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OF CALIFORNIA

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**AB 1058 FUNDING ALLOCATION JOINT
SUBCOMMITTEE MEETING**

OPEN MEETING AGENDA

Open to the Public (Cal. Rules of Court, rule 10.75(c)(1))

THIS MEETING IS BEING RECORDED

Date: January 19, 2018
Time: 10:00 a.m.– 4:00 p.m.
Location: 2860 Gateway Oaks Drive, Suite 400, (Veranda C Room)
Sacramento, CA 95833
Public Call-in Number: 1-877-820-7831 and Enter Listen Only Passcode: 3059688

Meeting materials will be posted on the advisory body web page on the California Courts website at least three business days before the meeting.

Agenda items are numbered for identification purposes only and will not necessarily be considered in the indicated order.

I. OPEN MEETING (CAL. RULES OF COURT, RULE 10.75(C)(1))

Call to Order and Roll Call

Approval of Minutes

II. PUBLIC COMMENT (CAL. RULES OF COURT, RULE 10.75(K)(2))

Public Comment

Members of the public requesting to speak during the public comment portion of the meeting must place the speaker's name, the name of the organization that the speaker represents if any, and the agenda item that the public comment will address, on the public comment sign-up sheet. The sign-up sheet will be available at the meeting location at least one hour prior to the meeting start time. The Chair will establish speaking limits at the beginning of the public comment session. While the advisory body welcomes and encourages public comment, time may not permit all persons requesting to speak to be heard at this meeting.

Written Comment

In accordance with California Rules of Court, rule 10.75(k)(1), written comments pertaining to any agenda item of a regularly noticed open meeting can be submitted up to one complete business day before the meeting. For this specific meeting, comments should



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Meeting Agenda | January 19, 2018

be e-mailed to familyjuvenilecomm@jud.ca.gov or mailed or delivered to 455 Golden Gate Avenue, 6FL, Center for Families, Children & the Courts, San Francisco, California 94102, attention: Angelica Souza. Only written comments received by Thursday, January 18 at 10:00 a.m. will be provided to advisory body members prior to the start of the meeting.

III. INFORMATION ONLY ITEMS (NO ACTION REQUIRED)

Item 1

Welcome and Review of the Council's Charge

Presenters: Judge Cope, Judge Hinrichs, and Judge Juhas

Item 2

Public Comment

Item 3

Factors for Consideration of a Funding Methodology

a) 1997 AB 1058 Funding Model

Presenter: Anna L. Maves, Supervising Attorney/AB1058 Program Manager,
Center for Families, Children & the Courts

b) AB 1058 Funding Allocation Joint Subcommittee Subject-Matter Expert Groups

Presenter: Gary Slossberg, AB 1058 Attorney,
Center for Families, Children & the Courts

c) California Department of Child Support Services

Presenter: Alisha Griffin, Director,
California Department of Child Support Services

Item 4

Update on Changes to Workload-Based Allocation and Funding Methodology and Funding Methodology Subcommittee' Role

Presenters: Rebecca Fleming, Court Executive Officer, Santa Clara Superior Court
Hon. Jonathan B. Conklin, Fresno Superior Court



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[Break from 12:15 p.m. to 12:30 p.m. to set up working lunch]

Item 5

Working Lunch: Factors Affecting AB 1058 Program Funding

Presenter: Anna L. Maves, Supervising Attorney/AB1058 Program Manager,
Center for Families, Children & the Courts

- Federal Title IV-D Program Requirements
- Federal Regulation Service Mandates
- Contractual Requirements
- State Legislative Mandate
- Structure of Title IV-D Plan
- Funding Challenges
- Measuring FLF Workload

Item 6

Facilitated Discussion of Factors That Should be Included in Any AB 1058 Funding Methodology

Presenter: Anna L. Maves, Supervising Attorney/AB1058 Program Manager,
Center for Families, Children & the Courts

Item 7

Next Steps

IV. ADJOURNMENT

Concluding Remarks and Adjourn



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AB1058 FUNDING ALLOCATION JOINT SUBCOMMITTEE

MINUTES OF OPEN MEETING

July 31, 2017

12:00 p.m. – 1:30pm

1-877-820-7831 and Enter Listen Only Passcode: 3059688

Advisory Body Members Present: Hon. Irma Poole Asberry, Cochair, Hon. Mark Ashton Cope, Cochair, Hon. Mark A. Juhas, Cochair, Hon. Sue Alexander, Mr. Richard D. Feldstein, Ms. Rebecca Fleming, Ms. Alisha A. Griffin, Hon. Joyce D. Hinrichs, Ms. Sheran Morton, Mr. Stephen Nash, Hon. B. Scott Thomsen, Ms. Lollie Roberts (specially appointed)

Advisory Body Members Absent: Hon. Lorna A. Alksne, Hon. C. Todd Bottke, Hon. Kevin C. Brazile, Hon. Jonathan B. Conklin, Hon. Maureen F. Hallahan, Hon. Ira R. Kaufman

Others Present: Ms. Charlene Depner, Ms. Lucy Fogarty, Ms. Tracy Kenny, Ms. Anna Maves, Ms. Leah Rose-Goodwin, Ms. Denise Friday, Mr. Gary Slossberg, Ms. Nancy Taylor, Ms. Millicent Tidwell

I. OPEN MEETING (CAL. RULES OF COURT, RULE 10.75(C)(1))

Call to Order and Roll Call

Approval of Minutes

Meeting minutes of 5/11/17 approved without objection.

III. INFORMATION ONLY ITEMS (NO ACTION REQUIRED)

Item 1 (12:00 p.m.–12:05 p.m.)

Welcome

Presenters: Judge Asberry, Judge Cope, and Judge Juhas

Call to order at 12:01 p.m. Roll call taken.

The cochairs welcomed the Joint Subcommittee members and the public to the meeting and thanked staff for its preparation in advance of the meeting. It was noted that one public comment was received for the meeting from Commissioner Rebecca Wightman (San Francisco).

Anna Maves, AB 1058 Supervising Attorney and Program Manager, reviewed the timeline for the Joint Subcommittee. Ms. Maves reported that the direction from the Council was to have a recommendation for a



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new funding methodology for fiscal year 2018-2019, which necessitates a recommendation to the Council by early 2018. The current proposed plan would be to have the recommendation presented to the Council at its January 2018 meeting. Prior to the Council reviewing the recommendation, the three advisory committees which provide membership to the Joint Subcommittee (i.e., Family and Juvenile Law Advisory Committee, Trial Court Budget Advisory Committee, and Workload Assessment Advisory Committee) would need to review the recommendation and approve, disapprove, or approve with modifications.

Tentatively, the next Joint Subcommittee meeting is scheduled for October 3, 2017, at the JCC Sacramento Office to review possible funding models with numbers. This will be an open, in-person meeting.

Item 2 (12:05 p.m.–12:35 p.m.)

Discussion of Guiding Principles for AB 1058 Funding Models

Presenters: Leah Rose-Goodwin, Manager, Office of Court Research

Ms. Rose-Goodwin led a discussion regarding guiding principles for funding models for the AB 1058 program to help staff in building models that are consistent with the direction of the Joint Subcommittee.

She offered the following policy questions that may be helpful in developing guiding principles:

- What are the federal requirements that need to be met by the AB 1058 program?
- Does the group wish to consider a phased-in approach?
- How important is the issue of stability in building a model?
- What causes the behaviors that we see in the data (e.g., quantities or counts of certain activities) and should the model incorporate those behaviors or should the model strive to provide a different level of service?

A member asked about what is meant by behaviors. Ms. Rose-Goodwin gave the example of “defaults” and the question of whether a model should consider the number of defaults of a court in determining funding.

Ms. Rose-Goodwin then posed the following additional questions:

- What is the basic level of service you would want to see?
- What are the fundamentals of the program that need to be in every jurisdiction?

A member suggested going through the Menu of Options document and talking about the guiding principles alongside that document. Another member added that he’s not as concerned with the specifics of the model and that he can accept almost any model as long as it is objectively justifiable and fair, meaning it’s fairly administered across the board. While recognizing that there are some individual circumstances that must be met, he emphasized the need to develop a funding model that is fair to everyone involved.

A member commented that this is a statewide program, so variances between courts are not really positive things. The AB 1058 program is outcome driven and must be responsive to federal mandates, so she encouraged staff to think about ways to administer the program at the state level so it is more streamlined. As an alternative, the member suggested that it be administered regionally, possibly organized by appellate districts. She added that if the numbers are such that there’s not sufficient funding for the small courts, there needs to be a means to provide these services in small courts anyway so everyone across the state has access to these services. She expressed the concern that if small courts do not receive sufficient funding, these courts may decline to fund an AB 1058 program in their court. If the program was organized on a statewide level or by appellate districts, if one court, for instance, had a backlog of defaults, other courts could assist that court with this backlog. She noted that historically AB 1058 Commissioners initially viewed themselves as a part of a statewide program working and planning together, but over time courts have managed the program in ways that have not supported this statewide perspective and have interrupted the continuity of the program. The member stressed that the Council needs to ensure that every county is adequately served, stressing that, if there’s no way to address how courts are managing the program at the state level, it’s difficult to improve the performance of the program everywhere.



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Ms. Maves stated that the member's comments speak to the importance of administering the program consistently throughout the state with equal access to all individuals and the need to develop efficiencies. She pointed out that the Family and Juvenile Law Advisory Committee is looking at how to develop better efficiencies in the program. Another member added that, given the current political climate, regionalization may not get a lot of traction, despite the validity of these comments. Instead, he talked about how a floor could assist small courts and how it's important to consider giving courts whose funding may change a soft landing (e.g., phasing in the funding).

Another member commented that this discussion seems to go back to an earlier remark that the model must be objectively fair to everyone. She said that we must look at what works statewide for everyone.

A member suggested the group consider the level of service that constituents should receive (e.g., how quickly it takes to get into court). Talking in these terms can help the courts begin to set some baselines for levels of service that all courts should be able to provide. Responding to the members comments regarding organizing the program on a statewide or regional level, she also noted that there are several other states that have developed other types of models that may be worth considering.

A member asked if the group is still responding to the model offered by MAXIMUS at the last meeting. Ms. Maves answered that staff thought it would be beneficial to start by asking for guiding principles from the group and then afterwards to look at a document that includes a number of options, including those presented by MAXIMUS, to get the group's direction. Ms. Rose-Goodwin added that staff felt that there were too many options to consider and therefore getting further direction from the group would be helpful as models begin to be built.

Ms. Rose-Goodwin asked, in talking about fairness and access to services, if there are some fundamentals as to what that means. A member responded that to her it means that if you walk in the door in one court and walk in the door in another court, you should not be treated very differently. There may be some small nuances that might be different, but you should be treated the same wherever you go. Other members agreed, with one pointing out that there's a tension of how to respect the individual decision-making of courts while still trying to accomplish what has been noted today. He added that there might be certain areas where trial courts are funded now that ought to be funded in a different way because they can't be dealt with individually. He posed the following dilemma: if the allocation is everyone gets the same amount based on the workload and then the courts make decisions and if then litigants are not treated the same way in each court, who is going to look at this and make changes to the funding?

