



JUDICIAL COUNCIL
OF CALIFORNIA

TRIBAL COURT-STATE COURT FORUM

www.courts.ca.gov/forum.htm
forum@jud.ca.gov

TRIBAL COURT-STATE COURT FORUM

OPEN MEETING AGENDA

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

THIS MEETING IS BEING CONDUCTED BY ELECTRONIC MEANS

THIS MEETING IS BEING RECORDED

Date: April 12, 2018
Time: 12:15–1:15 p.m.
Location: Conference Call
Public Call-In Number 1-877-820-7831 and enter Listen Only Passcode: 4133250

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

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

Public Comment

This meeting will be conducted by teleconference. As such, the public may only submit written comments for 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 be e-mailed to forum@jud.ca.gov or mailed or delivered to 455 Golden Gate Avenue, San Francisco, CA 94102, attention: Ann Gilmour. Only written comments received by 12:15 p.m. on April 11, 2018 will be provided to advisory body members.

III. DISCUSSION AND POSSIBLE ACTION ITEMS (ITEMS 1-6)

Item 1

Approval of Minutes for February 15, 2018 Meeting

Item 2

Cochairs Report

- Update on [nomination](#)/appointment process
- Update on [annual agenda](#)
- Introduction of new staff
- Forum priorities as identified in the workbooks from the February 15 meeting.
Areas for expansion of recognition and enforcement of tribal court orders.

Item 3:

Judicial Council Proposed Remote Access Rules – Treatment of Tribes

Presenter: Andrea Jaramillo, Attorney, Judicial Council's Legal Services

Item 4:

Proposed ICWA Legislation

Presenter: Delia Sharpe, Executive Director, California Tribal Families Coalition

Andi Liebenbaum, Attorney, Judicial Council's Governmental Affairs

Item 5:

Peer Courts – Resources

Presenter: Donna Strobel, Analyst, Judicial Council's Center for Families, Children & the Courts

Item 6

Recent and Upcoming Conferences

Presenter: Vida Castaneda

IV. ADJOURNMENT

Adjourn



JUDICIAL COUNCIL OF CALIFORNIA

TRIBAL COURT-STATE COURT FORUM

www.courts.ca.gov/forum.htm
forum@jud.ca.gov

TRIBAL COURT-STATE COURT FORUM MINUTES OF OPEN MEETING

February 15, 2018
9:30 a.m-4:30 p.m.

Advisory Body Members Present: *Hon. Abby Abinanti, Co-chair, Hon. Dennis M. Perluss, Co-chair, Hon. April Attebury, Hon. Richard Blake, Hon. Hilary A. Chittick, Hon. Gail Dekreon, Hon. Leonard Edwards(Ret.), Ms. Heather Hostler, Hon. Mark Juhas, Hon. Lawrence C. King, Hon. Patricia Lenzi, Hon. Devon Lomayesva, Hon. Lester Marston, Hon. Mark Radoff, Hon. David Riemenschneider, Hon. John Sugiyama, Hon. Sunshine Sykes, Hon. Juan Ulloa, Hon. Claudette White, Hon. Christine Williams, and Hon. Christopher Wilson*

Advisory Body Members Absent: *Hon. Kimberly Gaab, Hon. Susanne Kingsbury, Hon. William Kockenmeister, Hon. Anthony Lee, and Hon. Joseph Wiseman*

Others Present: *Ms.Carolynn Bernabe, Ms. Vida Castaneda, Ms. Charlene Depner, Ms. Audrey Fancy, Ms. Ann Gilmour, Ms. Frances Ho, Ms. Bonnie Hough, Ms. Monica Lim, Ms. Catherine Ongiri, Mr. Rob Oyung, Ms. Cristina Snider, Mr. Greg Tanaka, Hon. Trina Thompson, Ms. Jennifer Walter, and Mr. Don Will*

OPEN MEETING

Call to Order and Roll Call

The co-chairs called the meeting to order at 9:40 a.m.

Approval of Minutes

The forum approved the December 14, 2017 meeting minutes.

DISCUSSION AND ACTION ITEMS (ITEMS 1-6)

Item 1

WELCOME AND INTRODUCTIONS

FORUM MEMBER PROJECT UPDATES

- *Hon. Abby Abinanti, Co-Chair, Chief Judge of the Yurok Tribal Court*
- *Hon. Dennis M. Perluss, Co-Chair, Justice of the Court of Appeal, Second Appellate District, Los Angeles*
- *Ann Gilmour, Attorney/Forum Counsel, Judicial Council's Center for Families, Children & the Courts (CFCC)*

Justice Perluss welcomed members, members made introductions and provided project updates, discussed how their work fits with the work of the Forum and what projects they are currently engaged in that may cross over with the work of the Forum or be of interest to other Forum members.

PUBLIC COMMENT

Public comments received from Mr. James Acres with respect to the presentation of Judge Marston in Session 2 on Law Enforcement Collaborations and Agreements, were entered into the record.

Item 2:

SESSION 1: HIGHLIGHTS OF FORUM PROJECTS

Continuing the Dialogue—Indian Civil Rights Act 1968

Presenters: Hon. Abby Abinanti

Hon. Trina Thompson, Judge, Superior Court of Alameda County

Hon. Claudette White, Chief Judge, Quechan Tribal Court

Hon. Christine Williams, Chief Judge, Shingle Springs Tribal Court

Presenters discussed the background and significance of the Indian Civil Rights Act of 1968, and the current project that is ongoing in collaboration with the Center for Judicial Education and Research concerning the Act. Presenters examined where the law has been and where it's going, and discussed the relationship and jurisdictional issues between tribal and state courts.

For decades, Native Americans constitute a political minority with a unique relationship to the federal government. President Lyndon B. Johnson supported Indian tribes and made investments to improve social programs and infrastructure on tribal reservations. President Johnson articulated a forceful vision in his Special Message to Congress on the Problems of the American Indian – “The Forgotten American” – March 6, 1968.

