the person subject to the protective order has possession or control of a firearm or ammunition in violation of Section 6389. In making this determination, the court shall consider all information presented at a noticed hearing that the restrained person has possession or control of a firearm or ammunition. The court may consider whether the person filed proof of firearm relinquishment, storage, or sale or whether an exemption from the firearm prohibition was requested and granted pursuant to Section 6389.*

(2) The court shall make the determination required by paragraph (1) at the first noticed hearing at which a protective order is issued, including, but not limited to, a temporary protective order issued on an ex parte basis, regardless of whether the noticed hearing is continued or rescheduled with respect to other procedural or factual issues before the court.

(3) (A) The court shall make written findings, on the record, of the determination required by paragraph (1).

(B) If the court determines that the restrained person has possession or control of a firearm or ammunition in violation of Section 6389, the court shall communicate that determination to the local law enforcement agency with jurisdiction over the restrained person and provide a copy of the written findings described in subparagraph (A) to any party present at the hearing and, upon request, to any party not present at the hearing.

(C) If the court determines that the restrained party does not have possession or control of a firearm or ammunition in violation of Section 6389, the court shall include in the written findings described in subparagraph (A) the specific basis for that determination, including, but not limited to, any evidence considered by the court to refute the protected party's assertion that the restrained party has possession or control of a firearm or ammunition in violation of Section 6389.

(b) (1) If the court determines, pursuant to paragraph (1) of subdivision (a), that the restrained person has possession or control of a firearm or ammunition in violation of Section 6389, the court shall set a review hearing to determine whether the restrained party has complied with Section 6389.

(2) The review hearing shall take place within two court days after the noticed hearing at which the court made the determination required by paragraph (1) of subdivision (a). The court may extend the date of the review hearing by no more than five court days for good cause evidenced by written findings on the record. The court may remove the review hearing from the calendar only after making written findings, on the record, of the good cause for removing the review hearing and providing a copy of the written findings to the protected party.

(3) The court may order the restrained person to appear at the review hearing, but may conduct the review hearing in the person's absence. The court may authorize any party to appear at the review hearing by telephone or other electronic means.

(4) If the restrained person, or a representative of the restrained person, is not present at the hearing when the review hearing is set, the protected person shall provide notice of the review hearing to the restrained person as soon as practically possible before the review hearing by personal service, mail to the restrained person's last known address, or electronic service to the restrained person's last known email address.

SEC. 3. *Section 136.4 is added to the Penal Code, to read:*

136.4. *(a) (1) When a court issues a protective order pursuant to Section 136.2 during a criminal case or as a condition of probation pursuant to Section 1203.097 against a defendant charged with a crime of domestic violence, the court shall consider all relevant evidence, including evidence provided on the defendant's behalf, to determine if there is good cause to believe that the defendant has possession or control of a firearm.*

(2) If the court finds good cause to believe that the defendant has possession or control of a firearm, the court shall set a review hearing to ascertain whether the defendant has complied with the requirement to relinquish that possession or control, as required pursuant to Section 527.9 of the Code of Civil Procedure.

(3) If the defendant is not in custody at the time the order is issued, the review hearing shall occur within two court days after issuance of the protective order. The court may extend time for the review hearing to within five court days with good cause. If the defendant is in custody at the time the protective order is issued, the court shall set the review hearing within two court days of the defendant's release from custody.

(4) The court shall give the defendant an opportunity to present information at the review hearing to refute the allegation that the defendant has possession or control of a firearm.

(5) If the review hearing is based on a criminal proceeding pursuant to Section 136.2, the court may order the defendant to personally appear. If the review hearing is based on a condition of probation pursuant to Section 1203.097, the court shall order the defendant to personally appear.

(b) (1) When the review hearing is based on a criminal proceeding pursuant to Section 136.2, if the court finds that the defendant has possession or control of a firearm, the court shall consider whether bail, as set, or release on own recognizance is appropriate.

(2) If the court determines that bail or release on own recognizance is not appropriate, in light of the evidence presented at the review hearing, and the defendant is not at the hearing, the court may issue a bench warrant.

(c) The burden of proof to show that the defendant has not complied with the requirement to relinquish a firearm is on the prosecution.



2020 California Rules of Court

Rule 4.700. Firearm relinquishment procedures for criminal protective orders

(a) Application of rule

This rule applies when a court issues a criminal protective order under Penal Code section 136.2 during a criminal case or as a condition of probation under Penal Code section 1203.097(a)(2) against a defendant charged with a crime of domestic violence as defined in Penal Code section 13700 and Family Code section 6211.

(Subd (a) amended effective January 22, 2019.)

(b) Purpose

This rule is intended to:

- (1) Assist courts issuing criminal protective orders to determine whether a defendant subject to such an order owns, possesses, or controls any firearms; and
- (2) Assist courts that have issued criminal protective orders to determine whether a defendant has complied with the court's order to relinquish or sell the firearms under Code of Civil Procedure section 527.9.

(c) Setting review hearing

- (1) At any hearing where the court issues a criminal protective order, the court must consider all credible information, including information provided on behalf of the defendant, to determine if there is good cause to believe that the defendant has a firearm within his or her immediate possession or control.
- (2) If the court finds good cause to believe that the defendant has a firearm within his or her immediate possession or control, the court must set a review hearing to ascertain whether the defendant has complied with the requirement to relinquish the firearm as specified in Code of Civil Procedure section 527.9. Unless the defendant is in custody at the time, the review hearing should occur within two court days after issuance of the criminal protective order. If circumstances warrant, the court may extend the review hearing to occur within 5 court days after issuance of the criminal protective order. The court must give the defendant an opportunity to present information at the review hearing to refute the allegation that he or she owns any firearms. If the defendant is in custody at the time the criminal protective order is issued, the court should order the defendant to appear for a review hearing within two court days after the defendant's release from custody.
- (3) If the proceeding is held under Penal Code section 136.2, the court may, under Penal Code section 977(a)(2), order the defendant to personally appear at the review hearing. If the proceeding is held under Penal Code section 1203.097, the court should order the defendant to personally appear.

(d) Review hearing

- (1) If the court has issued a criminal protective order under Penal Code section 136.2, at the review hearing:
 - (A) If the court finds that the defendant has a firearm in or subject to his or her immediate possession or control, the court must consider whether bail, as set, or defendant's release on own recognizance is appropriate.
 - (B) If the defendant does not appear at the hearing and the court orders that bail be revoked, the court should issue a bench warrant.
- (2) If the criminal protective order is issued as a condition of probation under Penal Code section 1203.097, and the court finds at the review hearing that the defendant has a firearm in or subject to his or her immediate possession or control, the court must proceed under Penal Code section 1203.097(a)(12).
- (3) In any review hearing to determine whether a defendant has complied with the requirement to relinquish firearms as specified in Code of Civil Procedure section 527.9, the burden of proof is on the prosecution.

Rule 4.700 amended effective January 22, 2019; adopted effective July 1, 2010.

Advisory Committee Comment

When issuing a criminal protective order under Penal Code section 136.2 or 1203.097(a)(2), the court is required to order a defendant "to relinquish any firearm in that person's immediate possession or control, or subject to that person's immediate possession or control" (Code Civ. Proc., § 527.9(b).) Mandatory Judicial Council form CR-160, *Criminal Protective Order-Domestic Violence*, includes a mandatory order in bold type that the defendant "must surrender to local law enforcement or sell to a licensed gun dealer any firearm owned or subject to his or her immediate possession or control within 24 hours after service of this order and must file a receipt with the court showing compliance with this order within 48 hours of receiving this order."

Courts are encouraged to develop local procedures to calendar review hearings for defendants in custody beyond the two-court-day time frame to file proof of firearms relinquishment with the court under Code of Civil Procedure section 527.9.

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2020 California Rules of Court

Rule 5.495. Firearm relinquishment procedures

(a) Application of rule

This rule applies when a family or juvenile law domestic violence protective order as defined in Family Code section 6218 or Welfare and Institutions Code section 213.5 is issued or in effect.

(b) Purpose

This rule addresses situations in which information is presented to the court about firearms and provides the court with options for appropriately addressing the issue. This rule is intended to:

- (1) Assist courts issuing domestic violence protective orders in determining whether a restrained person has a firearm in or subject to his or her immediate possession or control.
- (2) Assist courts that have issued domestic violence protective orders in determining whether a restrained person has complied with the court's order to relinquish, store, or sell the firearm under Family Code section 6389(c).