Judge Juhas agreed that all litigants should have the same experience whether they are on the northern or southern part of the state, but he noted that part of the issue is that how a litigant is treated is driven partly by the practices of the LCSA. He added that while these issues are important to discuss, they may be outside the purview of this Subcommittee. Mr. Feldstein agreed, stating that in talking about performance standards the Subcommittee needs to be very careful in not trying to micromanage courts. It may be more helpful to think in terms of overall goals without dictating exactly how the goals should be achieved, since courts are in different circumstances and might have different means for meeting those goals. If there are performance goals set, he suggested that they be set at a fairly high level.

Ms. Griffin posed the question of what "should be treated the same" means. She added that being treated the same goes hand in hand with expecting some level of equitable service and access in every county. As such, there's a need to define what that expectation is. It may be simple things like how quickly a litigant gets in front of the court or how quickly a litigant gets a filed court order.

Item 3 (12:35 p.m. - 12:50 p.m.)

Presentation on WAFM Funding Methodology

Presenters: Judicial Council Staff

Lucy Fogarty, Deputy Director of Budget Services, gave an overview of WAFM. WAFM is a method to assess funding need based on workload and provides a method to allocate available funding. The workload study on which WAFM is based is the Resource Assessment Study (RAS). It assesses the nonjudicial



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workload. Currently, total trial court funding is not sufficient to meet the the total funding need statewide. If the funding were available to meet the need, there would be no need to reallocate funds.

RAS uses filings data to calculate the number of employees needed in each court to actually do the work. WAFM calculates the total cost of those employees, using an average salary statewide adjusted for the cost of labor in each jurisdiction per the Bureau of Labor Statistics (BLS). Non-personnel costs (e.g., operational costs) are then added in. The filings data are from a rolling 3-year average.

The following adjustments are made for small courts:

- Operational and Equipment Expense (OE&E): Small courts get a higher relative operational and equipment allocation as they cannot take advantage of the economies of scale that larger courts can take advantage of.
- FTE Allotment: For courts with less than 50 employees, if their FTE to salary ratio is lower than the median for courts in that group, their FTE to salary ratio is brought up to the median.
- Funding floors: There's an absolute funding group for small courts plus a graduated funding floor to allocate additional funding for those courts above the absolute funding floor.

WAFM does not include programs with dedicated funding streams, like AB 1058. WAFM also does not dictate how to use the funds (e.g., how employees are hired or paid); courts make these decisions. WAFM has been implemented gradually over 5 years, with the 5th year having 50% of the historical base being allocated via WAFM. Any new trial court funding also would be allocated via WAFM. The Council is in the 5th year of WAFM and has yet to decide how to proceed with WAFM. A Funding Methodology Subcommittee that was established in 2013 has been working on various parking lot issues that have been identified and currently is working on proposals on how WAFM should move forward.

Item 4 (12:50 p.m.–1:20 p.m.)

Review of Menu of Options for AB 1058 Funding Models

Presenters: Judicial Council Staff

Gary Slossberg, AB 1058 Attorney, directed the group to the Menu of Options documents. He noted that the models described in the documents follow the same general framework as WAFM with some adjustments based on specifics of the AB 1058 Program. The first document (Model Options 1) presented uses JBSIS filings and the case weighs from RAS. Model Options 2 uses either JBSIS filings or DCSS caseload data for cases with orders established in that federal fiscal year and the case weighs from RAS. Model Options 3 uses number of hearings by type from the DCSS caseload data and the MAXIMUS time study to estimate time for each hearing. Both Model Options 2 and 3 included the following: an adjustment for default cases, the ability to consider unique factors such as LEPs and poverty, the option of a stratified funding floor, the possibility of an absolute cap on any shifts in funding, and a different process for allocating the federal drawdown funds. Model Option 4 was identical to Model Options 2 and 3 with the addition of the option of using the FLF Electronic Database to track volume of customer interactions as a measure of workload, rather than using case filings or hearing data as a proxy for these customer interactions. Mr. Slossberg noted that given the limitations with the FLF Electronic Database identified at the last Subcommittee meeting, staff are working on improving the database to obtain more data that more accurately reflects FLF workload.

A member asked if when talking about defaults if there would be a goal in reducing the number of defaults or if instead it's simply to measure the number of defaults, recognizing that defaults may entail a different workload than other cases. Mr. Slossberg answered that it is the later. Another member asked if defaults are to be defined as the courts define them or as DCSS defines them. Mr. Slossberg responded that there's no definite answer, so the Subcommittee should give direction on this issue. Mr. Slossberg asked the following question:

- Should the model include an adjustment to workload based on the number of defaults a court processes?

One member commented that defaults should be considered as they impact workload. He added that since



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defaults are not the result of a motion they must be tracked in some other way to account for the workload in processing them. A member suggested that the model include incentives to reduce the number of defaults, to which another member added that it all depends on what we are defining as defaults (e.g., defaults which include a stipulation signed by the respondent vs. defaults with no involvement from the respondent). A member asked if the court signing a stipulation should be deemed to have a higher workload than a default with no stipulation. Ms. Maves clarified that since the court has no control over how a default comes to the court, staff's approach was to not create incentives for reducing defaults, but rather to just measure the workload that the court has in actuality. Regarding stipulations, Ms. Maves pointed out that it is difficult to determine if the stipulation is connected to a hearing which requires the pulling of the file and other work by the court or if there's no hearing or other additional work connected to it. As such, staff proposes defining defaults as only those cases without a response on file and without a stipulation.

Mr. Slossberg asked the committee if anyone has an objection to adjusting the workload based on the number of defaults a court processes. One member responded that he has no objection, but he stated that he would want further discussion if it was proposed to create an incentive in the model to reduce defaults. Ms. Rose-Goodwin asked if the default rates reported by DCSS include the broader definition of defaults used by DCSS or the more narrower one preferred by some members of the Subcommittee. A member suggested having staff research the issue and presenting models at the October meeting with both options (i.e., with defaults included and not included).

Mr. Slossberg posed another question to the Subcommittee:

- Should court be required to accept federal drawdown (FDD) funds or should it be an opt-in?

A member answered that the FDD should be handled separately as a court's ability to spend it depends upon the general trial court budgets. As such, a court not spending all of their FDD is not a good measure of their need; rather, it's in large part a measure of the availability of trial court funds to match the 2/3 FDD that they may be entitled to. Ms. Maves gave a brief historical background on the FDD funds, noting that courts first had access to the FDD in 2008 when the program was flat-funded, which has continued to today. Use of the FDD has always been on a voluntary basis. Courts were not required to accept FDD funds. Court indicate whether they want FDD funds during the initial allocation process and also can ask for additional FDD funds at the mid-year reallocation process if the funds become available from courts who indicate that they will not use all of their funds. With the decrease in some courts' budgets with WAFM, courts have required less FDD funds. Since about 75% of AB 1058 expenditures are for personnel, then if courts were required to use FDD funds, courts that had problems paying the matching funds would have a great deal of instability.

The member reiterated that the allocation of the FDD funds should be different that the allocation of the base funds. Another member agreed.

One member, citing what was expressed in the public comment that was submitted, requested that the Subcommittee look at the historic spending patterns to try to avoid a situation in which courts that have turned back funds are allocated more money than they have ever been able to spend in the past. She also suggested that the funding model include an opportunity to pause and evaluate the impacts on the program of the new funding model. Ms. Maves acknowledged that staff is including these considerations in its discussions.

The member continued to note that the Summary of Models document mentioned that for some of the models "departures from RAS and WAFM need to be justified to the council." She asked if the council had directed that a WAFM-like model be adopted, as her understanding was that the council directed that a workload-based model be developed, but not necessarily WAFM. Ms. Maves confirmed that the charge from the council was to develop a new recommendation for a funding model based on workload, without stating that it must follow WAFM.

Item 5 (1:20 p.m.–1:25 p.m.)

Determine Next Steps, including Confirmation of October 3, 2017 In-Person Meeting at Sacramento JCC Office



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Presenters: Judge Asberry, Judge Cope, and Judge Juhas

Ms. Maves noted staff, based on this discussion, would begin building out some models and input numbers into the models so they can be brought back to the Subcommittee at the next meeting. She asked if the Subcommittee members wanted staff to take any other steps.

One member proposed that the Subcommittee vote on whether or not they want staff to spend further time on Model 1 (i.e., the model that most follows the process of WAFM). She commented that it was her preference not to use this Model. Another member asked that Model 1 be looked at further to compare alongside the other models.

IV. ADJOURNMENT

Concluding Remarks and Adjourn

Judge Cope thanked the Subcommittee members and staff for their time and concluded the meeting at approximately 12:28 p.m.

Approved by the advisory body on enter date.

ADMINISTRATIVE OFFICE OF THE COURTS
Report Summary

Family and Juvenile Law Advisory Committee

May 2, 1997

**SUBJECT: Child Support Commissioner and Facilitator Allocation
Funding (Action Required)**

Family Code section 4252 requires the Judicial Council to establish minimum qualifications, caseload, case processing, and staffing standards for child support commissioners. A cooperative agreement between the council and the Department of Social Services provides funding for child support commissioners and facilitators; the council is required to allocate this funding among the courts.

Attached to this memorandum is the report prepared by the Family and Juvenile Law Advisory Committee, which makes recommendations on these and related matters involving child support commissioners and facilitators.

Recommendation

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council:

1. Approve the attached Title IV-D report (see Attachment B) on Commissioner Workload, Qualifications, and Allocation; Support Staff Minimum Levels; and Future Statistical Studies, which includes the following actions:
 - a. Establish the minimum qualifications for a commissioner, requiring five years' practice and experience in family law matters that may include Title IV-D child support matters (see pp. 1-2 of the Title IV-D report);
 - b. Require that commissioners receive ongoing education pursuant to a plan to be jointly developed by the Family and Juvenile Law Advisory Committee and the Center for Judicial Education and Research (see p. 2 of the Title IV-D report);
 - c. Establish a workload of 250 cases per week for a commissioner hearing Title IV-D child support matters (see pp. 4-9 and 16-17 of the Title IV-D report);

- d. Establish a minimum support staff figure of one courtroom clerk, one bailiff, four file clerks, and one court reporter (see pp. 5 and 11–12 of the Title IV-D report);
 - e. Allocate the funding for the 50 commissioner positions based on the active pending caseload of Title IV-D child support cases in each county (see p. 10 of the Title IV-D report and Attachment A to this memorandum);
 - f. Allocate the funding for the facilitator position using the same criteria as the allocation for the commissioner funding (see Attachment A to this memorandum); and
 - g. Direct the Family and Juvenile Law Advisory Committee to develop statistics that would facilitate the prediction of caseload and the resources needed to work with this caseload (see pp. 15–16 of the Title IV- D report).
2. Direct the Family and Juvenile Law Advisory Committee to monitor the allocation of commissioners and facilitators and to recommend to the council reallocations as necessary to meet the needs of changes in caseload; and
 3. Direct the Family and Juvenile Law Advisory Committee to prepare the commissioner qualifications, educational requirements for commissioners and facilitators, caseload processing standards, and support staff levels as draft standards of judicial administration for submission to the Rules and Projects Committee to be circulated for comment.