Continuing the Dialogue is a series of programs explores issues of California's diverse population that affect judicial branch employees. The series provides opportunities for judicial branch employees to learn about different perspectives as well as explore and discuss issues and topics that impact us and the people who use our courts.

There are currently, approximately 110 federally recognized tribes in California, with more than half as many more petitioning for recognition. According to the U.S. census, California is home to more people of Native American or Alaska Native heritage than any other state in the U.S. In the upcoming series, we'll be exploring tribal court issues in California and how they relate and are intertwined with the work of the state's judicial branch. Specifically, we'll hear an overview of California Native American history leading up to the passage of two federal laws: the Indian Civil Rights Act of 1698, and the Indian Child Welfare Act of 1978.

Partnerships—Report on Joint Jurisdiction Courts

Presenters: Hon. Abby Abinanti

Hon. Joyce Hinrichs, Presiding Judge, Superior Court of California, County of Humboldt

Jennifer Walter, Consultant/Facilitator; Hon. Christine Williams

Judge Christine Williams gave a brief overview of the joint jurisdiction court between the Shingle Springs Band of Miwok Indians and the Superior Court of California, County of El Dorado. The joint jurisdiction court was founded in 2014. Since then five families have successfully completed the program. Referrals had primarily come from the School Attendance Review Board (SARB). There have been no new SARB referrals since the end of last school year. The joint jurisdiction court process has increased collaboration with the county SARB and tribal probation to provide early intervention services to families allowing them to redirect resources to raise awareness and provide preventive services. The court has also had two early intervention voluntary family maintenance “dependency” cases. Both families completed the program within six months. The children did not need to be removed from parental care. The families have not had any further referrals. The plan is to expand to hear more case types. They are considering including post adjudication criminal supervision in limited cases and child support contempt cases.

Judge Abby Abinanti, Judge Joyce Hinrichs, and Ms. Jennifer Walter discussed the vision for the Joint Jurisdictional Court that is currently under development between the Superior Court of California, County of Humboldt and the Yurok Tribal Court. The court is focused on dependency cases involving substance abuse issues. Recognizes that the communities are facing a common problem in the opioid crisis, and share a goal of keeping families together and connected with their culture and communities. The project is supported by an innovation grant. The leaders of both courts are engaging in a mindful planning process including tribal and stakeholder engagement through several stakeholder meetings designed to build trust and shift the paradigm. The court will become operational in July of 2018. The project will begin with the Yurok Tribal Court, but allow other tribal courts to opt in if they choose. The court will respect different traditions and focus on healing individual and community trauma. It will provide access to culture and spirituality within the home communities. It will move away from punishment and focus on healing and a coordinated team approach to supporting families.

Item 3:

SESSION 2: JURISDICTION & SAFETY IN TRIBAL COMMUNITIES

Law Enforcement Collaborations and Agreements

Presenters: Thomas Allman, Sheriff, Mendocino County Sheriff's Office, Board of Director, California State Sheriff's Association

Hon. Les Marston, Chief Judge, Blue Lake Tribal Court

Presenters gave an overview of some of the jurisdictional challenges facing law enforcement in California as a result of Public Law 280. They then discussed the agreements and processes that have been adopted between tribes and law enforcement in Mendocino County to facilitate the cross-jurisdictional protection of victims of domestic violence.

Trafficking in Tribal Communities – Unique Problems and Proposed Solutions

Presenters: Hon. Richard C. Blake, Chief Judge, Hoopa Valley, and Redding Rancheria Tribal Courts

Suzanne Garcia, Tribal Child Welfare Specialist, Capacity Building Center for Tribes, Tribal Law and Policy Institute

Judge Richard Blake shared personal experiences with trafficking and trafficking victims to dispel the myth that trafficking only affects already troubled families and individuals. Social media plays a significant role in easily traffickers contacting any youth. Youth are easily being lured away from their communities with promises of jobs in acting and modeling. One bad decision can result in a young person falling prey to traffickers. It is then difficult or impossible for the youth to escape as they are often held against their will. Traffickers will tattoo the youth. If the youth breaks free, in retaliation, traffickers will send compromising material to the youth's family, friends and contacts on social media. Ms. Suzanne Garcia provided context to the nationwide scope of the problem surrounding trafficking of Native Americans. The issues surrounding social media and data continue to prevail in most communities, but especially for tribal communities. In addition, there are not procedures in place for alerting tribes when a Native American foster youth is missing from their foster care placement, which is concerning and needs proposed solutions in place to alleviate this problem. Ms. Garcia is currently working on toolkits that outline the issues and would like to, further collaborate with Forum members on proposed solutions. The Forum agreed that human trafficking is an important issue that needs to be addressed in future work.

VAWEP/VOCA

*Presenters: Greg Tanaka, Supervising Attorney, Judicial Council's CFCC
Frances Ho, Attorney, Judicial Council's CFCC*

Ms. Frances Ho and Mr. Greg Tanaka provided an overview of the STEPS program. The STEPS program provides funding to support education, equipment and technical assistance in the areas of domestic violence, human trafficking, sexual assault and stalking for tribal and state courts. The primary goal of the STEPS program is to strengthen tribal-state court relationships.

WORKING LUNCH: COLLABORATION WITH TRIBAL COMMUNITIES (Sequoia Room)

Workbook/Survey Format

Members brainstormed on issues relating to access to justice for tribal communities; recognition and enforcement of protective orders; priorities for tribal/state court collaboration and priorities for Forum work in 2019 and beyond.