(c) Firearm determination

When relevant information is presented to the court at any noticed hearing that a restrained person has a firearm, the court must consider that information to determine, by a preponderance of the evidence, whether the person subject to a protective order as defined in Family Code section 6218 or Welfare and Institutions Code section 213.5 has a firearm in or subject to his or her immediate possession or control in violation of Family Code section 6389.

(d) Determination procedures

- (1) In making a determination under this rule, the court may consider whether the restrained person filed a firearm relinquishment, storage, or sales receipt or if an exemption from the firearm prohibition was granted under Family Code section 6389(h).
- (2) The court may make the determination at any noticed hearing when a domestic violence protective order is issued, at a subsequent review hearing, or at any subsequent family or juvenile law hearing while the order remains in effect.
- (3) If the court makes a determination that the restrained person has a firearm in violation of Family Code section 6389, the court must make a written record of the determination and provide a copy to any party who is present at the hearing and, upon request, to any party not present at the hearing.

(e) Subsequent review hearing

- (1) When presented with information under (c), the court may set a review hearing to determine whether a violation of Family Code section 6389 has taken place.
- (2) The review hearing must be held within 10 court days after the noticed hearing at which the information was presented. If the restrained person is not present when the court sets the review hearing, the protected person must provide notice of the review hearing to the restrained person at least 2 court days before the review hearing, in accordance with Code of Civil Procedure 414.10, by personal service or by mail to the restrained person's last known address.
- (3) The court may for good cause extend the date of the review hearing for a reasonable period or remove it from the calendar.
- (4) The court must order the restrained person to appear at the review hearing.
- (5) The court may conduct the review hearing in the absence of the protected person.
- (6) Nothing in this rule prohibits the court from permitting a party to appear by telephone under California Rules of Court, rule 5.9.

(f) Child custody and visitation

- (1) If the court determines that the restrained person has a firearm in violation of Family Code section 6389, the court must consider that determination when deciding whether the restrained person has overcome the presumption in Family Code section 3044.
- (2) An order for custody or visitation issued at any time during a family law matter must be made in a manner that ensures the health, safety, and welfare of the child and the safety of all family members, as specified in Family Code section 3020. The court must consider whether the best interest of the child, based on the circumstances of the case, requires that any visitation or custody arrangement be limited to situations in which a third person, specified by the court, is present, or that visitation or custody be suspended or denied, as specified in Family Code section 6323(d).
- (3) An order for visitation issued at any time during a juvenile court matter must not jeopardize the safety of the child, as specified in Welfare and Institutions Code section 362.1.

(g) Other orders

- (1) The court may consider a determination that the restrained person has a firearm in violation of Family Code section 6389 in issuing:
 - (A) An order to show cause for contempt under section 1209(a)(5) of the Code of Civil Procedure for failure to comply with the court's order to surrender or sell a firearm; or
 - (B) An order for money sanctions under section 177.5 of the Code of Civil Procedure.
- (2) This rule should not be construed to limit the court's power to issue orders it is otherwise authorized or required to issue.

Rule 5.495 adopted effective July 1, 2014.

Advisory Committee Comment

When issuing a family or juvenile law domestic violence protective order as defined in Family Code section 6218 or Welfare and Institutions Code section 213.5, ex parte or after a noticed hearing, the court is required to order a restrained person "to relinquish any firearm in [that person's] immediate possession or control or subject to [that person's] immediate possession or control." (Fam. Code, § 6389(c)(1).) Several mandatory Judicial Council forms—*Temporary Restraining Order* (form DV-110), *Restraining Order After Hearing* (form DV-130), and *Notice of Hearing and Temporary Restraining Order-Juvenile* (form JV-250)—include mandatory orders in bold type that the restrained person must sell to or store with a licensed gun dealer or turn in to a law enforcement agency any guns or other firearms within

his or her immediate possession or control within 24 hours after service of the order and must file a receipt with the court showing compliance with the order within 48 hours of receiving the order. California law requires personal service of the request for and any temporary protective order at least five days before the hearing, unless the court issues an order shortening time for service. Therefore, by the date of the hearing, the restrained person should have relinquished, stored, or sold his or her firearms and submitted a receipt to the court.

Courts are encouraged to develop local procedures to calendar firearm relinquishment review hearings for restrained persons.

Section (f) of this rule restates existing law on the safety and welfare of children and family members and recognizes the safety issues associated with the presence of prohibited firearms.

Although this rule does not require the court to compel a restrained person to testify, the court may wish to advise a party of his or her privilege against self-incrimination under the Fifth Amendment to the United States Constitution. The court may also consider whether to grant use immunity under Family Code section 6389(d).

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Family Law Issues Meeting

Call In Number: 877.820.7831

Listen Only Passcode: 1456449

FEBRUARY 24, 2019

1:55-3:30 P.M.

SACRAMENTO, CA



JUDICIAL COUNCIL
OF CALIFORNIA

OPERATIONS AND PROGRAMS DIVISION
CENTER FOR FAMILIES, CHILDREN & THE COURTS

Family Law Issues

Judicial Council, (Tower A)

- | | |
|------------------|--|
| 1:55 – 2:15 p.m. | Joint Ad Hoc Subcommittee on Remote Video Appearances
<i>Andrea Jaramillo, Attorney, Legal Services</i> |
| 2:15 – 2:45 p.m. | Family Law Legislative Update
<i>Andi Liebenbaum, Attorney, Judicial Council Office of Governmental Affairs</i> |
| 2:45 - 3:30 p.m. | Setting Committee Priorities for 2020
<i>Hon. Mark A. Juhas, Cochair</i> |
| 3:30 – 4:00 p.m. | Reconvene as Full Committee for 2020 Priorities and Next Steps |



Remote Video Appearances for Most Noncriminal Hearings 2018–2019

WORKSTREAM PHASE 1 REPORT,
FINAL

NOVEMBER 20, 2019

The pages that follow are an excerpt and contain only the report's Executive Summary and section detailing the workstream's legislative and rule recommendations.

The full report is available online at:

<https://www.courts.ca.gov/documents/jctc-20191125-materials.pdf>



JUDICIAL COUNCIL
OF CALIFORNIA

TECHNOLOGY COMMITTEE

Executive Summary

The Remote Video Appearances Workstream (Workstream) was tasked by the Judicial Council’s Information Technology Advisory Committee (ITAC) with exploring possible implementation models for remote video appearance, investigating the issues and opportunities, hosting a mock implementation, and preparing for one or more pilot implementations in actual courtrooms for specific hearing types.

The Workstream’s efforts were informed by recommendations of the Commission on the Future of California’s Court System that the Judicial Branch press forward with remote video appearance for most noncriminal court proceedings.

“Technology can provide a less expensive and more effective way for parties and counsel to make court appearances. Statutes and rules of court currently permit granting a request for telephonic appearances at non-evidentiary hearings in most civil cases including unlawful detainer and probate matters, unless a court finds good cause to require a personal appearance. This rule should be expanded to include video appearance and to permit remote appearances at trials and evidentiary hearings in all civil tiers.”

(Commission on the Future of California’s Court System, *Report to the Chief Justice* (Apr. 2017), p. 24.)

Chief Justice Tani G. Cantil-Sakauye directed ITAC, and by extension the Workstream, to “consider, for presentation to the Judicial Council, the feasibility of and resource requirements for developing and implementing a pilot project to allow remote appearances by parties, counsel, and witnesses for most noncriminal court proceedings” (Chief Justice Tani G. Cantil-Sakauye, mem. to Justice Douglas P. Miller, et al., “*Addressing the recommendations of the Commission on the Future of California’s Court System*,” May 17, 2017).

This report provides the Workstream’s analysis of the current state of video and digital appearances in California courts and makes recommendations to broaden adoption of this emerging model for court appearances. These recommendations focus on removing barriers broadly and to the benefit of all courts and court users, rather than on developing pilot projects.

In mid-2017, the Judicial Council of California awarded 53 grants to courts throughout California. These grants, authorized by the Budget Act of 2016, focused on a broad group of innovations, modernization, and efficiency in the California court system. Seven of these grants focused specifically on remote appearances, with some directly addressing criminal case types and others addressing noncriminal matters.

Since the innovation grant courts are actively implementing pilots, the Workstream purposefully solicited members from those courts to maximize information sharing and ensure that the Workstream could support those courts in their efforts.