**THE JUDICIAL COUNCIL OF CALIFORNIA
ADMINISTRATIVE OFFICE OF THE COURTS
303 Second Street, South Tower
San Francisco, California 94107
415-396-9130**

TO: Members of the Judicial Council

**FROM: Family and Juvenile Law Advisory Committee
Hon. Leonard Edwards and Hon. Mary Ann Grilli, Co-Chairs
Michael A. Fischer and Diane Nunn, Committee Counsel**

DATE: May 2, 1997

**SUBJECT: Child Support Commissioner and Facilitator Allocation
Funding (Action Required)**

Background

Statutes 1996, chapter 957 (Assem. Bill 1058 (Speier)) added Family Code section 4252 to read, in part:

- (b) The Judicial Council shall do all of the following:
 - (1) Establish minimum qualifications for child support commissioners.
 - ...
 - (2) Establish caseload, case processing, and staffing standards for child support commissioners on or before April 1, 1997, which shall set forth the maximum number of cases that each child support commissioner can process. These standards shall be reviewed and, if appropriate, revised by the Judicial Council every two years.

Attached to this memorandum is the report prepared by the Family and Juvenile Law Advisory Committee, which makes recommendations on these and other related matters implementing AB 1058. This bill made several changes to Title IV-D Child Support Enforcement.

Title IV-D Child Support Enforcement

Title IV-D of the Federal Social Security Act provides that as a condition for receiving federal funding for welfare, each state must have a state plan for child support enforcement. The requirements imposed by this title are detailed. Each state's program is to be run by a single state agency. In California, the single state agency is the Department of Social Services, which uses each county's district attorney's office to handle the actual enforcement duties.

In addition to imposing requirements on the program, the federal government provides funding in the form of "federal financial participation" (FFP), which covers two-thirds of all eligible costs. The remaining one-third of the cost is to be paid for by either the state or a local entity. FFP is available only if an agency contracts by means of a "cooperative agreement" with the single state agency or with the local district attorney's office.

In approximately 22 counties, there are cooperative agreements between the local district attorney's office and the court to provide for funding for the court's activities in hearing and processing Title IV-D child support actions. Two-thirds of the cost of these agreements come from the federal government and one-third from the district attorney's office.

Effect of AB 1058

AB 1058 was the result of the recommendation of the Governor's Child Support Court Task Force. The primary funding recommendation of that group was the requirement that each county provide a commissioner to hear Title IV-D child support actions (Fam. Code, § 4251) and each county provide an office of family law facilitator (Fam. Code, § 10002). The requirement of a commissioner was imposed because FFP is not available for either a judge or the support staff for a judge hearing Title IV-D child support actions while the funding is available for a commissioner and the commissioner's support staff.

In addition, there is funding provided by the Department of Social Services through a cooperative agreement with the Judicial Council to provide funding for both the commissioner and the facilitator. The establishment of funding through the council is preferable to the present situation where the source of the funding—the local district attorney's office—is one of the litigators in the court being funded.

AB 1058 also makes a number of changes to the practice of child support enforcement and requires the council to adopt implementing rules and forms. (This is the subject of another report, Family Law Rules and Forms, being considered by the council at this meeting.)

Advisory committee recommendation

This report was prepared by the Family Law Subcommittee of the Judicial Council's Family and Juvenile Law Advisory Committee. The members of Family Law Subcommittee are listed in Appendix A to the report. The subcommittee was assisted by a subcommittee established of some Family Law Subcommittee members with additional advisory members. The members of this AB 1058 subcommittee are listed in Appendix B to the attached Title IV-D report. Comments on allocation and workload were solicited from the courts by means of two questionnaires, one sent in February 1997 and one sent in April 1997.

The Family and Juvenile Law Advisory Committee is holding a telephone meeting on May 5 to consider any requested revisions to the allocation schedule that were received from the courts. The affected courts have been invited to participate in that meeting. Any recommended modifications to the allocation will be presented to the council by means of a fax on May 12 in order to be considered in advance of the council meeting.

The recommendations made in the Title IV-D report are summarized in the recommendation section of this memorandum. It should be noted that some of the recommendations could appropriately be made into standards of judicial administration. Because this project will be fully launched on July 1, 1997, the committee is recommending that formal proposal and action on proposed standards be deferred until feedback from the to-be-hired commissioners and facilitators is obtained. A report seeking formal public comment on the standards will be presented to the Rules and Projects Committee by the advisory committee in December 1997, based on the experience of the commissioners and facilitators during the first months of the program.

Recommendation

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council:

1. Approve the attached Title IV-D report (see Attachment B) on Commissioner Workload, Qualifications, and Allocation; Support Staff Minimum Levels; and Future Statistical Studies, which includes the following actions:
 - a. Establish the minimum qualifications for a commissioner, requiring five years' practice and experience in family law matters that may include Title IV-D child support matters (see pp. 1-2 of the Title IV-D report);
 - b. Require that commissioners receive ongoing education pursuant to a plan to be jointly developed by the Family and Juvenile Law Advisory Committee

and the Center for Judicial Education and Research (see p. 2 of the Title IV-D report);

- c. Establish a workload of 250 cases per week for a commissioner hearing Title IV-D child support matters (see pp. 4–9 and 16–17 of the Title IV-D report);
 - d. Establish a minimum support staff figure of one courtroom clerk, one bailiff, four file clerks, and one court reporter (see pp. 5 and 11–12 of the Title IV-D report);
 - e. Allocate the funding for the 50 commissioner positions based on the active pending caseload of Title IV-D child support cases in each county (see p. 10 of the Title IV-D report and Attachment A to this memorandum);
 - f. Allocate the funding for the facilitator position using the same criteria as the allocation for the commissioner funding (see Attachment A to this memorandum); and
 - g. Direct the Family and Juvenile Law Advisory Committee to develop statistics that would facilitate the prediction of caseload and the resources needed to work with this caseload (see pp. 15–16 of the Title IV- D report).
2. Direct the Family and Juvenile Law Advisory Committee to monitor the allocation of commissioners and facilitators and to recommend to the council reallocations as necessary to meet the needs of changes in caseload; and
 3. Direct the Family and Juvenile Law Advisory Committee to prepare the commissioner qualifications, educational requirements for commissioners and facilitators, caseload processing standards, and support staff levels as draft standards of judicial administration for submission to the Rules and Projects Committee to be circulated for comment.

Attachments

ATTACHMENT A

County	FY 1995-96 Active Caseload*	Comm. FTE Alloc.	Commissioner – June 1997	Commissioner – FY 1997-98	Facilitator – June 1997	Facilitator – FY 1997-98
Alameda	48,103	1.9	\$95,000	\$1,140,000	\$94,050	\$308,560
Alpine	111	0.3	\$15,000	\$180,000	\$14,850	\$48,720
Amador	1,608	0.3	\$15,000	\$180,000	\$14,850	\$48,720
Butte	8,582	0.3	\$15,000	\$180,000	\$14,850	\$48,720
Calaveras	1,919	0.3	\$15,000	\$180,000	\$14,850	\$48,720
Colusa	821	0.3	\$15,000	\$180,000	\$14,850	\$48,720
Contra Costa	38,666	1.5	\$75,000	\$900,000	\$74,250	\$243,600
Del Norte	3,024	0.3	\$15,000	\$180,000	\$14,850	\$48,720
El Dorado	8,720	0.3	\$15,000	\$180,000	\$14,850	\$48,720
Fresno	61,224	2.3	\$115,000	\$1,380,000	\$113,850	\$373,520
Glenn	1,715	0.3	\$15,000	\$180,000	\$14,850	\$48,720
Humboldt	6,158	0.3	\$15,000	\$180,000	\$14,850	\$48,720
Imperial	7,907	0.3	\$15,000	\$180,000	\$14,850	\$48,720
Inyo	1,540	0.3	\$15,000	\$180,000	\$14,850	\$48,720
Kern	50,318	1.9	\$95,000	\$1,140,000	\$94,050	\$308,560
Kings	9,132	0.3	\$15,000	\$180,000	\$14,850	\$48,720
Lake	3,377	0.3	\$15,000	\$180,000	\$14,850	\$48,720
Lassen	1,529	0.3	\$15,000	\$180,000	\$14,850	\$48,720
Los Angeles	226,752	8.8	\$440,000	\$5,280,000	\$435,600	\$1,429,120
Madera	5,765	0.3	\$15,000	\$180,000	\$14,850	\$48,720
Marin	3,840	0.3	\$15,000	\$180,000	\$14,850	\$48,720
Mariposa	794	0.3	\$15,000	\$180,000	\$14,850	\$48,720
Mendocino	4,110	0.3	\$15,000	\$180,000	\$14,850	\$48,720
Merced	13,858	0.5	\$25,000	\$300,000	\$24,750	\$81,200
Modoc	739	0.3	\$15,000	\$180,000	\$14,850	\$48,720
Mono	224	0.3	\$15,000	\$180,000	\$14,850	\$48,720
Monterey	13,470	0.5	\$25,000	\$300,000	\$24,750	\$81,200
Napa	4,231	0.3	\$15,000	\$180,000	\$14,850	\$48,720
Nevada	5,261	0.3	\$15,000	\$180,000	\$14,850	\$48,720
Orange	73,686	2.8	\$140,000	\$1,680,000	\$138,600	\$454,720
Placer	6,030	0.3	\$15,000	\$180,000	\$14,850	\$48,720
Plumas	762	0.3	\$15,000	\$180,000	\$14,850	\$48,720
Riverside	80,119	3.1	\$155,000	\$1,860,000	\$153,450	\$503,440
Sacramento	35,237	1.3	\$65,000	\$780,000	\$64,350	\$211,120
San Benito	2,400	0.3	\$15,000	\$180,000	\$14,850	\$48,720

* This figure is based on data reported by district attorney offices to the Department of Social Services.