Item 4

SESSION 3: ACCESSING SERVICES

Presenter: Suzanne Garcia

The Tribal Law and Policy Institute (TLPI) is a Native operated non-profit corporation dedicated to providing free publication resources, comprehensive training, and technical assistance for Native nations and tribal justice systems in pursuit of our vision to empower Native communities to create and control their own institutions for the benefit of all community members, now, and for future generations. TLPI's focus is on programs which promote the enhancement of justice in Indian country and the health, well-being, and culture of Native peoples.

To see everything that is available, please visit the webpage at <http://www.home.tlpi.org/> Below is a sample of what is there:

- *Work with the courts:*
 - Tribal Healing to Wellness Courts – provide T/TA to tribes that are developing and/or expanding healing to wellness courts. Please see WellnessCourts.org
 - Establishing tribal domestic violence court/dockets
 - Tribal court/state court collaboration
- *Work in the area of child and family protection:*
 - Guide for Drafting or Revising Tribal Civil Dependency and Related laws
 - Capacity Building Center for Tribes – capacity building assistance for tribal child welfare agencies that receive iv-b funding.
 - Capacity building: idea not to just train, but to build capacity of the tribal child welfare programs to develop and implement their own initiatives.
 - Numerous products & resources online at tribalinformationexchange.org – topics include trafficking, collecting and managing data, IV-E, research and evaluations, the actual practice of child welfare, and engaging leadership in issues such as ICWA.
 - Commercial Sexual Exploitation of Children (CSEC)- The Center for Tribes is working with its partners at the Center for Courts to develop a tool kit for tribal child welfare agencies to facilitate the creation of a comprehensive response to CSEC. The idea is to put sample tools, resources, and materials in one place so that Tribes can create a response that is tailored to work in their community.
- *Work in the area of domestic violence*
 - Expanded jurisdiction under VAWA and TLOA
 - Human Trafficking - from an advocates perspective

- *Blog, books, curriculum, and events*
 - Organize the Indian Nations Conference in Coachella Valley – which will be this year in December.
- *Collaboration*
 - Tribal–State Collaboration Project
 - Collaborations to address the issues faced by families with substance abuse disorders. We are part of a team on a newer project: the National Quality Improvement Center for Collaborative Community Court Teams –currently accepting applications at <https://www.cffutures.org/qic-ccct/>. This is a national initiative aimed at addressing the needs of infants and families affected by substance use disorders and prenatal substance exposure. The program will last 30 months, and the main goal is to improve collaboration. Collaborative partners would include the courts, child welfare, the legal community, treatment providers, healthcare providers—everyone. What they are hoping to do is to provide the field with lessons learned and information on effective practices.

Presenter: Seprieono Locario, Tribal Tech, Substance Abuse and Mental Health Services Administration (SAMHSA)

Mr. Seprieono Locario provided a brief overview of [Substance Abuse and Mental Health Services Administration \(SAMHSA\) Tribal Training and Technical Assistance \(TTA\)](#) efforts currently available to Tribal Nations and tribal prevention efforts. He discussed the [Tribal Law and Order ACT \(TLOA\)](#) and the opportunity a tribe has in developing a [Tribal Action Plan \(TAP\)](#) to coordinate substance abuse and prevention services. He also reviewed the TLOA Partners websites and identified federal collaboration and other TTA centers available to assist tribes with prevention, healing, and public safety under TLOA efforts. He reviewed the [Department of Justice \(DOJ\), Tribal Justice and Safety](#) website, [Bureau of Justice Administration \(BJA\)](#), and [Indian Health Services \(IHS\)](#). Provided time for Q&A and shared contact information as a future resource.

Presenter: April McGill, California Consortium for Urban Indian Health (CCUIH)

Ms. April McGill provided an overview of her agency, [California Consortium for Urban Indian Health \(CCUIH\)](#), along with a description of the collaborative work with tribal communities.

Item 5

SESSION 4: INDIAN CHILD WELFARE ACT (ICWA) AND CHILD WELFARE

Presenter: Heather Hostler, Director, California Department of Social Services, Office of Tribal Affairs

Ms. Heather Hostler introduced herself and the work of the California Department of Social Services, Office of Tribal Affairs. Ms. Hostler is a member of the Hoopa Valley Tribe. She has experience in tribal government and state government, most recently as Chief Deputy for the Governor's Tribal Advisor, Cynthia Gomez. Ms. Hostler's primary focus in that role, and in her current role at the California Department of Social Services is tribal engagement and working with tribal governments. As the first director of CDSS Office of Tribal Affairs, her focus is on implementing the CDSS tribal consultation policy and ensuring tribal engagement on the full range of issues that CDSS deals with. Right now, with respect to ICWA a priority area is the draft regulations on tribal customary adoption and Division 31 regulation updates to address the Indian Child Welfare Act.

Update on ICWA Task Force Report

Presenter: Delia Sharpe, Executive Director, California Tribal Families Coalition

Ms. Delia Sharpe gave an overview of the creation and work of the California ICWA Compliance Task Force, its report and recommendations to the Attorney General. Following completion of the report, the tribal leaders and advocates involved in that project have established the California Tribal Families Coalition as an entity to represent and pursue the interests of California's tribes related to ICWA compliance. The Coalition has a governing board of tribal leaders. They have also established a panel of attorney advisors and advocates to provide input on ICWA issues. The Coalition is working to have three separate bills introduced and advanced this legislative session. The first will conform California law to the requirements of the new federal BIA ICWA regulations. The second will exempt attorneys appearing pro hac vice for tribes in cases governed by the Indian Child Welfare Act from various fees associated with pro hac vice appearances and the third will provide funding for a pilot project to provide attorneys to represent tribes in Indian Child Welfare Act cases.