The participation of members from the innovation grant courts proved extremely valuable in shaping and focusing the Workstream’s efforts. Early in the Workstream’s work, innovation grant court representatives reported no direct obstacles to their implementation efforts. With that information, the Workstream changed its focus to developing recommendations that can benefit all courts wanting to become early adopters of remote video appearances. The Workstream’s intent with the information in this report is to reduce the time between implementations of innovation grant courts and early-adopter courts.

Finally, the Workstream’s efforts did not include evaluation of juvenile delinquency or dependency proceedings. The unique nature of juvenile proceedings requires special attention and may require a completely different set of rules from those of other noncriminal proceedings. For that reason, the Workstream determined it best to leave these matters for future discussion.

Recommendations

The Workstream approached its work and the ultimate recommendations with the following key concepts in mind:

- Provide access to justice. Remote video appearance is an additional, optional mechanism.
- Preserve litigant rights. The use, or nonuse, of remote video appearances can neither benefit nor disadvantage one party over another.
- Ensure dignity and integrity of process. Remote appearances must retain a dignified and stable backdrop for the resolution of disputes.
- Don’t overcomplicate. Develop a relatively simple set of guidelines that would place a minimal burden on both the litigants and the court.

During the Workstream’s evaluation of the current state of video appearances, it became apparent that any recommendations should also ensure flexibility for early-adopter courts. The relative newness of these proceedings will necessitate iteration at the local court level. As such, recommendations for rules or legislation focused on ensuring the authority for courts to proceed while seeking to allow courts the ability to explore varied approaches, as the processes around the technology mature through experience. The Workstream has drafted potential rule and legislative changes for consideration by ITAC and other appropriate advisory committees as they continue this work. The Workstream does *not* anticipate that the recommended language would be adopted without further review and potential revision by those groups. Instead, the Workstream’s effort to draft language is intended to express the goals of the rule or legislative changes to the greatest extent possible.

The Workstream specifically makes the following recommendations:

- **Recommendation 1: ITAC should circulate through the normal process a recommendation that the Judicial Council pursue an amendment of Code of Civil Procedure section 367.5 to conform authorization for video and/or digital appearances to those made via telephone.**

As a start to supporting remote video or digital appearances, the Workstream recommends legislative changes to add these types of appearances to existing legislation for telephonic appearances. The Workstream believes that the provisions for remote video or digital appearance should generally parallel those for telephonic appearance, but should not create a presumptive authorization for video appearance, as exists for telephonic appearance during some types of hearings. Because of the infancy of the video appearance process, the Workstream prefers to leave the option to offer these types of appearances to the local jurisdiction.

- **Recommendation 2: ITAC should circulate through the normal process a recommendation that the Judicial Council pursue amendments to Code of Civil Procedure section 367.6 and Government Code section 72011, and the repeal of Government Code section 70630.**

Current law requires a court to charge a fee, established by the court, for any video appearance. The Workstream recommends conforming the fee structure for video appearances to those for telephonic appearances. Timing of this change is important to ensure that replacement legislation (Recommendation 1) and rules (Recommendations 3 and 4) are in place before the repeal.

- **Recommendation 3: ITAC should, in cooperation with appropriate advisory committees, develop a recommendation that the Judicial Council adopt a new rule of court, specific to video and digital appearances, that largely mirrors California Rules of Court, rule 3.670, regarding telephonic appearances.**

Existing rules provide guidance to courts and parties for telephonic appearances. The Workstream recommends a similar structure for a new rule specific to video and/or digital appearances. A separate rule is proposed to allow for a nuanced approach to evidentiary hearings—which are more appropriate for video or digital appearances than telephonic appearances—and variation in authorized case types.

- **Recommendation 4: ITAC should, in cooperation with appropriate advisory committees, seek amendment of California Rules of Court, rule 5.9, or any other related Rules of Court, to allow for video and digital appearances in family law proceedings.**

Current rule 5.9 allows for telephonic appearances in family law proceedings. The Workstream recommends a minor revision to allow for video or digital appearances in these case types.

- **Recommendation 5: ITAC should request that the Judicial Council, following appropriate vetting, adopt *Key Considerations Guide for Early Adopters of Video Appearances in California Courts*, included as Appendix A to this Phase 1 report, and ensure that a mechanism exists to make future revisions to the document as additional lessons are learned and to keep pace with technology changes.**

The Workstream recommends legislative and rule changes that make clear the authority for the courts to offer appearances by video or digital means. The Workstream, however, discussed other questions that are raised as courts approach a new method of access. The guide outlines key items for courts to address as they pursue local efforts. The guide is not a mandate, nor does it impose specific requirements on courts.

The Workstream’s recommendations for rule and legislative changes could move forward through existing ITAC subcommittees, in collaboration with other impacted advisory committees, without the need to maintain an additional Workstream infrastructure until the new rules and laws are in place and the first of the innovations grant courts has completed their work.

Report Structure

This final report provides the results of the Workstream’s Phase 1 work. Section 1 provides background information and key principles that guided the Workstream. Section 2 outlines the relevant legislative and rule-of-court foundation for the existing use of remote appearance and suggests the changes necessary to support broader adoption of this capability. Section 3 provides discussion regarding the procedural aspects of scheduling and conducting remote video appearance hearings. Section 4 focuses on the exploration of the technical aspect of remote video appearances and includes the technology recommendations of the Workstream. Section 5 looks to future next steps and further work required to fully define and implement remote video appearances across California’s courts. Finally, the Appendices

present a guide to key recommendations to assist early-adopter courts seeking to implement remote video appearance, expanded information on the mock hearings conducted by the Workstream and the original concept outlined by the Commission on the Future of California’s Court System, and the Workstream’s membership.

2.0 Legislative and Rule Considerations

Court hearings and related appearance by counsel and parties are conducted daily by telephone in courts throughout California. For limited and unlimited civil motions, rule 3.670 of the California Rules of Court is specifically intended to “promote uniformity,” allow parties to “appear by telephone,” and presumptively allow for telephonic appearances in certain circumstances. Legal authority for these appearances is well established in California Code of Civil Procedure section 367.5, which grants formal authority for telephonic appearances and states the Legislature’s stance that such telephonic remote appearance provides greater access to justice for parties.

The use of video or digital appearances is not clearly encouraged in statute and rule. Although the Legislature has granted the authority for use of video (see Gov. Code, § 70630), it has done so only through a code authorizing fees. In relevant part, Government Code section 70630 states: “If a court has made videoconferencing services available, the clerk of the court shall charge a reasonable fee to cover the cost of permitting parties to appear by videoconferencing.”

During the course of the Workstream’s efforts, concerns were raised by members and internal staff regarding the legality of telephone or video appearances for small claims cases in particular. The Workstream reviewed this issue, and although section 367.5 does not include small claims and some civil petitions (as defined) in the blanket authorization for telephonic appearance, it grants the Judicial Council broad authority to expand this authorization.

*“This section does not apply to any types of cases or types of conferences, hearings, and proceedings except those specified in subdivision (b). Consistent with its constitutional rulemaking authority, **the Judicial Council may by rule provide for the procedures and practices, and for the administration of, telephone appearances for all types of cases and matters not specified in subdivision (b).** For these other cases and matters, the Judicial Council may specify the types of cases and matters in which parties may appear by telephone, the types of cases and matters in which parties shall appear personally, the conditions under which a party may be permitted to appear by telephone, and any other rules governing telephone and personal appearances that are within its rulemaking authority.” (emphasis added)*
(Cal. Code Proc., § 367.5(e).)

Further, Government Code section 70630 does not provide a limitation on video appearances by case type and instead, on plain read, provides broad authority to the court to make video conferencing available. Individual courts would need to evaluate how to balance this generalized authority for video with the existing limitation on small claims cases for telephonic appearances. The following section presents the Workstream’s recommended branch-level approach.

Finally, video appearances are already authorized for title IV-D hearings per rule 5.324 of the California Rules of Court. Under that rule, *telephone appearance* is defined such that it includes appearances by “videoconferencing” (Cal. Rules of Court, rule 5.324(b)).

2.1 Workstream Approach to Legislative and Rule Changes

Consistent with the Workstream’s overall approach to the project, the preference was to keep legislative and rule changes to a minimum wherever possible. This approach was, in part, a response to the

recognition that early-adopter courts will need significant flexibility during initial testing and rollout of remote video appearances. Furthermore, the Workstream reviewed the existing rules pertaining to telephonic appearances and noted an approach that both allows for and requires local court variance in how telephonic appearances are held and recognizes the role of the judicial officer presiding over the proceeding to control for sound and demeanor, and to ensure that the rights of all parties are protected. The Workstream supports a nearly identical approach to appearances by video or other digital methods.