ATTACHMENT A

County	FY 1995-96 Active Caseload	Comm. FTE Alloc.	Commissioner - June 1997	Commissioner - FY 1997-98	Facilitator - June 1997	Facilitator - FY 1997-98
San Bern.	41,584	1.6	\$80,000	\$960,000	\$79,200	\$259,840
San Diego	54,751	2.1	\$105,000	\$1,260,000	\$103,950	\$341,040
San Fran.	28,302	1.1	\$55,000	\$660,000	\$54,450	\$178,640
San Joaquin	32,532	1.2	\$60,000	\$720,000	\$59,400	\$194,880
San Luis Ob.	6,991	0.3	\$15,000	\$180,000	\$14,850	\$48,720
San Mateo	14,447	0.5	\$25,000	\$300,000	\$24,750	\$81,200
Santa Barb.	21,364	0.8	\$40,000	\$480,000	\$39,600	\$129,920
Santa Clara	49,128	1.9	\$95,000	\$1,140,000	\$94,050	\$308,560
Santa Cruz	5,196	0.3	\$15,000	\$180,000	\$14,850	\$48,720
Shasta	15,807	0.6	\$30,000	\$360,000	\$29,700	\$97,440
Sierra	160	0.3	\$15,000	\$180,000	\$14,850	\$48,720
Siskiyou	4,015	0.3	\$15,000	\$180,000	\$14,850	\$48,720
Solano	16,348	0.6	\$30,000	\$360,000	\$29,700	\$97,440
Sonoma	18,320	0.7	\$35,000	\$420,000	\$34,650	\$113,680
Stanislaus	25,495	0.9	\$45,000	\$540,000	\$44,550	\$146,160
Sutter	5,211	0.3	\$15,000	\$180,000	\$14,850	\$48,720
Tehama	4,321	0.3	\$15,000	\$180,000	\$14,850	\$48,720
Trinity	1,075	0.3	\$15,000	\$180,000	\$14,850	\$48,720
Tulare	26,837	1.0	\$50,000	\$600,000	\$49,500	\$162,400
Tuolumne	3,139	0.3	\$15,000	\$180,000	\$14,850	\$48,720
Ventura	35,077	1.3	\$65,000	\$780,000	\$64,350	\$211,120
Yolo	9,051	0.3	\$15,000	\$180,000	\$14,850	\$48,720
Yuba	6,271	0.3	\$15,000	\$180,000	\$14,850	\$48,720
Total	1,154,154	49.4	\$2,470,000	\$29,640,000	\$2,445,300	\$8,022,560

**Title IV-D Child Support Enforcement
Commissioner Workload, Qualifications,
and Allocation
Support Staff Minimum Levels
Future Statistical Studies**

**Judicial Council of California
Family and Juvenile Law Advisory Committee Draft
April 1997**

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I. Introduction

This report is prepared pursuant to Family Code section 4252, which provides, in part:

- (b) The Judicial Council shall do all of the following:**
 - (1) Establish minimum qualifications for child support commissioners.**
 - ...
 - (2) Establish caseload, case processing, and staffing standards for child support commissioners on or before April 1, 1997, which shall set forth the maximum number of cases that each child support commissioner can process. These standards shall be reviewed and, if appropriate, revised by the Judicial Council every two years.**

This report was prepared by the Family Law Subcommittee of the Judicial Council's Family and Juvenile Law Advisory Committee, the body charged with implementing Statutes of 1996, chapter 957 (Assembly Bill 1058). The report has been approved by the Judicial Council. The members of the Family Law Subcommittee are listed in Appendix A. The subcommittee was assisted by the AB 1058 subcommittee, which consisted of some Family Law Subcommittee members and additional advisory members. The members of this AB 1058 subcommittee are listed in Appendix B.

This report is preliminary in nature, and the statistics currently available concerning workload for family law commissioners is sparse. The cooperative agreement between the Judicial Council and the Department of Social Services, which is the primary implementation document for AB 1058, provides that the council is to recommend to the Department of Social Services methods to gather statistical information that can be used to predict future needs of the child support enforcement system. This report also serves this recommending function, in part. It is anticipated that the council will provide more specific data concerning workload in time for the fiscal year 1998-99 budget process.

II. Minimum qualifications for commissioner

A judge of the superior court must have at least 10 years of practice prior to the appointment. (See Cal. Const., art. 6, § 15.) A judge of the municipal court requires five years of practice and can, if assigned as a judge of the superior court, hear family law matters.

The appointment of commissioners to hear family law matters is sometimes viewed critically because it can lead to the appearance of providing less importance to those cases than to the cases heard by a judge. It should be noted, though, that in many superior courts currently using commissioners for family law matters, the commissioner is a highly qualified individual who not only has the same length of practice experience as a superior court judge, but also has extensive family law experience and expertise, both before taking the bench and afterwards. These commissioners are highly specialized and experienced family law adjudicators.

Whatever the policy reasons for and against the appointment of commissioners, however, the federal government will not provide funding for superior court judges who hear child support matters, nor will it provide funding for the support staff for that judge. It will, however, provide two-thirds of the funding for a commissioner hearing child support matters, and it will provide funding for that commissioner's support staff as well. Thus, AB 1058 requires the use of commissioners to hear these matters.

Since a municipal court judge is assignable to hear family law matters, it would be appropriate to set the same requirement for a commissioner, with the added provision of experience in family law matters that may include Title IV-D child support matters. This will also permit the more rural counties to find a commissioner. A court is, of course, free to impose additional qualification standards.

In addition, AB 1058 requires that commissioners receive ongoing education (Fam. Code, § 4252(b)(2)). The Family and Juvenile Law Advisory Committee is studying the form and content of appropriate education for these commissioners and will be developing a program for them in conjunction with the Center for Judicial Education and Research. Each commissioner hired under this program will be required to participate in such education programs as are specified by these two groups.

III. Department of Social Services 1994 Survey

In April 1994, the Department of Social Services surveyed counties to determine how much time was spent hearing Title IV-D child support matters. In the counties that responded to the survey, it was indicated that approximately 750 hours per week was spent by judges and commissioners in hearing these matters.

The workload figures did not include reports from the counties listed in Table 1. These non-reporting counties had a total active caseload in 1994 of 197,787 cases.

Table 1 - Counties Not Responding to 1994 Workload Report

County Name	1994 Active Caseload
Butte	9,757
Glenn	1,209
Kings	7,489
Lassen	671
Los Angeles	156,835
Mariposa	618
San Benito	1,471
Santa Cruz	5,217
Shasta	11,564
Trinity	829
Tuolumne	2,127
Total Caseload	197,787

The total active caseload for *all* counties for 1994 was 814,165, so the workload of 750 hours represents a workload for an active caseload of 616,378 (814,165 – 197,787). Assuming that workload is best related to the active caseload, this results in a workload for all counties of 991 hours in 1994. Extrapolating this data to the end of June 1996 (with a total active caseload of 1,157,174) results in a workload of 1409 hours per week. A child support commissioner must also be involved in reviewing and signing default orders, overseeing the processing of papers, and participating in general court activities. Accordingly, the commissioner's case-related time available is 30 hours a week, which involves six hours of hearings each day. The 1,409 hours thus needed, based strictly on the 1994 figures, would result in a need for 47 commissioners.

These figures, though, are likely to be understated for several reasons:

- 25 percent of the counties responding to the 1994 survey reported that there was a delay in the court's ability to hear Title IV-D cases, and in only two of the 12 counties reporting a delay was the length of the delay less than four weeks.
- The figures are totals and do not take into account the extra time required because some courts do not have a full-time workload for a commissioner. In the smaller counties, a commissioner might not have sufficient workload for a full or even a half day of hearings, or must travel to several counties resulting in a loss of potential hearing time.

- The figures do not take into account the added hearing time and contested proceedings that are likely to result from the reforms enacted by AB 1058¹ and federal welfare reform (The Personal Responsibility and Work Opportunity Reconciliation Act of 1996).²

IV. Informal 1997 Telephone Survey

The Administrative Office of the Courts conducted a telephone survey of eight courts that already employ a child support commissioner. These counties stated that they were handling, on average, 323 child support enforcement cases a week per full-time commissioner. Most of the counties did not have statistics concerning how many of the cases involved establishing a child support obligation, how many involved enforcement action, and how many involved modification of an existing order. Sacramento County noted that approximately one-half of its cases are establishment, one-quarter are modifications, and one-quarter are enforcement. That county also noted that modifications take two to three times as long as the other two types of cases. The number of cases per week handled in each county is shown in Table 2. Some counties also establish default judgments by declaration while others calendar the default matters for a hearing. This can result in different amounts of time spent in establishing a default.

Table 2 - Number of Cases Handled Per Week

County	No. of Cases Per Week
Fresno	225-250
Los Angeles	300-500
Sacramento	325
San Diego	500
San Francisco	200
San Mateo	500
Solano	150-300
Stanislaus	200
Average	323

Each county was also asked about the support staff that was used in each courtroom or otherwise in the clerk's office to support the work of the courtroom.

¹ Because the proposed default judgment is now served with the petition, it is anticipated that more answers are likely to be filed since the noncustodial parent is likely to be better aware of the amount that is probably to be ordered in his or her case. In addition, the availability of the facilitation office also means that persons who wish to contest the proceedings will now be better informed of the procedures and how to use them.

² Under this act, the recipient parent has a greater incentive to cooperate in the establishment of a support obligation and, thus, more cases are likely to be filed seeking support.

The numbers reported by each court, based on support staff per full-time-equivalent (FTE) commissioner position is given in Table 3.

Table 3 - Support Staff Per Full-Time-Equivalent Commissioner Position

County	Courtroom Clerks	Bailiffs	File Clerks
Fresno	2	1	5
Los Angeles	2	1	8
Sacramento	2	1	4
San Francisco	1	1	5
San Mateo	1	1	4
Solano	1	1	4
Average	1.5	1	5

As can be seen from Table 3, the workload of a child support commissioner courtroom is very paper intensive resulting in the need for extensive support staff. For example, there are three orders that generally result from each establishment case – the child support order itself, the health insurance assignment, and the wage assignment. In addition to the support staff listed in Table 3, some courts also have secretaries from the district attorney's family support division who type up orders in the courtroom at the conclusion of each hearing.

There is reporting of the proceedings in all courtrooms surveyed. With the recent decision of the superior court in *California Court Reporters Association, et. al v. Judicial Council, et al.*, enjoining the council from authorizing or causing the expenditure of public funds on electronic recording, each court is likely to require the use of a court reporter as well.

The workload figures given in Table 2, above, vary from court to court based on a variety of factors. In most courts, the cases are reviewed in advance of the hearing. In some cases, the commissioners reported that the workload was heavy and some took cases home to review them the evening before the hearing.

In some of the courts, there is a significant number of non-English-speaking defendants. The council is considering a recommendation to survey the language needs of the courts in these cases. For the present, the number of different languages and the relative unavailability of interpreters result in fewer cases being handled per day. In addition, since the custodial parent is now able to be a party in this action, the burden of providing interpreting services for a number of different languages and dialects is likely to increase.

Another variable factor is the level of acrimony in each case either between the parents or between the payor parent and the district attorney's office. Practices in

district attorney family support divisions vary from county to county concerning how aggressively cases are handled. While more aggressively handled cases may result in a greater number of cases being settled without court process, those cases that do go to court may take more court time. This is another issue that will be recommended for future study to determine the effect on case processing.

The workload figures gathered to date all involve activities prior to the implementation of Assembly Bill 1058. Several issues involved in that legislation are likely to have an effect on the commissioners' workload, although it is not yet known what the effect will be. The following parts of Assembly Bill 1058 will be recommended for further study to determine the effect on workload:

- The custodial parent as a party
- Presumed level of support
- Easy set-aside of defaults (as to the order amount)
- Greater knowledge of litigants due to the facilitation offices
- Administrative issuance of earnings assignments and writs of execution³

Another workload issue that is not reflected in the above processing information concerns defaults. In Solano County, statistics kept by the Child Support Referee indicate that (1) during the first 14 months of the program in that county, nearly 800 cases per month went by default requiring a signed order, and (2) processing these cases took approximately six hours per month of referee time. In Los Angeles, approximately 4,000 cases per month go to judgment by default, all needing some commissioner review and a signature. The council is considering collecting statistics on this subject and studying the matter further to determine the most efficient manner of handling these cases.

V. Court estimates of need

A questionnaire was sent to each county by the Administrative Office of the Courts asking them several questions concerning AB 1058, including questions concerning the commissioner workload and support staff. A copy of the questionnaire is attached as Attachment C. The results of the questionnaire concerning commissioners are summarized below.

³ While there will be less paperwork per case for the courts, there are likely to be an increased number of hearings resulting from this procedure.