Item 6

SESSION 5: FORUM PRIORITIES 2018-2019 AND ANNUAL AGENDA/WORK PLAN

The proposed annual agenda for 2018 is attached and will be sent to the Executive and Planning Committee for approval. Forum members can send comments to Ann Gilmour. Discussion of two pending proposals:

- Legislative proposal for the recognition and enforcement of tribal court orders in domestic relations cases involving distribution of pension assets governed by the federal Employee Retirement Income Security Act of 1974 (ERISA). Members had concerns and questions about how the proposal would operate. Legislation will be circulated to specific stakeholders for input and comments prior to moving forward;
- Proposal to amend rule 9.40 to waive certain pro hac vice requirements for attorneys representing tribes in cases governed by the Indian Child Welfare Act. No comments. Approved to move forward.

A D J O U R N M E N T

There being no further business, the meeting was adjourned at 3:36 p.m.

Pending approval by the advisory body on April 12, 2018.



JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue • San Francisco, California 94102-3688
Telephone 415-865-4200 • Fax 415-865-4205 • TDD 415-865-4272

MEMORANDUM

Date

March 13, 2018

Action Requested

Please Review

To

Tribal Leaders

Deadline

May 4, 2018

From

Hon. Abby Abinanti, Cochair
Tribal Court–State Court Forum
Chief Judge of the Yurok Tribal Court

Contact

Ann Gilmour, Attorney
415-865-4207 phone
415-865-7217 fax
ann.gilmour@jud.ca.gov

Hon. Dennis M. Perluss, Cochair
Tribal Court–State Court Forum
Presiding Justice of the Court of Appeal,
Second Appellate District, Division Seven

Subject

Tribal Court–State Court Forum Vacancy

As cochairs of the [Tribal Court–State Court Forum](#) (Forum), we are writing to notify you of five tribal court judge vacancies and describe the selection and appointment process.

Established in May 2010, the Forum is a coalition of the various tribal court and state court leaders who come together as equal partners to address areas of mutual concern. In October 2013, the Judicial Council adopted [rule 10.60](#) of the California Rules of Court establishing the Forum as a formal advisory committee. In adopting this rule, the council added a comment acknowledging that tribes are sovereign and citing statutory and case law recognizing tribes as distinct, independent political nations that retain inherent authority to establish their own form of government, including tribal justice systems.

Under rule 10.60, the Forum's composition must have an equal or a close-to-equal number of judges or justices from tribal courts and state courts. Forum members are generally appointed for three-year terms, and every year approximately one third of our members' terms expire.

If your tribe has a tribal court, and there is not already a judge from your court serving on the forum, we invite you to submit the name of one of your tribal court judges to serve on the forum by completing the form at this link: <http://www.courts.ca.gov/4650.htm>, or by completed the attached form and returning it to us. Should we receive more nominations that vacancies available, then consistent with rule 10.60(d), the forum cochairs will confer and decide which tribal court judge should be appointed. Their decision will be based on the diverse background and experience of the tribal court judges whose names are submitted, as well as the geographic location of the current membership.

Should you have any questions, please do not hesitate to contact either one of us or Ms. Ann Gilmour. We look forward to continuing our collaboration with your court either through your tribe's continued participation on the Forum or through our many [Forum projects](#).

AA/DMP/AG/cb



JUDICIAL COUNCIL OF CALIFORNIA

2018 Tribal Court-State Court Forum (forum)

There are five (5) tribal court judge vacancies on the forum. Please submit this form by May 4, 2018.

Tribal Court Judge Information

Name of Tribal Court Judge: _____

Name of Tribal Court: _____

Mailing address: _____

City: _____

Zip: _____

Phone: _____ Fax: _____

E-mail: _____

Tribal Leader Information

Name: _____ Title: _____

Name of Tribe: _____

Mailing address: _____

City: _____

Zip: _____

Phone: _____ Fax: _____

E-mail: _____

- Please check here to confirm that the tribal judge has been contacted and indicated a willingness to serve if appointed.
- Tribal Judge's bio or curriculum vitae is attached.

**PLEASE RETURN POSTMARKED OR BY FAX OR E-MAIL
NO LATER THAN MAY 4, 2018**

Please return by mail, fax or e-mail

Attention: Carolynn Bernabe

Fax: 415-865-7217 or e-mail: carolynn.bernabe@jud.ca.gov or mail to:
Judicial Council of California, Center for Families Children & the Courts

Attention: Carolynn Bernabe
455 Golden Gate Avenue, 6th Floor
San Francisco, CA 94102

Tribal Court–State Court Forum
Annual Agenda¹—2018

Approved by Executive and Planning Committee: March 1, 2018

I. COMMITTEE INFORMATION

Chair:	Hon. Abby Abinanti, Chief Judge, Yurok Tribal Court Hon. Dennis M. Perluss, Presiding Justice, Court of Appeal, Second Appellate District, Division Seven
Lead Staff:	Ms. Ann Gilmour, Attorney, Center for Families, Children & the Courts
Committee’s Charge/Membership: Rule 10.60 of the California Rules of Court states the charge of the Tribal Court–State Court Forum (Forum), which is to make recommendations to the Judicial Council for improving the administration of justice in all proceedings in which the authority to exercise jurisdiction by the state judicial branch and the tribal justice systems overlap. Rule 10.60(b) sets forth additional duties of the Forum.	
<p>The Forum currently has 25 members, (with three vacancies – a representative from the Civil and Small Claims Advisory Committee; a representative of the Executive Branch and a trial court judge from a county with a tribal court).</p> <ul style="list-style-type: none">• Thirteen tribal court judges (nominated by their tribal leadership, representing 16 of the 23 tribal courts currently operating in California; these courts serve approximately 27 tribes)• Director of the California Department of Social Services Office of Tribal Affairs.• One appellate justice• Seven chairs or their designees of the following Judicial Council advisory committees:<ul style="list-style-type: none">○ Advisory Committee on Providing Access and Fairness○ Governing Committee of the Center for Judicial Education and Research○ Civil and Small Claims Advisory Committee (this position is currently vacant)○ Criminal Law Advisory Committee○ Family and Juvenile Law Advisory Committee○ Probate and Mental Health Advisory Committee○ Traffic Advisory Committee• Five trial court judicial officers (currently one of these positions is vacant)• One retired judge (advisory) <p>The current roster is available on the committee’s web page.</p>	

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

Subcommittees/Working Groups²:

Existing from the 2017 Annual Agenda

Participate in the joint ad hoc rules and forms subcommittee to implement Tactical Plan for Technology, 2017–2018.