Exhibit 1 summarizes the topics considered by the Workstream for inclusion in a new rule and the ultimate decision on whether to recommend this rule. This exhibit does not address evidence submission, the way agreements are documented during proceedings, or potential fees for service, all of which are presented later in the report.

Exhibit 1: Video and Digital Appearance Rule Considerations

Topic	Workstream Consideration	Include in Rules of Court?	Include in “Key Considerations”?
Party and External User Technical Requirements	<p>The Workstream discussed whether local courts should be required to provide solutions that can be accessed by specific software or hardware in use by the public. The Workstream had experience across its membership with a variety of commercially available products and services providing remote video connectivity.</p> <p>Because the technology ecosystem conforms to one standard, similar to telephone standardization, a rule was not determined to be necessary.</p>	No	Yes
User Environment	<p>The Workstream considered whether specific rules should be developed regarding the physical location of the remote user, internet bandwidth requirements for that user, and/or whether to prohibit use of mobile phones.</p> <p>The Workstream decided that a general rule is needed to ensure the party can be seen and heard but that further details are unnecessary and would require frequent revision.</p> <p>In addition, the Workstream contemplated potential issues in cases where the remote party is in pro per or is participating in a small claims case.</p> <p>The Workstream recommends a rule requiring parties to affirm on the record that the party is not being provided assistance by anyone other than their attorney of record (where appropriate) or an interpreter. The definition of “assistance” should also be included.</p>	Yes	Yes
User Scheduling	<p>The Workstream discussed whether rules should be adopted to define how and when a user can schedule a video appearance.</p>	No	No

Topic	Workstream Consideration	Include in Rules of Court?	Include in “Key Considerations”?
	<p>The Workstream determined that this level of detail depends highly on the individual court and the hearings offered by that court. This level of variability does not lend itself to a rule of court.</p>		
Hearings Offered	<p>The Workstream discussed whether to define the specific hearings in which video appearance would be authorized.</p>	Yes	Yes
	<p>The Workstream determined that a two-fold approach would be appropriate. First, the California Rules of Court should authorize video consistent with the authorization for telephone and expand to clearly enable use of video in small claims, civil petitions not currently covered by the telephonic appearance rules, and family law. These expanded case types may not be appropriate for telephonic appearances in which the party cannot be seen or evidence presented. Video appearance provides enhanced abilities in these areas and can then expand the types of cases eligible for a remote appearance. Second, the rules should require local courts to post the types of hearings in which video appearances are allowed, consistent with the rules related to telephonic appearances.</p>		
Notice / Cut-Off Rules	<p>The Workstream had significant discussions regarding notice. Initial opinions differed on whether the opposing party should be provided notice. Arguments against such notice focused on potential delays to the court process and/or the need for additional judicial review before hearing. Arguments for such notice were more general in nature during the initial conversations.</p>	Yes	Yes
	<p>At present, the Workstream recommends notice to the court and the opposing party and a cutoff time frame for scheduling a video appearance. However, the Workstream also recommends that a good-cause basis be required for objection to video appearance. Future rules may be developed in this area after there is sufficient experience by the pilot courts.</p>		
Participants Allowed	<p>The Workstream discussed the types of participants who should be allowed to appear by video. The Workstream determined that anyone directly involved in the case (party, attorney, witness, interpreter, court reporter, etc.) should be allowed to appear by video.</p>	Yes	No
Identity Verification	<p>The Workstream discussed whether rules should specify how judicial officers or court staff verify the identity of a party appearing remotely. This item was deferred to the Identity Management Workstream. However, the consensus of the Workstream was that</p>	No	No

Topic	Workstream Consideration	Include in Rules of Court?	Include in “Key Considerations”?
	such rules are unnecessary and that judicial officers will verify identity for remote participants as they verify those appearing in person or on the telephone.		
Interpreter Guidelines	Specific topics related to provision of interpreters were deferred to the Video Remote Interpreting Pilot Workstream. However, the Remote Video Appearances Workstream saw no technical issues with connecting interpreters to the overall video appearance offerings.	No	Yes
Party View of the Hearing and/or Other Hearings	<p>The Workstream discussed the staging of multiple video hearings. For example, on a busy unlawful detainer calendar, should the parties in one case be allowed or prohibited from seeing the calendar proceedings that are being conducted by video ahead of them? The Workstream also considered whether rules should define how to organize calendars, specify queueing, and/or specify what precisely can be seen by and of the various participants during the hearing.</p> <p>The Workstream determined that rules pertaining to viewing need only include minimum requirements related to the ability to see and hear the participants. Local court technology capabilities will govern the number of cases that can be supported at any one time. The Workstream determined that rules that either require other case parties to or prohibit them from witnessing other cases on the same calendar were unnecessary.</p>	Yes to Ability to View and Hear Only	Yes
Facilitating Confidential Communication	<p>The Workstream discussed whether courts should be responsible for facilitating confidential communication between a party and its attorney or other representation.</p> <p>The Workstream determined that such a requirement on the court is neither necessary nor desirable. Appearance by video, as contemplated in this report, is not required of the party, and parties appearing by video would need to arrange with their counsel a reasonable way to communicate confidentially. This communication would likely occur via mobile phone.</p>	No	Yes
Facilitating Mediations	The Workstream determined that methods for providing mediation or other services offered by some courts before or after court hearings should be established at the local court level and not addressed in the rules of court.	No	Yes
Technical Requirements	This report includes discussion of minimum technical guidelines, which the Workstream recommends be included in the Key	No	Yes

Topic	Workstream Consideration	Include in Rules of Court?	Include in “Key Considerations”?
	Considerations document (Appendix A). The Workstream does not recommend the inclusion of technical requirements in the rules of court.		
Process for Recusals and Disqualifications	The Workstream discussed whether rules should define how to handle situations in which a judicial officer recuses himself or herself, or the parties seek a disqualification, on the day of a video appearance.	No	Yes
	The Workstream determined that recusals should be handled consistent with existing court practice and that each court, based on its technology capabilities and the availability of other judicial officers that day, should determine whether the matter should be continued, moved to a new courtroom, or otherwise addressed.		
Quality Control and Reporting	The Workstream discussed whether rules of court should include a reporting requirement for local courts using video appearances.	No	No
	The Workstream does not recommend such a rule.		
Record Capture	The Workstream does not recommend any special rules for the capture of the record in video hearings. Existing rules related to verbatim or electronic recording would apply. To be consistent with rules for telephonic appearances, rules related to video or digital appearances should include language similar to California Rules of Court, rule 3.670(o).	Yes	No

2.2 Legislative and Rule-Change Recommendations

The Workstream considered potential legislation or rules regarding authority, request process, type of technology, conduct during the hearing, training, and reporting. The Workstream has made an initial attempt at drafting specific language, but acknowledges that this language has not yet been reviewed by the appropriate Judicial Council internal committees or sent out for public comment. As such, the text of the proposals is—and should be—subject to further review before being introduced to the Legislature or recommended for final adoption by the Judicial Council. The Workstream has attempted to provide sufficient detail to convey the goal of the rule or legislative changes to facilitate the work of future committees.

Recommendation 1: ITAC should circulate through the normal process a recommendation that the Judicial Council pursue an amendment of Code of Civil Procedure section 367.5 to conform authorization for video and/or digital appearances to those made via telephone.

The Workstream recommends that ITAC pursue Judicial Council sponsorship of legislation to modify section 367.5 to expand its definition to include telephone, video, and digital appearances. Beyond adding

simple terminology to expand telephone options to include video and digital, the Workstream does not believe further revision to this section is necessary.

Specifically, the Workstream recommends the following amendments to section 367.5:

(a) It is the intent of this section to promote uniformity in the procedures and practices relating to telephone, video, or digital appearances in civil cases. To improve access to the courts and reduce litigation costs, courts should, to the extent feasible, permit parties to appear by telephone, video, or digital means at appropriate conferences, hearings, and proceedings in civil cases.

(b) * * *

(c) The court may require a party to appear in person at a hearing, conference, or proceeding listed in subdivision (b) if the court determines on a hearing-by-hearing basis that a personal appearance would materially assist in the determination of the proceedings or in the effective management or resolution of the particular case.