A. Number of cases per commissioner

Courts were asked to estimate the maximum number of cases a commissioner can handle and whether there should be a different standard for establishment, modification, and enforcement cases. Twenty-one counties responded giving an actual number of cases that can be handled per commissioner. These responses are summarized in Table 4, below, and show that on average the responding counties believe a commissioner should be able to process 242 cases per week.

Table 4 - Maximum Number of Cases per Week

County	Maximum Number of Cases per Week
Alameda	200
Contra Costa	200
Fresno	300 ⁴
Imperial	300
Kings	240
Los Angeles	340
Madera	200
Marin	200
Merced	150
Napa	100
Orange	200
Placer	225
Sacramento	267
San Benito	400
San Francisco	160
San Joaquin	250
Santa Clara	250
Santa Cruz	200
Sonoma	375
Tulare	250
Ventura	275
Average	242

⁴ This assumes DA support staff to work with the parents to attempt to reach an agreement prior to the court hearing.

Counties generally expressed great uncertainty as to the number of cases a commissioner could handle on average. A preliminary list of variables that are not yet known are as follows:

- How many cases will be contested, especially given the new provisions of AB 1058 (e.g., providing a copy of the proposed judgment with the petition)
- How many parties are represented by counsel (and the effect of the family law facilitators)
- Effect of number of support staff provided for commissioner including document examiner and clerks
- The level of acrimony between the parents in a case
- Whether a commissioner is part time or full time
- Policies of the district attorney family support division
- The mix of establishment, modification, and enforcement cases
- Effect of custody and visitation issues and restraining orders now that the custodial parent is a party under AB 1058
- Impact of State Licensing Information Match (SLIM), especially drivers' licenses.⁵

Counties were also asked whether establishment hearings should be given a different weight than enforcement hearings. In the initial hearing in a case, there are several issues involved, including whether the respondent/defendant is the parent of the child and what the proper amount of support is under the guideline. These issues are normally not part of an enforcement action. Of those courts responding to this question:

- Eleven stated that establishment, modification, and enforcement actions should all be given the same weight

⁵ Stanislaus County reports an increase of five cases per week attributable to the SLIM program, and San Diego County notes that 15 out of the 50 cases on calendar per day have involved SLIM issues over the last six months. Sacramento County also notes an increase in cases due to the SLIM program. These figures may drop off once the initial cases are handled but it may take several years until this occurs.

- Six courts stated establishment takes the greatest amount of time
- Two courts said enforcement takes the greatest amount of time
- Two courts noted that enforcement and modification take more time than establishment
- One court said modification took the greatest amount of time.

The various responses show that without substantial data-gathering, it is not known whether establishment, enforcement, or modification takes more time. This data cannot be determined at present and must also await an accurate method to determine what mix of workload any particular court is likely to receive in any particular year from its Title IV-D cases. However, the collection of data on this subject in the future could prove fruitful as a means of more accurately determining the number and, especially, the distribution of commissioners.

B. Number of commissioners needed and able to be accommodated

Each court was also asked how many commissioners it believed was needed to handle its Title IV-D workload taking into account not only the workload itself but the ability of the court to accommodate the commissioners and support staff. The results are summarized in the third column of Table 5. Those courts whose entry is blank did not submit an estimate.

The numbers presented in Table 5 represent estimates of court executives and in many cases are based on the understanding of what the procedures will require rather than experience under the new system. Also, some courts either did not include a request or did not respond to the questionnaire. The second column of Table 5 takes the full requests received, extrapolates a statewide figure using active Title IV-D caseload, and then reallocates the number of commissioners to each county based on the statewide figure. In addition, a minimum value of .3 commissioner is used for the smallest counties.

The total commissioners thus allocated in this method work out to be approximately 49.4. (Fifty commissioners are provided for in the budget.)

Table 5 – Commissioners Requested and Potential Allocation

County	Caseload ⁶	Alloc. ⁷	Request	County	Caseload	Alloc.	Request
Alameda	48,103	1.9	0.60	Orange	73,686	2.8	2.00
Alpine	111	0.3		Placer	6,030	0.3	0.60
Amador	1,608	0.3	0.30	Plumas	762	0.3	0.25
Butte	8,582	0.3	1.00	Riverside	80,119	3.1	3.00
Calaveras	1,919	0.3	0.30	Sacramento	35,237	1.3	2.00
Colusa	821	0.3		San Benito	2,400	0.3	0.05
Contra Costa	38,666	1.5	1.00	San Bern.	41,584	1.6	1.00
Del Norte	3,024	0.3		San Diego	54,751	2.1	1.00
El Dorado	8,720	0.3	0.40	San Fran.	28,302	1.1	1.00
Fresno	61,224	2.3	3.00	San Joaquin	32,532	1.2	1.00
Glenn	1,715	0.3		San Luis Obispo	6,991	0.3	0.50
Humboldt	6,158	0.3		San Mateo	14,447	0.5	0.65
Imperial	7,907	0.3	0.60	Santa Barb.	21,364	0.8	0.50
Inyo	1,540	0.3		Santa Clara	49,128	1.9	2.00
Kern	50,318	1.9		Santa Cruz	5,196	0.3	0.50
Kings	9,132	0.3	1.00	Shasta	15,807	0.6	2.00
Lake	3,377	0.3	0.12	Sierra	160	0.3	
Lassen	1,529	0.3		Siskiyou	4,015	0.3	0.30
Los Angeles	226,752	8.8	9.00	Solano	16,348	0.6	
Madera	5,765	0.3	0.55	Sonoma	18,320	0.7	0.87
Marin	3,840	0.3	0.50	Stanislaus	25,495	0.9	2.00
Mariposa	794	0.3		Sutter	5,211	0.3	
Mendocino	4,110	0.3		Tehama	4,321	0.3	0.50
Merced	13,858	0.5	0.60	Trinity	1,075	0.3	
Modoc	739	0.3		Tulare	26,837	1.0	1.00
Mono	224	0.3	0.20	Tuolumne	3,139	0.3	0.40
Monterey	13,470	0.5		Ventura	35,077	1.3	1.00
Napa	4,231	0.3	0.60	Yolo	9,051	0.3	0.50
Nevada	5,261	0.3	0.40	Yuba	6,271	0.3	

⁶ Caseload is based on active caseload reported by the district attorney and consists of the cases for which a non-custodial parent has been located and a support order established or reserved. It is submitted that this figure represents the most useful figure for estimating workload of a court because active cases represent not only those cases that will generate enforcement action, but represents a good method of determining the number of new establishment cases a court is likely to get in any particular year. The statewide total is 1,157,254.

The allocation figure is based on total caseload of the counties responding to the questionnaire divided by the total number of positions requested. In addition, a minimum of .3 commissioner has been established for the very smallest counties which takes into account the issues concerning less than full calendars and the need for travel between counties.

It is anticipated that the allocation of commissioners will generally be based on this table. In some cases, a county may not need the full number of positions allocated to it. In that event, it is recommended that the amount not utilized by that county be allocated to another county that needs the additional amount, subject to an overall allocation of 50 total FTE positions. Other modifications may be made based on supplemental data received.

C. Support staff, equipment, and facilities

The workload of a commissioner under Title IV-D is very paper intensive. Considerably more paper goes through the court and needs to be processed than in the average case. And the amount of paper is likely to increase as additional federal requirements are imposed and the requirements of AB 1058 appear.

As indicated above, the average full-time equivalent commissioner position utilizes the following support staff: courtroom clerks – 1.5; bailiffs – 1; file clerks – 5, court reporters⁸ – 1.5. These numbers appear appropriate. Nonetheless, it would appear that some courts are able to function with somewhat less than the number of support staff indicated here perhaps due both to the types of cases brought by the district attorney and the degree of assistance provided to the litigants by various existing organizations. Thus an appropriate minimum level of support staff would consist of the following:

- one courtroom clerk
- one bailiff
- four file clerks
- one court reporter

Different courts will require different amounts of support because establishment, modification, and enforcement cases tend to generate different amounts of paperwork. In some of the counties, currently, the number of support positions is less than specified above, and in others the numbers are greater. The reasons for this disparity in need for support staff may be explained by the differences in the

⁸ Pursuant to the decision in *California Court Reporters Association, et al. v. Judicial Council, et al.*, each court is likely to require the services of one-and-one-half court reporters. Since the Judicial Council will be distributing the money to the trial courts, this distribution will be subject to the council's directive that the courts not utilize any of the state money for electronic recording. Discussions with present Title IV-D commissioners, funded through the district attorney offices, indicated that the use of electronic recording is very efficient in these courtrooms and that the commissioner would require more than one court reporter because court reporters require more frequent breaks than the commissioner does.

makeup of cases. It is not yet known how significant these differences are and, consequently, this issue will be studied further.

It should be noted, though, that the amount provided for each full-time equivalent commissioner position, namely \$600,000 per year including the salary of the commissioner, while more than the amount provided generally for each judicial position, is still less than the amount provided for in some counties for the existing Title IV-D commissioner position funded through the district attorney's office. These counties will suffer a reduction in service (which is likely to result in fewer cases processed) unless some method is developed to provide them with the funding they currently receive. (See letter from Sacramento Courts Executive Officer Michael Roddy attached as Attachment D.)

The council will be studying the amount of support staff used in various counties in an effort to provide a more definite figure to the Legislature on the amount of support staff needed to properly handled the Title IV-D caseload in a county.

VI. District attorney Title IV-D caseload

The Title IV-D caseload of the district attorneys' family support divisions throughout the state provides the cases that become the calendars to be heard by the child support commissioners. There are statistics concerning how many existing active cases each county has and the number of new establishment cases each county brings each year.⁹ These number are presented in Table 6, which shows the total active caseload, the number of new establishment actions, and the percentage of total cases that the establishment represents. The variation in percentage of new establishment cases from county to county is probably due to one or more of the following causes:

- The population make-up of the county
- The internal workings of the district attorney's office
- The ability of the court to hear cases
- The local legal culture
- Whether the county has recently begun to aggressively seek new establishment cases

⁹ The statistics are preliminary data supplied by the Department of Social Services and based on the July 1995 to June 1996 fiscal year.