New for the 2018 Annual Agenda

Subcommittee on the Indian Child Welfare Act (ICWA) to review and respond to California ICWA Compliance Task Force Report (new project #1) and newly adopted federal *Regulations for State Courts and Agencies in Indian Child Custody Proceedings* and *Guidelines for Implementing the Indian Child Welfare Act* (ongoing project #2), 2018–2019

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

II. COMMITTEE PROJECTS

#	New or One-Time Projects ³	
1.	<p>Project Title: Review and respond to California ICWA Compliance Task Force Report and Recommendations</p>	<p>Priority 2⁴</p>
<p>Project Summary: In March of 2017, the California ICWA Compliance Task Force presented its report to California Attorney General Xavier Becerra⁵. The report includes a number of issues and recommendations related to compliance with the Indian Child Welfare Act in California. A number of the findings and recommendations relate to the work of the judicial branch.</p> <p>Status/Timeline: The Forum will undertake a review of the report recommendations related to the work of the Judicial Branch and make recommendations for action to the Judicial Council by January 1, 2019.</p> <p>Fiscal Impact/Resources: Judicial Council’s Center for Family, Children & the Courts (CFCC), Governmental Affairs, Legal Services, and Center for Judicial Education and Research (CJER) staff.</p> <p>Internal/External Stakeholders: External stakeholders include the California Department of Social Services, the California Attorney General’s Office and the California Tribal Families Coalition.</p> <p>AC Collaboration: Family and Juvenile Law Advisory Committee, Probate and Mental Health Advisory Committee, and the Governing Committee of the Center for Judicial Education and Research, with respect to recommendations that impact the work of those bodies.</p>		
2.	<p>Project Title: Develop a legislative proposal to facilitate recognition of tribal court orders regarding the division of marital assets as “qualified domestic relations order” within the meaning of 29 USC §1056(d)(3)(B) for the purpose of dividing pensions and other benefits within the scope of the Employee Retirement Income Security Act (ERISA).</p>	<p>Priority 2b⁴</p>
<p>Project Summary⁵: As part of its charge under Rule 10.60(b)(2) the Forum is to make recommendations relating to the recognition and enforcement of court orders that cross jurisdictional lines. Domestic relations is an area where tribal courts in California are increasingly exercising jurisdiction. The effectiveness of these orders is undermined when they are not fully recognized and enforced. Tribal courts</p>		

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

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

⁵ Available at <https://www.caltribalfamilies.org/news/ICWAComplianceTaskForceFinalReport2017.pdf/view>

#	New or One-Time Projects ³
	<p>report that some of their clients are having difficulty having division of marital assets orders issued with respect to pension benefits subject to ERISA recognized by plan administrators. As part of its statute governing the recognition and enforcement of foreign money judgements, Oregon has adopted a provision to recognize qualifying tribal court orders as domestic relations orders for ERISA purposes. The Judicial Council sponsored legislation in 2014 to establish the Tribal Court Civil Money Judgement Act (Code of Civ. Proc. §§1730-1742). A provision could be added, similar to the Oregon provision, to clarify that qualifying tribal court orders must be considered as domestic relations orders for ERISA purposes under California law.</p> <p><i>Status/Timeline:</i> Subject to approval by Judicial Council and Legislature: likely effective date would be January 1, 2020.</p> <p><i>Fiscal Impact/Resources:</i> CFCC, Legal Services, and CJER staff.</p> <p><i>Internal/External Stakeholders:</i> External stakeholders could potentially include members of the family law bar and pension plan administrators.</p> <p><i>AC Collaboration:</i> Family and Juvenile Law Advisory Committee.</p>

#	Ongoing Projects and Activities³	
1.	<i>Project Title: Policy Recommendations: Revise Pro Hac Vice Requirements for attorneys representing Indian Tribes and Indian Parents in Indian Child Welfare Act Cases</i>	<i>Priority 2b⁴</i>
<p><i>Project Summary⁵:</i> This project was on the 2017 annual agenda as item 8(ii) at page 10. The issue gained new urgency with the release of the California ICWA Compliance Task Force Report in March of 2017 which addressed pro hac vice rules in its recommendations.⁶</p> <p><i>Status/Timeline:</i> Anticipate that a proposal to amend rule 9.40 will circulate during the Spring 2018 RUPRO cycle. If approved by the Judicial Council, the amendment would come into effect January 1, 2019.</p> <p><i>Fiscal Impact/Resources:</i> CCFC staff.</p> <p><i>Internal/External Stakeholders:</i> Internal stakeholders include the liaison from the Supreme Court to the State Bar. External stakeholders include the State Bar and the California Tribal Families Coalition.</p> <p><i>AC Collaboration:</i> None.</p>		
2.	<i>Project Title: Policy Recommendations: Review of newly adopted federal Regulations for State Courts and Agencies in Indian Child Custody Proceedings and Guidelines for Implementing the Indian Child Welfare Act.</i>	<i>Priority 2⁴</i>
<p><i>Project Summary⁵:</i> Review the newly adopted <i>Regulations for State Courts and Agencies in Indian Child Custody Proceedings</i> (as published in the Federal Register on June 14, 2016 (Vol. 81 FR No. 114 38778) and the updated <i>Bureau of Indian Affairs Guidelines for Implementing the Indian Child Welfare Act</i> (as published in the Federal Register on December, 30, 2016 (Vol. 81 FR No. 251 96476), for possible recommendations to the Judicial Council for sponsored legislation or legislative positions on bills that will be introduced to implement the new regulations and guidelines in California.</p> <p><i>Status/Timeline:</i> This is an ongoing item from the Forum’s 2017 Annual Agenda. During the past year staff to the Forum have prepared analysis of the implications of the regulations and guidelines for California law and practice and have prepared an alert concerning the regulations.⁷ Several members of the Forum have volunteered to work with staff to prepare initial recommendations for interpretation and implementation of the regulations and guidelines. Those discussions are ongoing. The Forum expects to have final recommendations for the Judicial Council by January 1, 2019.</p>		