(d) Consistent with its constitutional rulemaking authority, the Judicial Council shall adopt rules effectuating the policies and provisions in this section by January 1, ~~2008~~ 2021, and may adopt rules relating to matters not covered by subdivision (a). The rules may prescribe, but are not limited to prescribing, the notice to be given by a party requesting a telephone, video, or digital appearance under subdivision (a);² the manner in which telephone, video, or digital appearances are to be conducted;² the conditions required for a party to be permitted to appear by telephone, video, or digital technology; and provisions relating to the courts' use of private vendors to provide ~~telephone~~ these services.

(e) This section does not apply to any types of cases or types of conferences, hearings, and proceedings except those specified in subdivision (b). Consistent with its constitutional rulemaking authority, the Judicial Council may by rule provide for the procedures and practices, and for the administration,² of telephone, video, or digital appearances for all types of cases and matters not specified in subdivision (b). For these other cases and matters, the Judicial Council may specify the types of cases and matters in which parties may appear by telephone, video, or digital technology;² the types of cases and matters in which parties shall appear personally;² the conditions under which a party may be permitted to appear by telephone, video, or digital technology;² and any other rules governing telephone, video, digital, and personal appearances that are within its rulemaking authority.

Recommendation 2: ITAC should circulate through the normal process a recommendation that the Judicial Council pursue amendments to Code of Civil Procedure section 367.6 and Government Code section 72011, and the repeal of Government Code section 70630.

ITAC should recommend amending Code of Civil Procedure section 367.6 to extend the authorized fee structure that exists for telephonic appearance to more broadly apply to all remote appearances. This amendment should be accomplished in conjunction with the repeal of Government Code section 70630 and the amendment of section 72011. The technology recommendations in section 4.2, below, provide consistency in fees and ensure that existing structures for telephonic appearances are not disrupted by the addition of video or digital appearances. Further, Government Code section 70630 does not allow for the retention of fees by either a vendor identified by a court or a court that provides video or digital

services directly. Repealing section 70630; ensuring that all telephone, video, and digital services have fees charged per Government Code section 72011; and implementing rules of court would result in more consistent fees across courts and deposits into the Trial Court Trust Fund.

Specifically, the Workstream recommends revisions to Code of Civil Procedure 367.7 and Government Code 72011 as follows:

Code Civ. Proc., § 367.6.

(a) On or before July 1, ~~2011~~ 2021, the Judicial Council shall establish statewide, uniform fees to be paid by a party for appearing by telephone, video, or digital means, which shall supersede any fees paid to vendors and courts under any previously existing agreements and procedures. The fees to be paid for telephone, video, or digital appearances shall include:

(1) A fee for providing the telephone, video, or digital appearance service pursuant to a timely request to the vendor or court.

(2) An additional fee for providing services if the request is made shortly before the hearing, as defined by the Judicial Council.

(3) A fee for canceling a telephone, video, or digital appearance request.

(b) If a party has received a waiver of fees pursuant to Article 6 (commencing with Section 68630) of Chapter 2 of Title 8 of the Government Code, neither a vendor nor a court shall charge that party any of the fees authorized by this section, subject to the following:

(1) The vendor or court that provides the telephone, video, or digital appearance service shall have a lien, as provided by rule of court, on any judgment, including a judgment for costs, that the party may receive, in the amount of the fee that the party would have paid for the telephone, video, or digital appearance.

(2) If the vendor or court later receives a fee or a portion of a fee for appearance by telephone, video, or digital means that was previously waived, that fee shall be distributed consistent with Section 72011 of the Government Code.

(c) The fee described in this section shall be a recoverable cost under Section 1033.5 of the Code of Civil Procedure.

Gov. Code, § 72011.

(a) For each fee received for providing telephone, video, or digital appearance services, each vendor or court that provides for appearances by telephone, video, or digital means shall transmit twenty dollars (\$20) to the State Treasury for deposit in the Trial Court Trust Fund established pursuant to Section 68085. If the vendor or court receives a portion of the fee as authorized under paragraph (2) of subdivision (b) of Section 367.6 of the Code of Civil Procedure, the vendor or court shall transmit only the proportionate share of the amount required under this section. This section shall apply regardless of whether the Judicial Council has established the statewide uniform fee pursuant to Section 367.6 of the Code of Civil Procedure, or entered into one or more master agreements pursuant to Section 72010 of this code. This section shall not apply when a vendor or court does not receive a fee.

(b)—(e) * * *

Recommendation 3: ITAC should, in cooperation with appropriate advisory committees, develop a recommendation that the Judicial Council adopt a new rule of court, specific to video and digital appearances, that largely mirrors California Rules of Court, rule 3.670, regarding telephonic appearances.

The Workstream recommends that ITAC, with support and collaboration of other affected advisory committees, develop a new rule of court specifically dealing with video and digital appearances. The Workstream considered whether to recommend revisions to rule 3.670 rather than a new rule, but ultimately determined that there were sufficient nuanced differences to warrant a new rule. In part, these differences focus on the ability of video or digital appearances to better enable evidentiary hearings and hearings in case types that are not well suited for telephone because of the inability to see the speaker and evaluate demeanor or similar considerations.

Although the Workstream is not recommending rules in all areas investigated or discussed, it has communicated—in Appendix A: *Key Considerations Guide for Early Adopters of Video Appearances in California Courts*—important issues and considerations for courts as they embark on video appearances (see Recommendation 5).

Specifically, the Workstream recommends that ITAC work to adopt new rule 3.671, as follows:

Rule 3.671. Video and digital appearances

(a) Policy on video and digital appearances

The intent of this rule is to promote uniformity in the practices and procedures relating to remote video appearances in civil, probate, and family law cases. To improve access to the courts and reduce litigation costs, courts should permit parties, to the extent feasible, to appear by video or digital means at appropriate conferences, hearings, and proceedings in civil and family law cases.

(b) Application

This rule applies to proceedings in all general civil cases as defined in rule 1.6, and to unlawful detainer, small claims, family law, probate, and other civil petitions as defined in California Rules of Court, rule 1.6(5).

(c) General provision authorizing parties to appear by video or digital means

A court may authorize, as further described in this rule, matters to be heard by video or digital means. A court authorizing video or digital means must adopt a local rule that outlines the case types and/or types of conferences, hearings, and proceedings in which a video appearance may be allowed.

(d) *Saved for future use.*

(e) Required personal appearances

Except as permitted by the court under (f)(2), a personal appearance is required for the following persons:

- (1) Persons ordered to appear to show cause why sanctions should not be imposed for violation of a court order or a rule; or
- (2) Persons ordered to appear in an order or citation issued under the Probate Code.

At the proceedings described under (f)(2), parties who are not required to appear in person under this rule may appear by telephone.

(f) Court discretion to modify rule

- (1) *Court may require personal appearances*

Notwithstanding any local rule establishing video appearances, the court may require a party to appear in person at a hearing, conference, or proceeding if the court determines on a hearing-by-hearing basis that a personal appearance would materially assist in the conduct of the proceedings or in the effective management or resolution of the particular case.

- (2) *Court may permit appearances by video or digital means*

The court may permit a party to appear by video or digital means at a hearing, conference, or proceeding under (e) if the court determines that such appearance is appropriate.

(g) Need for personal appearance

If, at any time during a hearing, conference, or proceeding conducted by video or digital means, the court determines that a personal appearance is necessary, the court may continue the matter and require a personal appearance.

(h) Notice by party

- (1) Unless a shorter period of time is specified by local court rule, a party seeking to appear by video or digital means, where allowed by local rule, must notify the court and opposing parties no less than 10 days before the court hearing of his/her/their intent to do so. Notice must be provided to the court under local court rule.
- (2) If a party that has given notice that he/she/they intend to appear by video or digital means under (1) subsequently chooses to appear in person, the party may appear in person.
- (3) A party may ask the court for leave to appear by video or digital means without the notice provided for under (1) or as otherwise defined in local rules. The court should permit the party to appear by video or digital means on a showing of good cause.

(i) Notice by court

The court must provide notice to all parties that a digital appearance has been set for all evidentiary hearings. Notice to all parties by the court is not required for non-evidentiary hearings.

After a party has requested a video or digital appearance under (h), if the court requires the personal appearance of the party, the court must give reasonable notice to all parties before the hearing and may continue the hearing, if necessary, to accommodate the personal appearance. The court may direct the court clerk, a court-appointed vendor, a party, or an attorney to provide the notification. In courts using a tentative ruling system for law-and-motion matters, court notification that parties must appear in person may be given as part of the court’s tentative ruling on a specific law-and-motion matter if that notification is given at least one court day before the hearing.