Table 6 - Total Active Title IV-D Caseload and New Cases

County	Cases	New	New %	County	Cases	New	New %
Alameda	48,103	5,213	10.8%	Orange	73,686	9,772	13.3%
Alpine	111	0	0.0%	Placer	6,030	1,624	26.9%
Amador	1,608	298	18.5%	Plumas	762	112	14.7%
Butte	8,582	482	5.6%	Riverside	80,119	14,752	18.4%
Calaveras	1,919	363	18.9%	Sacramento	35,237	8,231	23.4%
Colusa	821	97	11.8%	San Benito	2,400	301	12.5%
Contra Costa	38,666	4,857	12.6%	San Bern.	41,584	4,240	10.2%
Del Norte	3,024	219	7.2%	San Diego	54,751	16,240	29.7%
El Dorado	8,720	1,145	13.1%	San Francisco	28,302	3,665	12.9%
Fresno	61,224	9,399	15.4%	San Joaquin	32,532	6,891	21.2%
Glenn	1,715	423	24.7%	San Luis Ob.	6,991	2,021	28.9%
Humboldt	6,158	1,060	17.2%	San Mateo	14,447	4,621	32.0%
Imperial	7,907	2,010	25.4%	Santa Barbara	21,364	5,286	24.7%
Inyo	1,540	148	9.6%	Santa Clara	49,128	6,923	14.1%
Kern	50,318	4,695	9.3%	Santa Cruz	5,196	751	14.5%
Kings	9,132	1,365	14.9%	Shasta	15,807	1,271	8.0%
Lake	3,377	893	26.4%	Sierra	160	41	25.6%
Lassen	1,529	200	13.1%	Siskiyou	4,015	840	20.9%
Los Angeles	226,752	28,373	12.5%	Solano	16,348	3,295	20.2%
Madera	5,765	757	13.1%	Sonoma	18,320	2,568	14.0%
Marin	3,840	1,097	28.6%	Stanislaus	25,495	5,051	19.8%
Mariposa	794	147	18.5%	Sutter	5,211	626	12.0%
Mendocino	4,110	622	15.1%	Tehama	4,321	240	5.6%
Merced	13,858	2,218	16.0%	Trinity	1,075	92	8.6%
Modoc	739	90	12.2%	Tulare	26,837	7,414	27.6%
Mono	224	36	16.1%	Tuolumne	3,139	409	13.0%
Monterey	13,470	3,493	25.9%	Ventura	35,077	8,066	23.0%
Napa	4,231	572	13.5%	Yolo	9,051	1,266	14.0%
Nevada	5,261	365	6.9%	Yuba	6,271	687	11.0%
				Total	1,157,154	187,933	16.2%

The existing caseload of active Title IV-D matters presents a workload for the court in two ways. One way is enforcement actions taken by the district attorney or resistance to enforcement actions taken by the paying parent. Counties are not currently required to report on enforcement action taken by those counties. Table 7 includes statistics from those counties voluntarily providing information regarding enforcement actions and includes court-related enforcement.¹⁰

¹⁰ These items include criminal failure to support, contempt, writs of execution, judgment debtor examinations, and other unspecified enforcement actions.

Table 7 - Enforcement Actions

County	Total Cases	Enforcement actions	Enforcement actions as percentage of total cases ¹¹
Alpine	111	2	1.8%
Amador	1,608	1,015	63.1%
Calaveras	1,919	306	15.9%
Colusa	821	20	2.4%
Contra Costa	38,666	112,967	292.2%
Del Norte	3,024	122	4.0%
El Dorado	8,720	281	3.2%
Fresno	61,224	19,450	31.8%
Glenn	1,715	351	20.5%
Humboldt	6,158	436	7.1%
Imperial	7,907	129	1.6%
Inyo	1,540	527	34.2%
Kings	9,132	1,627	17.8%
Lake	3,377	1,081	32.0%
Lassen	1,529	14	0.9%
Los Angeles	226,752	6,376	2.8%
Mariposa	794	999	125.8%
Mendocino	4,110	222	5.4%
Merced	13,858	16,875	121.8%
Modoc	739	5	0.7%
Mono	224	13	5.8%
Napa	4,231	734	17.3%
Nevada	5,261	31	0.6%
Orange	73,686	2,031	2.8%
Placer	6,030	2,114	35.1%
Riverside	80,119	1,254	1.6%
Sacramento	35,237	10,210	29.0%
San Benito	2,400	590	24.6%
San Diego	54,751	179	0.3%
San Francisco	28,302	3,146	11.1%

¹¹ In many cases the enforcement percentage is greater than 100% because, on average, in that county, each active case had more than one enforcement action taken in that regard.

Table 7 - Enforcement Actions (continued)

County	Total Cases	Enforcement actions	Enforcement actions as percentage of total cases
San Joaquin	32,532	108	0.3%
San Luis Obispo	6,991	2,853	40.8%
San Mateo	14,447	67	0.5%
Santa Barbara	21,364	90	0.4%
Santa Clara	49,128	3,283	6.7%
Shasta	15,807	280	1.8%
Solano	16,348	43	0.3%
Sonoma	18,320	17,811	97.2%
Stanislaus	25,495	4,543	17.8%
Tuolumne	3,139	52	1.7%
Ventura	35,077	2,318	6.6%
Yuba	6,271	172	2.7%
Total	928,864	214,727	23.1%

Table 7 indicates that the present caseload figures collected on enforcement actions are not useful in predicting workload. More detailed information about the type of enforcement proceeding, and the court time associated with that proceeding, is needed in order to use enforcement data as a partial predictor of workload.

The second aspect of the existing Title IV-D caseload consists of modifications. Federal law requires review and consideration of modification for existing child support orders periodically or upon request of either party. The effect of this provision on a court's workload is unknown although it is anticipated that it will be substantial. The council is recommending that the courts maintain statistics on this subject to assist in future workload recommendations.

VII. Suggestions for future data-gathering

There are a number of caseload-related statistics that could be useful in attempting to more accurately predict caseload and number of commissioners for each county. These have been mentioned throughout this report and are summarized here. The council will be developing, through its Family and Juvenile Law Advisory Committee, a recommended method for collecting and analyzing these statistics. A report from the committee on this subject is expected this year.

The subjects for study include the following:

- The number of hearings set in the court for establishment cases, enforcement cases,¹² and modification cases.
- The average amount of court time utilized for each contested establishment, enforcement, and modification case.
- The percentage of hearings set that result in contested proceedings in establishment, enforcement, and modification cases.
- The number of default establishment cases processed and the amount of court and support staff time spent processing the defaults.
- The effect on the number of contested cases and the length of time for hearing cases regarding either the level of acrimony involved in the case or the language needs of one or more of the participants in the case.
- The amount of support staff required to handle the paperwork generated by the Title IV-D caseload.

VIII. Analysis and recommendations

The key statistic, which is presently missing, is determining the number of hearings or other court-related time that each active Title IV-D case generates each year and the number of hearings or other court-related time that each establishment action generates. The council is directing the Family and Juvenile Law Advisory Committee to develop a system to collect these statistics over the next 18 months in order to better determine the actual need for commissioners.

Nonetheless, if either the existing experience indicated in the informal telephone survey of 323 cases per commissioner per week, or the court questionnaire recommended value of 243 cases per commissioner per week, is used, this results in the following number of minutes per case:

Number of cases per week	30 hours per week case time	40 hours per week case time
243 cases	7.4 minutes/case	9.8 minutes/case
323 cases	5.5 minutes/case	7.4 minutes/case

¹² For enforcement cases, the study should include a breakdown of the various types of enforcement actions. This recommendation is part of every suggestion including collection of enforcement case data made in this report.

It should be noted that several of those courts surveyed by telephone indicated that the workload expressed in the survey was a very heavy workload. Given the importance of these cases to both the individual payor and the recipient, it would seem appropriate to ensure that an adequate amount of time is provided for hearing each case, and that a workload of 250 cases per commissioner per week is not unreasonable. This will still result in less than 10 minutes being provided for each case that goes to court hearing.

Because there is no method at present for determining the number of calendared hearings likely to result from a given active caseload, it is suggested that the workload of 250 cases per commissioner per week be used as a method of defining the workload of the commissioner (rather than a means of allocating commissioners or determining the need on a county-by-county basis). The analysis conducted above indicates that there is a need for at least 50 commissioners within the existing Title IV-D child support enforcement system. It is expected that the allocation noted above will, except in the very small counties where the allocation amount is .3 commissioner, result in a workload that will exceed 250 cases per week. Commissioners will be asked to keep workload statistics so that both the need for and the appropriate allocation of commissioners can be kept current with the caseload demands.

Appendix A
Family Law Subcommittee Members

Hon. Mary Ann Grilli, Chair
Judge of the Santa Clara County Superior Court

Hon. William Anderson, Jr.
Commissioner of the Riverside County Superior Court

Hon. Morrison England, Jr.
Judge of the Sacramento Municipal Court

Hon. Paul Gutman
Judge of the Los Angeles County Superior Court

Hon. Susan Harlan
Judge of the Amador County Superior Court

Mr. Paul Hokokian
Deputy District Attorney, Fresno County

Ms. Deanna L. Jang
Attorney at Law, San Francisco

Mr. John Paulson
Attorney at Law, Auburn

Ms. Sherri Pedersen
Executive Office, Monterey County Superior Court

Mr. Ronald Rosenfeld
Attorney at Law, Beverly Hills

Ms. Jan Shaw
Director, Mediation Investigative Services, Orange County

Hon. Marguerite L. Wagner
Judge of the San Diego County Superior Court

Ms. Kate S. Yavenditti
Attorney at Law, San Diego

Appendix B
AB 1058 Subcommittee Members

Hon. Mary Ann Grilli
Judge of the Santa Clara County Superior Court

Ms. Leora Gerschenson
Attorney at Law, San Francisco

Mr. Paul Hokokian
Deputy District Attorney, Fresno County

Mr. Charles Mandel
Assistant District Attorney, Los Angeles County

Hon. Lynne Meredith
Commissioner of the Stanislaus County Superior Court

Mr. Lee Morhar
Attorney, Department of Social Services

Mr. George Nielsen
Assistant District Attorney, San Francisco City and County

Ms. Christine Patton
Court Executive, Santa Cruz County Trial Courts

Hon. Harry Powazek
Commissioner of the San Diego County Superior Court

Ms. Jan Shaw
Director, Mediation Investigative Services, Orange County

Hon. Neil Shepherd
Commissioner of the Sacramento County Superior Court

Ms. Kate S. Yavenditti
Attorney at Law, San Diego



Judicial Council of California

Administrative Office of the Courts

303 Second Street, South Tower • San Francisco, California 94107 • Phone 415/396-9130 FAX 415/396-9358

TO: Family Law Supervising Judges
Superior Court Executive Officers

FROM: Family Law Subcommittee
Family and Juvenile Advisory Committee
Michael A. Fischer, Committee Counsel

DATE: February 11, 1997

SUBJECT: Family Law Commissioners and Facilitators

This memorandum sets forth information regarding the Family Law Commissioner and Facilitator program as established by Assembly Bill No. 1058, describing the program requirements and the funding that will be made available to the courts at the end of this fiscal year and which is expected to be made available for ensuing fiscal years. We are also asking your input concerning various aspects of the program. *The portions of this memorandum that ask for your response are printed in bold-italic type. A sheet for submitting your responses is attached.*

Funding for commissioners

Family Code section 4251 requires that each superior court shall provide sufficient commissioners to hear child support matters commencing July 1, 1997. The cooperative agreement between the Department of Social Services (DSS) and the Judicial Council provides for full state funding by DSS (with 2/3 of the funds provided by the federal government) for 50 commissioners statewide to hear child support enforcement matters. The hiring and assignment of the commissioners will be handled by each court.

In addition to funding for commissioners, there is funding for support staff as well. A total of \$50,000 per month for each commissioner position is allocated to cover commissioner and logistical support. The typical IV-D child support enforcement courtroom has a very high volume of paper and the amount allocated for each commissioner position takes the need for additional logistical support into account.