⁶ The report of the California ICWA Compliance Task Force is available at <https://www.caltribalfamilies.org/news/ICWAComplianceTaskForceFinalReport2017.pdf/view>. See recommendation 1 at page 95.

⁷ Available at http://www.courts.ca.gov/documents/ICWA_New-federal-regulation.pdf

#	Ongoing Projects and Activities³	
	<p>Fiscal Impact/Resources: CFCC staff.</p> <p>Internal/External Stakeholders: Internal stakeholders include the Forum, Family and Juvenile Law Advisory Committee, and the Probate and Mental Health Advisory Committee.</p> <p>AC Collaboration: Staff are coordinating with the Family and Juvenile Law Advisory Committee, and the Probate and Mental Health Advisory Committee and staff to those committees as the Indian Child Welfare Act affects the work of those committees as well.</p>	
3.	<p>Project Title: Policy Recommendations: Judge to Judge communication between state and tribal court judges.</p>	<p>Priority 2⁴</p>
	<p>Project Summary⁵: As part of the Forum’s charge under rule 10.60(1) and (2), the Forum considers whether, in different case types, it is necessary and appropriate to facilitate judge to judge communication between state and tribal courts in order to promote the recognition and enforcement of orders across jurisdictional lines. Provision for such communication is included in California Code of Civil Procedure section 1740 and in Family Code section 3410. As tribal courts in California expand their activities, it may be appropriate to include such provisions in relation to other case types.</p> <p>Status/Timeline: Ongoing.</p> <p>Fiscal Impact/Resources: CFCC staff.</p> <p>Internal/External Stakeholders: None.</p> <p>AC Collaboration: None.</p>	
4.	<p>Project Title: Policy Recommendations: Legislation to improve the recognition and enforcement of tribal court orders.</p>	<p>Priority 2⁴</p>
	<p>Project Summary: As part of its mandate under rule 10.60(b)(2) to make recommendations relating to the recognition and enforcement of court orders that cross jurisdictional lines, the Forum continuously looks for areas where legislative action would be appropriate. In the past the Forum has partnered with the Civil and Small Claims Advisory Committee to recommend legislation (SB 406) which established the Tribal Court Civil Money Judgement Act (Code of Civ. Proc. §§1730-1742). As originally passed, that Act was to sunset on January 1, 2018. This past year the Forum worked with staff of the Judicial Council’s Governmental Affairs to provide information to the California Law Revision Commission studying the effect of the Act and other statutes governing recognition and enforcement of foreign orders. Legislation was finalized that lifted the sunset.</p>	

#	Ongoing Projects and Activities³	
	<p>This coming year the Forum will further this objective through item 3 in new projects above and will work with the Traffic Advisory Committee to determine if it would be feasible to create a proposal to improve the recognition and enforcement of tribal court traffic orders.</p> <p><i>Status/Timeline:</i> January 1, 2019.</p> <p><i>Fiscal Impact/Resources:</i> CFCC and Governmental Affairs staff.</p> <p><i>Internal/External Stakeholders:</i> None.</p> <p><i>AC Collaboration:</i> Traffic Advisory Committee.</p>	
5.	<p>Project Title: Policy recommendations: Ethics</p>	<p>Priority 2⁴</p>
	<p>Project Summary⁵: State and tribal court judges may sit on each other’s benches and hear cases in the other jurisdiction through a joint-jurisdiction court or on an ad hoc or ongoing basis. The Forum will continue to work with the California Supreme Court’s Advisory Committee on the Code of Judicial Ethics and make recommendations and request advisory opinions or amendments to the canons as appropriate and necessary to facilitate such collaborations.</p> <p><i>Status/Timeline:</i> Ongoing.</p> <p><i>Fiscal Impact/Resources:</i> CFCC staff.</p> <p><i>Internal/External Stakeholders:</i> None.</p> <p><i>AC Collaboration:</i> Advisory Committee on the Code of Judicial Ethics.</p>	
6.	<p>Project Title: Policy Recommendation: Tribal Access to the Child Abuse Central Index</p>	<p>Priority 2⁴</p>
	<p>Project Summary⁵: The Tribal Access to the Child Abuse Central Index (Index) is used to aid law enforcement investigations and prosecutions, and to provide notification of new child abuse investigation reports involving the same suspects and/or victims. Information is also used to help screen applicants for licensing or employment in child care facilities, foster homes, and adoptive homes. The purpose of</p>	