(j) Provision of video or digital appearance services

A court may provide for video or digital appearances only through one or more of the following methods:

- (1) An agreement with one or more vendors under a statewide master agreement or agreements; or
- (2) The direct provision by the court of video appearance services. If a court directly provides video appearance services, it must collect the remote appearance fees specified in (k), except as provided in (l) and (m). A judge may, at his or her discretion, waive remote appearance fees on a case-by-case basis for good cause.

(k) Video and digital appearance fee amounts

Fee amounts for parties making video or digital appearances, collectively referred to as remote appearance fees, must be charged, paid, and distributed in the same amount and manner as telephonic appearance fees as specified in California Rules of Court, rule 3.670.

(l) Fee waivers

(1) Effect of fee waiver

A party that has received a fee waiver must not be charged remote appearance fees provided under (k), subject to the provisions of Code of Civil Procedure section 367.6(b).

(2) Responsibility of requesting party

To obtain video or digital appearance services without payment of a remote appearance fee from a vendor or a court that provides video or digital appearance services, a party must advise the vendor or the court that he or she has received a fee waiver from the court. If a vendor requests it, the party must transmit a copy of the order granting the fee waiver to the vendor.

(3) Lien on judgment

If a party receives video or digital appearance services under this rule without payment of a fee based on a fee waiver, the vendor or court that provides the video or digital appearance services must have a lien on any judgment, including a judgment for costs, that the party may receive, in the amount of the fee that the party would have paid for the video or digital appearance. There is no charge for filing the lien.

(m) Title IV-D proceedings

(1) Court-provided video or digital appearance services

If a court provides video or digital appearance services in a proceeding for child or family support under title IV-D of the Social Security Act brought by or otherwise involving a local child support agency, the court must not charge a fee for those services.

(2) Vendor-provided video or digital appearance services

If a vendor provides video or digital appearance services in a proceeding for child or family support under title IV-D, the amount of the fee for a video or digital appearance under (k) is \$74 instead of \$94. No portion of the fee received by the vendor for a video or digital appearance under this subdivision is to be transmitted to the State Treasury under Government Code section 72011.

(3) Responsibility of requesting party

When a party in a title IV-D proceeding requests video or digital appearance services from a court or vendor, the party requesting the services must advise the court or vendor that the requester is a party in a proceeding for child or family support under title IV-D brought by or otherwise involving a local child support agency.

(4) Applicability of fee waivers

The fee waiver provisions in (l) apply to a request by a party in a title IV-D proceeding for video or digital appearance services from a vendor.

(n) Audibility and visibility of procedure

The court must ensure that the video or digital connection is sufficient to enable all parties to adequately view the parties, to the extent necessary for the type of proceedings; that the statements of participants are audible to all other participants and court staff; and that the statements made by a participant are identified as being made by that participant.

(o) Reporting

All proceedings involving video or digital appearances must be reported to the same extent and in the same manner as if the participants had appeared in person.

(p) Video or digital appearance vendor or vendors

A court may designate by local rule the digital appearance vendor or vendors that must be used for video or digital appearances.

(q) Information on video or digital appearances

The court must publish a notice describing the case types, hearing types, and trial types, if any, for which the court offers video or digital appearance. The notice must provide parties with the information necessary for them to appear by video or digital means at conferences, hearings, and proceedings in that court under this rule. The notice must include information on how parties are to submit and/or present evidence during a video or digital appearance at an evidentiary hearing.

(r) Party declarations specific to appearing by video or digital means

Parties making a video or digital appearance must declare under penalty of perjury (written or oral) that they are not being provided assistance by anyone in their testimony, statements, or presentation of evidence except for assistance provided by their attorney of record—unless in a small claims case in which no attorneys are permitted—or an interpreter. As used in this rule, “assistance” includes, but is not limited to, whispering to the parties, coaching, making hand gestures, and flashing words or pictures. Parties appearing by video or digital appearance must also declare under penalty of perjury (written or oral) that they are not recording or streaming and will not record or stream the proceedings.

(s) Prohibition from streaming, rebroadcasting, or recording proceedings

Parties are strictly prohibited from recording, streaming, rebroadcasting, or reproducing a video or digital appearance without the order of the court. Authorization must be accomplished under California Rules of Court, rule 1.150. Parties appearing by video or digital appearance must affirm under oath (written or oral) their acknowledgment of this section.

(t) Objections to remote video appearance

A party who has been notified that a video appearance has been requested in a proceeding may file an objection with the court no less than five days in advance of the hearing. The court may require a personal appearance by all parties on a showing of good cause.

Recommendation 4: ITAC should, in cooperation with appropriate advisory committees, seek amendment of California Rules of Court, rule 5.9, or any other related rules of court to allow for video and digital appearances in family law proceedings.

The Workstream recommends that ITAC, working with appropriate advisory committees, develop a formal recommendation to the Judicial Council to revise rule 5.9 to expand its application beyond telephone appearances to include video and digital appearances. This change is necessary to prevent conflict with the new rule of court proposed in Recommendation 3.

Proposed amendments to rule 5.9 follow:

Rule 5.9. Appearance by telephone, video, or digital means

(a) Application

This rule applies to all family law cases, except for actions for child support involving a local child support agency. Rule 5.324 governs telephone, video, and digital appearances in governmental child support cases.

(b) Telephone, video, and digital appearances

The court may permit a party to appear by telephone, video, or digital means at a hearing, conference, or proceeding if the court determines that a telephone, video, or digital appearance is appropriate.

(c) Need for personal appearance

(1) At its discretion, the court may require a party to appear in person at a hearing, conference, or proceeding if the court determines that a personal appearance would materially assist in the determination of the proceedings or in the effective management or resolution of the particular case.

(2) If, at any time during a hearing, conference, or proceeding conducted by telephone, video, or digital means, the court determines that a personal appearance is necessary, the court may continue the matter and require a personal appearance.

(d) Local rules

Courts may develop local rules to specify procedures regarding appearances by telephone, video, or digital means.

Recommendation 5: ITAC should request that the Judicial Council, following appropriate vetting, adopt *Key Considerations Guide for Early Adopters of Video Appearances in California Courts*, included as Appendix A to this Phase 1 report and ensure that a mechanism exists to make future revisions to the document as additional lessons are learned and to keep pace with technology changes.

As previously discussed, the Workstream had significant discussions about topics that are best addressed by local courts during their implementation of video or digital appearances. To support those courts in their efforts, and reduce the need for those courts to independently research the items reviewed by the Workstream, Appendix A provides the Workstream's thoughts on areas that courts should consider when implementing video appearances.

The Workstream further recommends that ITAC, with support from Judicial Council staff, periodically review and recommend updates to the document. Because of the relative infancy of video appearances on a wide scale in noncriminal matters, significant lessons that will necessitate updates to this early implementation guide are likely to be learned in the first few years.

Juvenile Law Issues Meeting

Call In Number: 877.820.7831

Listen Only Passcode: 3059688

FEBRUARY 24, 2019

1:55-3:30 P.M.

SACRAMENTO, CA



JUDICIAL COUNCIL
OF CALIFORNIA

OPERATIONS AND PROGRAMS DIVISION
CENTER FOR FAMILIES, CHILDREN & THE COURTS

Juvenile Law Issues

Judicial Council, (Sutter Room)

- | | |
|------------------|---|
| 1:55 – 2:20 p.m. | Federally Funded Dependency Representation
<i>Audrey Fancy, Principal Managing Attorney, CFCC</i> |
| 2:20 – 3:00 p.m. | Implementation of the Family First Prevention Services Act (FFPSA)
<i>Sara Rogers, Branch Chief, CCR Branch, Department of Social Services & Marymichael Miatovich Smrdeli, Attorney, CFCC</i> |
| 3:00 – 3:30 p.m. | Setting Committee Priorities for 2020
<i>Hon. Jerilyn L. Borack, Cochair</i> |
| 3:30 – 4:00 p.m. | Reconvene as Full Committee for 2020 Priorities and Next Steps |

[Court Appointed Dependency Counsel Title IV-E Match Program Update: November 2019](#)

2019 Revisions to Federal Policy for Dependency Counsel Representation

Title IV-E of the Social Security Act enables states and counties to seek reimbursement from the federal government for eligible foster care related expenditures. Traditionally this has included social workers and their attorneys (typically county counsel). A recent revision of the Child Welfare Policy Manual (CWPM), extends the availability of title IV-E match funds to dependency counsel who provide legal representation to children in foster care and their parents. This significant federal funding development has the potential to provide up to an additional \$57 million to augment court appointed counsel services.