The Family and Juvenile Advisory Committee will be making recommendations to the council on the following issues involving commissioners:

- Minimum qualifications for commissioners (Family Code section 4252(b)(1))
- Caseload, case processing and staffing standards for commissioners setting forth the maximum number of cases that each commissioner can process (Family Code section 4252(b)(3))
- Offer technical assistance to counties regarding issues relating to implementation and operation of the system including sharing of resources between counties (Family Code section 4252(b)(5))
- Establishing procedures for the distribution of funding (Family Code section 4252(b)(6))

We are asking your input on the following questions:

1. *What should be the minimum qualifications for commissioners?*
2. *What is the maximum number of cases a commissioner can process and should there be a different weight for the establishment of a child support obligation and an enforcement action?*
3. *How many commissioners (expressed in terms of whole or fractional full-time equivalents) do you estimate your county may require and can accommodate? Please note that because of the funding source for the commissioners, the commissioners can only be used for Title IV-D child support enforcement.*
4. *What technical assistance will you require?*
5. *If your county cannot utilize a full-time commissioner, would you wish to share a commissioner and staff with another county, hire a commissioner and staff part-time, or hire a commissioner and staff full-time and pay out of other court money for the other cost of the commissioner and staff? If you wish to share a commissioner with another county, how may the council assist in this process?*
6. *What other issues do you see in regard to funding distribution and the commissioner and logistical support?*

Office of Family Law Facilitator

Family Code section 10002 requires that each superior court shall maintain an office of the family law facilitators, staffed by an attorney licensed to practice law in this state who has family law mediation or litigation experience. The court appoints the facilitator.

Section 10004 sets forth the services that the office is to provide. There are optional duties that the superior court may assign to the facilitator listed in section 10005.

The cooperative agreement between the council and DSS provides funding for this office. Each court will have some funds provided to them although the exact amount is not yet know. The money for this fiscal year for these offices, statewide, is \$2,475,000. We anticipate that next year funding will be approximately \$7,500,000.

Section 10010 requires that the council adopt minimum standards for the office of family law facilitator.

We are asking for your input on the following questions:

- 7. Should funding for the facilitator officers be allocated on a caseload related basis and, if not, on what basis should the funding be allocated?*
- 8. Many counties will not receive sufficient funding for a full time facilitator office. Would your county, in this case, wish to establish a joint facilitator office with adjacent counties and, if so, how may the council assist in this process?*
- 9. What minimum standards for the office of family law facilitator do you recommend (including, if applicable, specific standards for small counties)?*
- 10. What one-time startup costs do you envision for your court's office?*
- 11. What other assistance may the council provide you in implementing the facilitator office?*

Training of commissioners and staff

Family Code section 4252(b)(2) requires the council establish minimum educational and training requirements for the commissioners and other court personnel. The council's agreement with DSS requires the council to provide this training which, we envision, will commence shortly after the start of the next fiscal year. We will be providing you more information on this as the program is developed.

Rules and forms

Forms to implement the new procedures under this legislation are presently being circulated for comment. We anticipate adoption of these forms by the council at its May, 1997 meeting. We also anticipate that some forms may be adopted on an interim basis shortly. You may also wish to work with your local district attorney child support enforcement division to adopt these forms as local forms pending council action. If you have any questions concerning this process please let us know.

Conclusion

Please return the enclosed question response sheet to us by February 28, 1997. If you have any question please contact Michael Fischer at (415) 396-9130.

10. What one-time startup costs do you envision for your court's office?

11. What other assistance may the council provide you in implementing the facilitator office?



Sacramento Superior and Municipal Courts

Michael Roddy
Court Executive Officer

April 4, 1997

Michael Fischer
Administrative Office of the Courts
303 Second Street, South Tower
San Francisco, CA 94107

RE: Family Law Commissioner and Facilitator Program

Dear Mr. Fischer:

In your memorandum dated February 20, 1997, you stated there is a total of \$50,000 funding per month (\$600,000 per year) for each court commissioner position allocated under the Family Law Commissioner and Facilitator program established by Assembly Bill 1058. This funding is to cover the commissioner salary and benefits and logistical support. Based on the actual costs incurred by the Sacramento Court for this program, this amount of funding is inadequate to meet current program expenditures.

The Sacramento Superior and Municipal Court has had a family law commissioner and staff dedicated to Title IV-D child support enforcement since 1993. This program has been funded with federal funds through our county District Attorney (Bureau of Family Support). The Court and the District Attorney entered into a cooperative agreement to reimburse the Court for the cost for personal services (salaries and benefits) and operating costs (supply and services) chargeable to the program. To support this existing program with one commissioner, budgeted expenditures for FY 97-98 are \$877,000. See Attachment for details of budgeted FY 97-98 costs. As you can see, the \$600,000 allocated by AOC for FY 97-98 is \$277,000 less than the current amount needed to operate the program.

This is not only a Sacramento County problem. I have discussed this matter with several other administrators whose courts have established child support enforcement programs. They also indicate that the estimated funding of \$600,000 per year per commissioner will be inadequate to fully offset existing personnel and services and supplies costs attributable to child support enforcement court operations.

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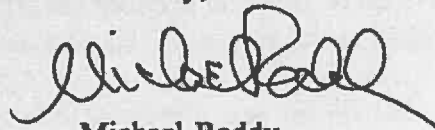
Mr. Michael Fischer
April 4, 1997
Page 2

For the Sacramento Superior and Municipal Court to fully analyze the potential impacts of implementing a child enforcement program pursuant to AB 1058, we need the following information:

1. Will the AOC allocate additional funds to Sacramento Superior and Municipal Courts to cover the actual costs of the program?
2. If no additional funding above the \$600,000 limit is possible, how will this shortfall be handled through the trial court budget process? AB 1058 states that salary costs for the commissioner and support staff shall not be considered a part of allowable court operations for trial court funding. Neither the courts nor the county wants to pare this very successful program. Collections of financial support for children have nearly doubled since the hiring of the family law commissioner in Sacramento (from 27.45 million in FY 91-92 to \$51.8 million in FY 95-96). Yet, if we maintain this program at its current level, the \$277,000 shortfall would be borne entirely by Sacramento County with no reimbursement from state trial court funding. This seems inconsistent with the intent of AB 1058.

We would appreciate a prompt response. The time frame for implementing the changes imposed by AB1058 is growing shorter. If you need any further information, do not hesitate to call Chuck Robuck (916) 440-5219.

Sincerely,



Michael Roddy
Executive Officer

Attachment

cc: Hon. William R. Ridgeway, Presiding Judge
Hon. Charles Kobayashi, Presiding Judge, Family Court Services
Michael Curtis, Assistant Executive Officer
Robbie Johnson, Director of Family Law and Probate
Robert Thomas, County Executive
Kiri Torre, Administrative Office of the Courts
Martin Moshier, Administrative Officer of the Courts

Costs & Revenue

Based on FY 97-98 Personnel Budget Report dtd 1/3/97

1. STAFFING COSTS

FTE	Position	Salary	Incentive	Retirement	FICA	Insurance	Total Salary/Per
<u>ADMIN. SUPPORT</u>							
.15	Director Family Court Services/Probate	60,651	2,032	6,569	4,796	5,628	79,676
.15	Supervising Ct. Clerk	46,475	0	5,033	3,556	5,907	60,971
.20	Ct Process Analyst	41,120	0	3,948	3,146	6,459	54,673
<u>COURTROOM</u>							
1.00	Commissioner	94,026	3,150	11,603	5,445	5,628	119,852
1.00	Ct Clerk	37,957	0	3,644	2,904	6,279	50,784
1.00	Ct Clerk	39,464	0	4,274	3,018	6,281	53,037
1.00	Electronic Recording Monitor	32,237	0	3,419	2,466	6,300	44,422
<u>PROCESS SUPPORT</u>							
1.00	Ct Clerk (Lead Worker)	37,957	0	3,644	2,904	6,279	50,784
1.00	DC IH (Sustain Input Clk)	30,948	0	3,352	2,368	6,281	42,949
1.00	DC III (Limited term)	32,625	0	3,533	2,496	6,294	44,948
1.00	DC IV (Limited term)	30,348	0	3,287	2,322	6,279	42,236
1.00	County Temp						25,400
1.00	Agency Temp						17,900
1.00	Agency Temp						21,500
.10	Accounting Tech	27,571	0	2,647	2,110	6,281	38,609
.10	Account Clerk III	36,572	0	3,511	2,798	5,924	48,805
.25	Warrants	32,086	0	3,616	2,455	6,290	44,447
		30,948	0	3,352	2,368	6,281	42,949
12.95	TOTAL FY 97-98 BFS STAFFING COSTS						

2. COURT SECURITY

1.50 Deputy Sheriff's (incl. .5 for Hall Security)
 (amount shown is based on 96-97 hrly rate of \$53.60 (no COLA added for 97-98) times 2,700 hrs.
 (which is based on 1,800 billable hours per year per bailiff FTE)

3. SUPPLIES AND SERVICES

(Based on 96-97 revised BFS spreadsheet which includes \$27,000 direct 2000's + \$100,000 allocated indirect)

TOTAL ESTIMATED FY 97-98 BFS COSTS AND REVENUE

AB 1058 Funding Allocation Joint Subcommittee
Subject-Matter Expert Group Guiding Principles

Child Support Commissioners Subject-Matter Expert Group

Guiding Principles:

- **Fully address unique needs of each court.** The allocation model will provide enough funding to ensure each AB1058 court can continue to operate in the manner it has become accustomed to. To address this guiding principle, the allocation model will be:
 - **Comprehensive.** Taking into account all the various different things each AB1058 court does.
 - **Uniform.** Using data that is consistent from one court to the next.¹
 - **Sufficient.** Ensuring enough competent, qualified staff have sufficient access to tools (e.g., technology) able to provide efficient and expedient services.
 - **Tailored.** Each AB1058 court is run by the county it presides in, so the model will address each court's unique needs.
 - **Ensure accessibility to services.** Maintaining or increasing the level of service the court provides, while maintaining fairness in the adjudication process.
- **Flexibility** – The allocation model will adjust to the changing needs of each court as the needs change year to year.
- **Statewide performance** – The allocation model will deploy funds in a way that positively impacts the families served by the AB1058 courts.
- **Cooperation** – The allocation model will provide funding to facilitate AB1058 court / LCSA cooperation.
- **Self-enforcing integrity** – the allocation model will not be subject to manipulating data to increase a court's allocation.

Other Discussion Points:

- **Uniform Technology** – Courts that currently do not have the basic tools (e.g., e-filing) should be brought up to a consistent level of basic service across the state to ensure all litigants can interact with their courts the same way, and all courts have the same resources available.
- **Reduction in cases using presumed income** – the allocation model will account for the AB1058 court effort necessary to reduce the instances where presumed income is used to generate the order.

¹ Some LCSA offices file one request for order with three separate issues embedded in that request, while others file three separate requests for order. Both are the same amount of work for the AB1058 court.

Family Law Facilitator Subject-Matter Expert Group

Guiding Principles:

- **Base level of services.** The allocation will ensure that every FLF office will be able to provide the mandatory services required under California Family Code 10004. This principle includes several concepts:
 - **Inclusive.** Every county will have enough funding to operate the FLF office, regardless of size. This may require continuing the existing practice of some smaller counties sharing resources to meet the service mandates.
 - **Exclude favoritism.** By using objective criteria to determine the base level of services, the allocation will exclude favoritism.
 - **Address unique aspects of service delivery.** Providing the base level of services will address the challenges of each jurisdiction.
 - **Technology.** Providing the base level of services will ensure that every FLF office will have the technology it needs to provide the base level of services.
 - **Effective delivery of services.** Providing the base level of services will allow each office to be able to provide the litigants with what they need to see their issue through to resolution, including when one-on-one service is required.
 - **Attract and retain competent staff.** Providing the base level of services will ensure that qualified candidates (including attorneys) in the local area are enticed to leave private practice to join and remain as employees in the public sector.
- **Flexible yet stable.** The allocation will allow for adjustments to be made annually to reflect the changes in the needs of the FLF office, but still provide predictability in year-to-year budgets, not causing drastic changes.
- **Transparency.** The allocation will be open; nothing should be hidden about how each office's allocation is computed.