#	Ongoing Projects and Activities³	
	<p>allowing access to this information on a statewide basis is to quickly provide authorized agencies, including tribal agencies, with relevant information regarding individuals with a known or suspected history of abuse or neglect.</p> <p>While tribal agencies can obtain information from the Index, they cannot readily submit information to the Index.</p> <p>This practice poses several problems:</p> <ol style="list-style-type: none"> (1) Suspected or known abusers may remain in the home of a child posing safety risks; (2) Unnecessary duplication of effort by agencies; (3) Delays in entry into the Index due to double investigations; and (4) Barriers to sharing information among tribal and nontribal agencies that should be working together to protect children. The forum will explore consulting with the Department of Justice to consider executive branch action to permit tribal access to the Index. <p><i>Status/Timeline: Ongoing.</i></p> <p><i>Fiscal Impact/Resources: CFCC staff.</i></p> <p><i>Internal/External Stakeholders: The California Department of Justice.</i></p> <p><i>AC Collaboration: Family and Juvenile Law Advisory Committee.</i></p>	
7.	Project Title: Policy Recommendation: Technological Initiatives	Priority 2⁴
	<p>Project Summary⁵:</p> <p>(A) Both federal and state law require mutual full faith and credit for domestic violence restraining orders issued by tribal and state courts. A crucial aspect of promoting the mutual recognition and enforcement of such court orders is facilitating knowledge between state and tribal courts as to the protective orders issued by their respective courts. The Forum and staff have worked to provide tribal courts with the ability to read orders contained in the California Courts Protective Order Registry (CCPOR) and to facilitate entry of appropriate orders issued by tribal courts into CCPOR.</p> <p><i>Status/Timeline: In 2017, one tribal court was trained on accessing CCPOR.</i></p> <p><i>Fiscal Impact/Resources: CFCC staff, CJER staff, and Information Technology (IT) staff.</i></p> <p><i>Internal/External Stakeholders: External stakeholders include tribal courts.</i></p>	

#	Ongoing Projects and Activities³	
	<p><i>AC Collaboration:</i> None.</p> <p>(B) Since its inception the Forum has been exploring ways to improve and simplify the process of doing inquiry and providing notice in cases governed by the Indian Child Welfare Act (ICWA). The Forum will continue to explore these opportunities, including whether document assembly programs might be helpful in reducing the time required and errors in ICWA inquiry and populating forms with the information gathered. The Forum will also monitor any ongoing e-notice pilot programs or other technological advances in other jurisdictions and make recommendations to the Judicial Council on replicating those in California.</p> <p><i>Status/Timeline:</i> This is an ongoing Forum charge.</p> <p><i>Fiscal Impact/Resources:</i> Information Technology staff and Center for Families, Children & the Courts (CFCC) staff with document assembly expertise.</p> <p><i>Internal/External Stakeholders:</i> None.</p> <p><i>AC Collaboration:</i> None.</p>	
8.	<p>Project Title: Policy Recommendation: Funding for Innovative Practices and System Improvements</p>	<p>Priority 2⁴</p>
	<p><i>Project Summary⁵:</i> The Forum seeks to support innovative practices and system improvements including seeking funding for such initiatives as a pilot program to facilitate tribal participation and improve outcomes in ICWA cases by providing appointed counsel for tribes in these cases.</p> <p><i>Status/Timeline:</i> Last year the Judicial Council submitted a federal grant application which would have provided inter alia funding for a pilot project to provide appointed counsel to tribes in ICWA cases. The Forum and Tribal/State Programs Unit staff will continue to seek out available funding.</p> <p><i>Fiscal Impact/Resources:</i> CFCC staff.</p> <p><i>Internal/External Stakeholders:</i> None.</p> <p><i>AC Collaboration:</i> None.</p>	

#	Ongoing Projects and Activities³	
9.	Project Title: Increase Tribal/State Partnerships: Sharing Resources and Communicating Information About Partnerships	Priority 2⁴
<p>Project Summary⁵: One of the guiding principles of the Forum is to improve access to justice by providing tribal and state courts access to resources for capacity building and collaboration on an equal basis, sharing resources, and seeking out additional resources.</p> <ol style="list-style-type: none"> 1. Identify Judicial Council and other resources that may be appropriate to share with tribal courts. 2. Identify tribal justice resources that may be appropriate to share with state courts. 3. Identify grants for tribal/state court collaboration. 4. Share resources and information about partnerships through Forum E-Update, a monthly electronic newsletter. 5. Publicize these partnerships at conferences, on the Innovation Knowledge Center (IKC), and at other in-person or online venues. 6. Disseminate information to tribal court judges and state court judges on a monthly basis through the Forum E-Update, a monthly electronic newsletter with information on the following: <ul style="list-style-type: none"> o Grant opportunities; o Publications; o News stories; and o Educational events. 7. Foster tribal court/state court partnerships, such as the Superior Court of Los Angeles County’s Indian Child Welfare Act Roundtable and the Bay Area Collaborative of American Indian Resources—court-coordinated community response to ICWA cases in urban areas and the providing technical assistance to the joint-jurisdiction collaborations between the Yurok Tribe and the Superior Court of California, County of Humboldt and the Shingle Springs Band of Miwok Indians and the Superior Court of California, County of El Dorado. <p>Status/Timeline: Ongoing. During this year the Northern California Intertribal Court System was provided with access to a number of unlocked Judicial Council Juvenile, Family, Probate and Domestic Violence forms that the staff of the Northern California Intertribal Court System adapted for use by member courts. The adapted forms have been posted and made available to other tribal courts.</p> <p>Fiscal Impact/Resources: CFCC staff.</p> <p>Internal/External Stakeholders: None.</p> <p>AC Collaboration: None.</p>		
10.	Project Title: Increase Tribal/State Partnerships: Tribal/State Collaborations that Increase Resources for Courts	Priority 2⁴