California Implementation Process

Court appointed dependency counsel funds are administered by the Judicial Council pursuant to a workload-based methodology adopted in April 2016. Currently, 38 courts receive funding to contract with dependency counsel providers at the local level and 20 courts participate in the Dependency Representation, Administration, Funding, and Training (DRAFT) program where the JCC contracts directly with attorneys.

The federally designated agency, the California Department of Social Services (CDSS), and the Judicial Council worked together to develop a plan that will enable California dependency attorneys to access the IV-E match funds. As a result of that plan, the Budget Act of 2019 included \$34 million in ongoing federal funds to support court-appointed dependency counsel representing parents and children; an amount that is expected to increase to \$57million in 2020-2021 once the program is fully implemented. Judicial Council staff, in conjunction with its advisory bodies and in consultation with stakeholders, including judges; court administrators; and dependency counsel providers, are developing the plan to administer the title IV-E match program. The Judicial Council will administer the program statewide and directly contract with DRAFT providers. In other counties, the court may directly contract with providers (or delegate authority to the Judicial Council). Courts will work with Judicial Council staff to ensure providers adhere to record-keeping and invoice requirements for program participation.

Activities Eligible for Federal Funding Match

This new federal funding opportunity, provided through title IV-E, is limited to the provision of legal services by attorneys who serve the child welfare population. California is an early adopter of this new program and we expect further clarification and refinement as the program develops. This federal funding covers representation provided by attorneys to children and their parents in foster care, including in-court work as well as out-of-court work such as investigations, discovery review, legal research and writing, and client meetings. The funding also extends to a proportionate share of related agency overhead and costs related to data collection and reporting. Clarification regarding eligible expenses is forthcoming from federal administrators. The JCC and CDSS anticipate the need for cautious claiming in the early stage of the program as the details are defined.

For additional questions and answers regarding the extent to which federal match funds may be used the following websites may be of assistance. Please note, these websites are maintained by non-profit organizations and may not maintain fidelity to California implementation:

<https://familyjusticeinitiative.org/iv-e-funding/>

<https://www.naccchildlaw.org/page/PolicyNews>

FFPSA Information Sheet 1
Family First Prevention Services Act

[The Family First Prevention Services Act of 2018](#) (FFPSA), Public Law (P.L) 115-123 was signed into law February 9, 2018 as part of the Bipartisan Budget Act of 2018 and represents the biggest change to the structure of federal child welfare funding since the establishment of the Title IV-E program in 1980. FFPSA makes changes in three areas: preventative services, congregate care, and reauthorization of other services.

Part I: The central feature of FFPSA is the use of title IV-E federal dollars for time-limited (12-months) preventative services. Under FFPSA, states can spend federal money on three types of preventative services: mental health treatment, substance abuse treatment, and in-home skill-based programs. Eligibility for these services requires a showing that: 1) The parents or relatives are caring for a child(ren) who is a candidate for foster care¹ or the youth is in foster care and is pregnant or parenting; or, 2) A formal prevention plan is in place for the foster care candidate that includes a strategy for the child to remain home, or live with a relative caregiver temporarily or permanently.

Court's Role in Implementing Part I:

Currently, the court is required to make a finding at the detention hearing that reasonable efforts were made to prevent the need for removal. Once FFPSA is implemented, the court will be required to consider the degree, duration, and continuity of preventative services before making that finding. FFPSA's focus on the court's role in prevention is in harmony with state policy² that encourages judges to provide active leadership within the community to determine the needs of, and obtain and develop resources and services for, at-risk children and families.

Part II: A number of programs are impacted by FFPSA, however, the single greatest impact on the court will be had by doing away with time-limited reunification services.

Court's Role in Implementing Part II:

The main issue in Part II is the elimination of time-limited reunification. Depending on how California decides to implement this provision under FFPSA, this could lead to more court hearings and additional findings for the court to consider.

Part IV: FFPSA imposes additional limits on Congregate Care beyond those recently implemented by Continuum of Care Reform. Under FFPSA, title IV-E dollars may only be used to fund a congregate care placement for two weeks, unless: the youth is in a prenatal, postpartum, or parenting home to support teens; a supervised setting for a child 18 years of age or older; a high quality residential facility for youth who have been victims of human trafficking; or a qualified residential treatment program (QRTP). Children placed in a QRTP must be assessed within 30 days by a qualified individual to determine whether the needs of the child may be met in a lower level of care and a case-planning team meeting must be convened.

Court's Role in Implementing Part IV:

FFPSA enacts a new court hearing for youth in congregate care that requires the court, within 60 days of placement in a QRTP, to consider a qualified expert's assessment to determine whether the child's needs can be met in a foster family, and if not, determine whether the QRTP is the most appropriate level of care in the least restrictive environment. Further, at every status review hearing the case plan must include evidence that the child's continued QRTP placement is appropriate and meets the child's needs in the least restrictive placement.

¹ A candidate for foster care is child who would have entered foster care, but for the preventative services being offered.

² See, [the California Standards of Judicial Administration, Standard 5.40](#).

Opinion from the Judicial Resources and Technical Assistance (JRTA) Project, not the Judicial Council. The information in this document is based on laws in effect at the time of publication (January 2019). Federal and state laws may change at any time. This is not legal advice. This information sheet may not be altered without the consent of the JRTA project.

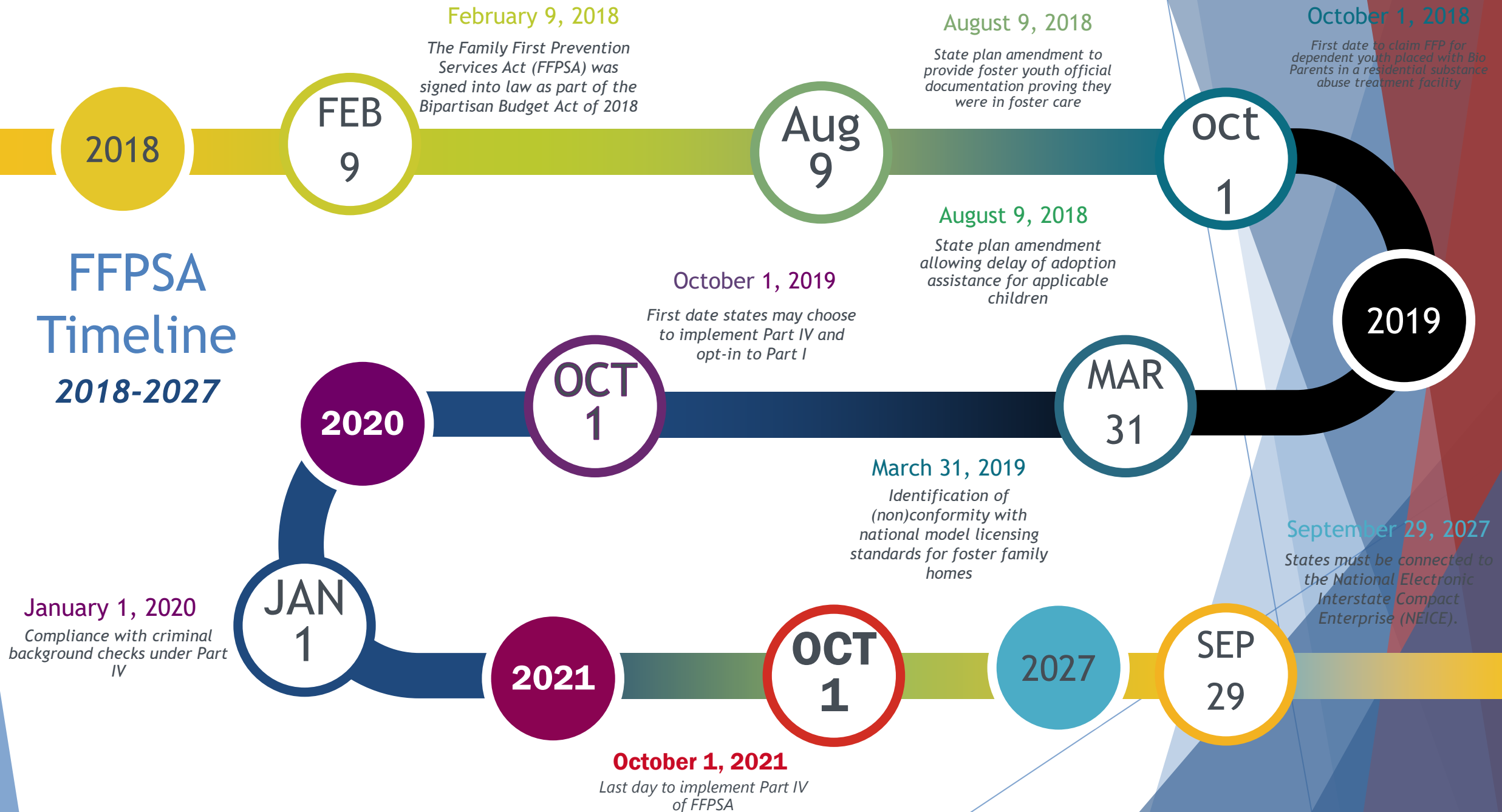
Family First Prevention Services Act

Family and Juvenile Law Advisory Committee Meeting
February 24, 2020

Agenda

- I. Overview of Family First Prevention Services Act
- II. FFPSA Implementation Overview
- III. Family First Transition Act
- IV. Progress on Implementation
 - i. Part I- Foster Care Prevention Services
 - i. Pregnant/parenting foster youth
 - ii. Part I- Family-Based Substance Use Residential Treatment Facilities
 - iii. Part IV- Placements in a Qualified Residential Treatment Program