Other Discussion Points:

- **Receptive to input.** The process to create the model should allow for input from those who want to provide it, and consider any input provided.
- **Budget integrity.** Once implemented, the FLF budget should not pay for things that the court pays for in other programs using a separate budget. This includes interpreters (oral or sign language), rent for office space, technology access and support, etc.
- **Uniformity.** Once implemented, an appropriation of \$100 to Court A should provide the same level of services as it would in Courts B and C (accounting for cost-of-living adjustments).

The background of the slide features a large, faint, circular seal of the California State Board of Education. The seal contains the text "CALIFORNIA STATE BOARD OF EDUCATION" around the top and "1926" at the bottom. In the center of the seal is a figure holding a torch and a book, with a landscape and ships in the background.

Factors Affecting AB 1058 Program Funding

AB 1058 Funding Allocation
Joint Subcommittee Meeting
January 19, 2018

Factors Affecting AB 1058 Program Funding

- Federal Title IV-D Program Requirements
- Federal Regulation Service Mandates
- Contractual Requirements
- State Legislative Mandate
- Funding Challenges
- Measuring FLF Workload



Federal Title IV-D Program Requirements

42 USC § 654:

A State plan for child and spousal support must—

- (1) provide that it shall be in effect in all political subdivisions of the State;
- (2) provide for financial participation by the State;
- (3) provide for the establishment or designation of a single and separate organizational unit, which meets such staffing and organizational requirements as the Secretary may by regulation prescribe, within the State to administer the plan;



JUDICIAL COUNCIL
OF CALIFORNIA

California's Title IV-D Program

- Per 42 USC § 654(3), Department of Child Support Services is the administrator of the State plan and responsible to ensure compliance with federal requirements and protecting federal funds.
- A contract for services and funding is negotiated between the Judicial Council and the Department of Child Support Services.
- A contract for services is entered into with each court (one for CSC and one for FLF) for funds and to meet program requirements consistent with state and federal law.



Federal Requirements

- Federal regulations govern certain timeframes to ensure service levels: These include:
 - Within 90 days of locating an alleged parent, establish an order for support or complete service to commence proceedings to establish an order.
 - Establish a support order for 75% of cases within 6 months and 90% of cases within 12 months after the date of service.
 - Complete the review and adjustment process to establish or modify an order within 180 calendar days.
 - Review and adjust orders every three years.



Contractual Requirements

- In addition to the federal regulations, court contracts include some service requirements, such as:
 - Minimum time processing standard requires all documents to be filed within 10 court days
 - Hearings must be calendared within 5 days of filing of moving papers
 - Mandatory training for court program staff
 - Accurately document time working on the program



State Legislative Mandate

- FC 4250(a)(4): “There is a compelling state interest in creating an expedited process in the courts that is cost-effective and accessible to families, for establishing and enforcing child support orders in cases being enforced by the local child support agency.”
- FC 10001(a)(4): “There is a compelling state interest in having a speedy, conflict-reducing system for resolving issues of child support, spousal support, and health insurance that is cost-effective and accessible to families that cannot afford legal representation.”



State Legislative Mandate

- FC 4251(a): “Commencing July 1, 1997, each superior court shall provide sufficient commissioners to hear Title IV-D child support cases filed by the local child support agency....”
- FC 4252(a): “The superior court shall appoint one or more subordinate judicial officers as child support commissioners to perform the duties specified in Section 4251....”



State Legislative Mandate

- FC 10002: “Each superior court shall maintain an office of the family law facilitator. The office of the family law facilitator shall be staffed by an attorney licensed to practice law in this state who has mediation or litigation experience, or both, in the field of family law. The family law facilitator shall be appointed by the superior court.”



Funding Challenges: Flat-Funded

- The AB1058 Program has been flat-funded since 2008 but cost have increased.
- Federal Drawdown Funding - To maintain service levels, JCC negotiated with DCSS to allow participation in the federal drawdown program.
 - Intended to be short-term fix until more funds could be obtained for the program
 - Courts are required to fund 1/3 to drawdown the feds 2/3 matching funds










Measuring FLF Workload

- The workload of FLFs is not always tied to filings.
 - Ex: FLFs may assist litigants wishing to modify support, who after meeting with the FLF determine filing for a modification is not in their interests. Nothing is filed, but the workload can be substantial.
 - Ex: Service delivery methods differ to meet the specific needs of the customers.



2015 ANNUAL FEDERAL SELF-ASSESSMENT COMPLIANCE REVIEW REQUIREMENTS CHART

<p>INTAKE</p> 	<p>20 calendar days to open or re-open a case. (CA02)*</p>
<p>LOCATE</p> 	<p>75 calendar days to access all appropriate state, federal and local locate sources after it has been determined that the NCP is lost or assets need to be located. (CA03, CB02 & CC03)*</p> <p>Quarterly locate attempts must be made on each case in which the location of the NCP and/or assets is needed in order to proceed. (CA04, CB03 & CC04)*</p>
<p>ESTABLISHMENT</p> 	<p>Was a support order established during the review period? (Notwithstanding Provision) (CA01)*</p> <p>90 calendar days to serve or document attempted service from the date the NCP is located. (CA05)*</p> <p>Latest required action was used appropriately. (CA06)*</p>
<p>REVIEW & ADJUSTMENT</p> 	<p>Was a modification of the support order issued as a result of the review and adjustment process? (Notwithstanding Provision) (CB01)*</p> <p>180 calendar days to complete the review and adjustment process (including obtaining a new order) from the date it was determined that a review would be conducted (CB04)*</p> <p>At least once every 3 years, the "Review and Adjustment Notice" (DCSS 0282) must be sent to both the custodial party and non-custodial parent in a current non-assistance case. (CB05)*</p> <p>At least once every 3 years, a mandatory TANF review must be conducted for current assistance cases. (CB06)*</p> <p>Latest required action was used appropriately. (CB07)*</p>
<p>ENFORCEMENT</p> 	<p>A wage assignment must include both current support and arrears, if applicable, and withhold no more than 50% of the NCP's disposable earnings for both current support and medical, if applicable, or the amount indicated in the court order, whichever is less. (CC01)*</p> <p>Was a collection received from income withholding during the last quarter of the review period, or if income withholding was not appropriate, was a collection otherwise received during the review period? (Notwithstanding Provision) (CC02)*</p> <p>2 business days to send a wage assignment if new employee information was received from the State Directory of New Hires (SDNH). (CC05)*</p> <p>30 calendar days to initiate administrative action, if assets are located and the NCP's delinquency equals one month's child support (if service of process is not required), and 60 calendar days to initiate legal action, if assets are located and the NCP's delinquency equals one month's child support (if service of process is required). (CC06)*</p> <p>Submit every case that has an arrearage to FTB/IRS intercepts (if the social security number is known). (CC07)*</p> <p>Latest required action was used appropriately. (CC08)*</p>
<p>DISBURSEMENT</p> 	<p>2 business days to disburse a payment to the non-assistance CP after the date of receipt by the SDU. (CD01)*</p>
<p>INTERGOVERNMENTAL</p> 	<p style="text-align: center;"><u>INTERGOVERNMENTAL-INITIATING CASES</u></p> <p>20 calendar days to refer case to the responding state central registry. (CE01)*</p> <p>30 calendar days to provide requested information to the responding state or notify them when the information will be provided. (CE02)*</p> <p>20 calendar days to send request to the responding state for review/adjustment. (CE03)*</p> <p>10 working days to inform the responding state of case closure. (CE04)*</p> <p>10 working days to forward new information received to the responding state. (CE05)*</p> <p>30 working days to provide additional or new information to the responding state regarding a controlling order determination and reconciliation of arrearages, or notify them when the information will be provided. (CE06)*</p>

INTERGOVERNMENTAL-RESPONDING CASES

INTERGOVERNMENTAL



NOTE: Intergovernmental cases are subject to the same time frames and notice requirements as non-intergovernmental. Intergovernmental initiating cases must meet additional requirements as specified in that section of this form.

10 working days from date referral was received to date acknowledgment of referral receipt was sent the initiating state. (CE07)*

5 working days from date case status request was received, to date case status response was sent the initiating state. (CE08)*

10 working days to transfer a case to another California county and notify the initiating state when the NCP moves to another county. (CE09)*

10 working days to notify the initiating state of NCP's new location and to send case documentation the state NCP is located. (CE10)*

2 business days to disburse a payment to the intergovernmental-initiating agency after the date of receipt by the SDU in a non-assistance case. (CE11)*

10 working days to notify the initiating state of new information. (CE12)*

30 working days to provide requested information to the initiating state or notify them when the information will be provided for a controlling order of determination and reconciliation of arrearages. (CE13)*

10 working days from being informed of case closure by the initiating state, to stop the responding state income withholding order and close the case. (CE14)*

Latest required action was used appropriately. (CE15)*

MEDICAL SUPPORT



For support orders being established or modified during the review period, was medical support ordered? (CF01)*

2 business days to send the NMSN to an employer once the place of employment is identified by the State Directory of New Hires (SDNH). (CF02)*

If the medical provision was no longer enforceable, was the employer notified promptly within 10 calendar days? (CF03)*






CLOSURE



If the child support case was closed during the review period, was it closed in accordance with case closure criteria? (CG01)*

A 60 calendar days notice of intent (NOI) to close is required on all cases (exceptions permitted). (CG02)*

Time frames begin the day the information first becomes known to the Local Child Support Agency

If the information is received...	Then the time frame starts...
By Application/Referral for Services	 On the day the application/referral is received
By Postal Mail	 On the day the mail is received
By Telephone Call/Voicemail message	 On the day the message is left on voicemail, or the day of the telephone call
In person (walk-ins)	 On the day the person comes in and leaves information
From Automated Sources	 On the day LCSA receives locate or asset information sufficient to take the next appropriate action

*** Each alpha-numeric reference, for example "CA02", is an identifier for each specific compliance requirement used to assess cases as part of the 2015 Annual Federal Self-Assessment Review. This chart is not a complete list of all statutory and regulatory timeframes and compliance requirements that pertain to case management.**

AB1058 Funding Fact Sheet

The AB1058 Program is a *service delivery* contract between the JCC and DCSS. The program is responsible for ensuring children and families receive court-ordered financial and medical support.

Program Funding in Millions

	Base	FDD	Total
CSC	\$32	\$13	\$45
FLF	\$10.5	\$4.5	\$15
Total	\$32.5	\$17.5	\$60

*FDD includes $\frac{1}{3}$ match by courts

The Program has been flat funded since **2008**. When inflation is accounted for this is equivalent to **13%** funding cut to the program (According to BLS estimates).

86% of program costs are used for personnel

47 Courts have less than a full-time Commissioner