FFPSA Timeline 2018-2027



Family First Transition Act (2020)

- Delays 50% spending requirement on Well-Supported Practices through the end of FFY 2021;
- Allows for Supported Practices to be temporarily counted toward the 50% spending requirement from FFY 22-23;
- Enhanced Funding for Transition Activities:
 - One-time Title IV-B allocation (\$500m)
 - Transition Dollars
 - 90% year 1; 75% year 2
 - Retroactive effective date
 - Reporting Requirements

FFPSA: IV-E Prevention Services

Enables states to use Federal funds (Title IV-E) to provide enhanced support to children and families and **prevent foster care placements through the provision of mental health and substance abuse prevention and treatment services, in-home parent skill-based programs, and kinship navigator services.**

Eligibility for IV-E Prevention Services

Services may be provided to:

- A child who is a candidate for foster care
- A parent or kin caregiver of the child
- A child in foster care who is a pregnant (or expecting) or parenting foster youth

A “child who is a candidate for foster care” is defined as a child who is identified in a title IV-E prevention plan as being at imminent risk of entering foster care (without regard to whether the child would be eligible for title IV-E foster care maintenance payments, title IV-E adoption assistance or title IV-E kinship guardianship assistance payments), but who can remain safely in the child's home or in a kinship placement as long as the title IV-E prevention services that are necessary to prevent the entry of the child into foster care are provided.

IV-E Prevention Services

Services:

- Mental health services
- Substance abuse prevention and treatment services
- In-home parent supports and skill-based programs
- *Up to 12 month period that begins on the date the child is identified in a prevention plan as a candidate or pregnant/parenting foster youth*
- *Provided by a qualified clinician*

Programs must be evidence based and trauma-informed, and include a well-designed rigorous evaluation strategy

- Promising practice; or
- Supported practice; or
- Well-supported practice

Federal Prevention Services Clearinghouse

<https://preventionservices.abtsites.com/>

- Public call for Title IV-E Clearinghouse program submissions closed on October 31, 2019.

Programs submitted by CDSS:

- EMDR
- Family-Centered Treatment
- Aggression Replacement Training
- Wraparound
- Effective Black Parenting
- Chicago Parent Program
- Family Acceptance Project
- Common Sense Parenting
- Transition to Independence
- Adolescent Community Reinforcement Approach
- Helping Women Recover and Beyond Trauma
- Matrix Model Intensive Outpatient Program

Prevention Services Clearinghouse

Approved as of 2/10/2020

- *Methadone Maintenance Therapy
- *Trauma-Focused Cognitive Behavioral Therapy
- **Families Facing the Future
- ***Functional Family Therapy
- ***Healthy Families America
- ***Motivational Interviewing
- ***Multisystemic Therapy
- ***Nurse-Family Partnership
- ***Parent-Child Interaction Therapy
- ***Parents as Teachers

**Promising*

***Supported*

****Well-Supported*

Prevention Services Clearinghouse

Up Next for Review

Attachment & Biobehavioral
Catch-Up

Brief Strategic Family Therapy

Child Parent Psychotherapy

Interpersonal Psychotherapy

Multi-dimensional Family
Therapy

Triple P - Positive Parenting
Program

Family Behavior Therapy

Seeking Safety

The Seven Challenges

Homebuilders

Nurturing Parenting

SafeCare

Solution Based Casework

OH's Kinship Supports Intervention/
ProtectOHIO

ProtectOHIO

YMCA Kinship Support Services,

YMCA San Diego

Reductions to Congregate Care:

- ▶ Limits IV-E placements to 14-days *EXCEPT*:
 - *Qualified residential treatment program (QRTP) placements;*
 - a setting specializing in providing prenatal, post-partum, or parenting supports for youth;
 - a setting providing high-quality residential care and supportive services to children and youth who have been found to be, or are at risk of becoming, sex trafficking victims;
 - a supervised setting in which the child is living independently.

Reductions to Congregate Care:

Qualified residential treatment program" or "QRTP" means a program that:

- ▶ Has a trauma-informed treatment model that is designed to address the needs, including clinical needs as appropriate, of children with serious emotional or behavioral disorders or disturbances and, with respect to a child, is able to implement the treatment identified for the child by the Qualified Individual Assessment

Reductions to Congregate Care

QRTP's also must:

- ▶ Obtain accreditation from an approved organization
- ▶ Have registered or licensed nursing staff and other licensed clinical staff who:
 - provide care within the scope of their practice as defined by State law
 - are on-site according to the treatment model
 - are available 24 hours a day and 7 days a week
- ▶ Facilitate outreach and participation of family members as specified;
- ▶ Provides discharge planning and family-based aftercare support for at least 6 months post-discharge;

Reductions to Congregate Care

QRTPs also must:

- ▶ 30-day assessment timeframes by a Qualified Individual
- ▶ Qualified Individual
- ▶ 60-day timeframe for court review
- ▶ At least 6 month aftercare services

Qualified Individual

- ▶ A trained professional or licensed clinician who is not an employee of the title agency and who is not connected to, or affiliated with, any placement setting in which children are placed.
 - ▶ However, **the state may request a waiver** to the above affiliation restriction. The state must certify that the trained professionals or licensed clinicians will “maintain objectivity”
- ▶ Must assess a child placed in a QRTP within 30 days of the start of each placement in a QRTP (section 475A(c)(1)(A) of the Act).
- ▶ Must assess a child to determine the appropriateness of a placement in a QRTP using an age-appropriate, evidence-based, validated, functional assessment tool approved by the Secretary (sections 472(k)(4) and 475A(c) of the Act)
- ▶ Must conduct assessments in conjunction with the family of, and permanency team for, the child

60 day court review

- ▶ Within 60 days of the start of each placement in a QRTP, a family or juvenile court or another court (including a tribal court) of competent jurisdiction, or an administrative body appointed or approved by the court, independently, must, among other things, consider the assessment, determination, and documentation made by the qualified individual in approving the placement (section 475A(c)(2) of the Act).
- ▶ If the court does not approve the placement timely, i.e., within the 60-day timeframe, the title IV-E agency may only claim title IV-E FCMPs for the first 60 days of the placement in the QRTP (section 472(k)(1)(B) of the Act).

Time limits on IV-E claims in QRTP

States may only claim Title IV-E for **30 days** after:

- ▶ a court disapproves such a placement under section 475A(c)(2); or
- ▶ a determination is made that a child in an approved QRTP placement is going to return home or be placed with a fit and willing relative, a legal guardian, or an adoptive parent, or in a foster family home (section 473(k)(3)(B) of the Act);
- ▶ the assessment required under section 475A(c)(1) determines that the QRTP is not appropriate;
- ▶ a determination is made that a child in an approved QRTP placement is going to return home or be placed with a fit and willing relative, a legal guardian, or an adoptive parent, or in a foster family home (section 473(k)(3)(B) of the Act).
- ▶ Requires specified case plan documentation for placements exceeding 12 consecutive months or 18 nonconsecutive months (or, in the case of a child who has not attained age 13, for more than six consecutive or nonconsecutive months)

Continuing Discussions:

- ▶ QI framework and guidance
- ▶ DHCS and IMDs
- ▶ Statute language changes

Thank you!

Question mail box
FFPSA@dss.ca.gov