#	Ongoing Projects and Activities³	
	<p>Project Summary⁵: A primary goal of the Forum is to improve relationships between state and tribal courts and foster collaboration between those courts. There are currently two active joint-jurisdiction projects ongoing between Forum member state and tribal courts – the Superior Court of California, County of El Dorado collaborative with the Shingle Springs Band of Miwok Indians Tribal Court and the Superior Court of California, County of Humboldt collaboration with the Yurok Tribal Court.</p> <p>Status/Timeline: Ongoing. This year the JCC staff are supporting these collaborations by sharing resources and agreements, and offering technical assistance on collaborations. Humboldt Superior Court also received an innovation grant from the Judicial Council for the joint-jurisdiction court project.</p> <p>Fiscal Impact/Resources: Collaboration and joint-jurisdiction courts should provide fiscal savings by improving the sharing of resources across jurisdictions. CFCC staff will continue to provide support to this project.</p> <p>Internal/External Stakeholders: External stakeholders include superior courts and tribal courts.</p> <p>AC Collaboration: None.</p>	
11.	<p>Project Title: Increase Tribal/State Partnerships: Education and Technical Assistance to Promote Partnerships and Understanding of Tribal Justice Systems</p>	<p>Priority 2⁴</p>
	<p>Project Summary⁵: The Forum will continue to develop educational events, resources and tools, and provide technical assistance to promote partnerships and understanding between state and tribal justice systems including:</p> <ol style="list-style-type: none"> 1. Make recommendation to Judicial Council staff to continue providing educational and technical assistance to local tribal and state courts to address domestic violence and child custody issues in Indian country. 2. Make recommendation to Judicial Council staff to provide technical assistance to evaluate the joint jurisdictional court and to courts wishing to replicate the model. 3. Make recommendation to the Judicial Council staff to continue developing civic learning opportunities for youth that exposes them to opportunities and careers in tribal and state courts. 4. Make recommendation to explore, at the option of tribes, opportunities for state and federal court judges to serve as a tribal court judge. 5. Develop and implement strategy to seek resources for tribal/state collaborations. 6. Continue to provide the State/Tribal Education, Partnerships, and Services (S.T.E.P.S.) to Justice—Domestic Violence and Child Welfare programs and provide local educational and technical assistance services. 	

#	Ongoing Projects and Activities³	
	<p>7. Continue the first joint jurisdictional court in California. The Superior Court of El Dorado County, in partnership with the Shingle Springs Band of Miwok Indians, is operating a family wellness court and next year will provide technical assistance to evaluate the joint jurisdictional court. (See Court Manual).</p> <p>8. Establish partnership between the Superior Court of Humboldt County and the Yurok Tribal Court to develop a civics learning opportunity for youth in the region.</p> <p><i>Status/Timeline:</i> Ongoing.</p> <p><i>Fiscal Impact/Resources:</i> CFCC staff and CJER staff.</p> <p><i>Internal/External Stakeholders:</i> Center for Judicial Education and Research.</p> <p><i>AC Collaboration:</i> Governing Committee of the Center for Judicial Education and Research.</p>	
12.	Project Title: Education: Judicial Education	Priority 2
	<p><i>Project Summary⁵:</i> CJER toolkits, located on the Judicial Resources Network, will be updated to include federal Indian law. Develop 10-minute educational video to be posted online and shared statewide with justice partners. In collaboration with the CJER Curriculum Committees, consult on and participate in making recommendations to revise the CJER online toolkits so that they integrate resources and educational materials from the forum’s online federal Indian law toolkit. Forum judges are working together with committee representatives from the following curriculum committees: (1) Access, Ethics, and Fairness, (2) Civil, (3) Criminal, (4) Family, (5) Juvenile Dependency and Delinquency, and (6) Probate.</p> <p><i>Status/Timeline:</i> Ongoing. This year and next, Forum members and staff of the Tribal/State Programs Unit are collaborating with CJER to create a “Continuing the Dialogue” episode on the Indian Civil Rights Act of 1968. When completed, that video will be screened by CJER and housed on the Judicial Resources Network.</p> <p><i>Fiscal Impact/Resources:</i> CFCC staff and CJER staff.</p> <p><i>Internal/External Stakeholders:</i> None.</p> <p><i>AC Collaboration:</i> Governing Committee of the Center for Judicial Education and Research.</p>	
13.	Project Title: Education: Truth and Reconciliation	Priority 2⁴

#	Ongoing Projects and Activities ³
	<p>Project Summary⁵: Consider collaboration among the three branches of state government in partnership with tribal governments to promote a truth and reconciliation project that acknowledges California’s history, as described in Professor Benjamin Madley’s book, <i>An American Genocide: The United States and the California Indian Catastrophe</i>, with respect to indigenous peoples, fosters an understanding of our shared history, and lays a foundation for reconciliation, which promotes a call to action.</p> <p>Status/Timeline: Ongoing. As a step towards the goal of Statewide Truth and Reconciliation, Forum members and staff of the Tribal/State Programs Unit are participating in a civic engagement project in Humboldt County which will infuse curriculum with an understanding of local Indian history.</p> <p>Fiscal Impact/Resources: CFCC staff</p> <p>Internal/External Stakeholders: External stakeholders include Tribal Governments and Humboldt County Civic Engagement Project.</p> <p>AC Collaboration: None.</p>

III. LIST OF 2017 PROJECT ACCOMPLISHMENTS

#	Project Highlights and Achievements
1.	<p>Education: Documentary-Judicial Education JCC staff consulted on a documentary on tribal courts in California and tribal court – state court collaboration which featured a number of Forum members. That documentary “Tribal Justice” was completed in February of 2017 and was widely screened at film festivals and on PBS Point of View. http://www.pbs.org/pov/tribaljustice/</p>
2.	<p>Education: Information Bulletin and Video on Duty to Recognize and Enforce Tribal Court Protective Orders Forum members collaborated with the California Office of the Attorney General and the Sheriffs Association to develop a 10-minute mentor video on the Information Bulletin relating to the recognition and enforcement of tribal protection orders, issued by the California Office of the Attorney General. This Information Bulletin was the culmination of work by the forum in partnership with the California Department of Justice (DOJ), the California State Sheriffs’ Association, the U.S. Attorney General’s Office, and other justice partners. Both the Information Bulletin and the explanatory video have been widely shared with justice partners and are now posted on the Tribal/State Programs Unit website here</p>
3.	<p>Policy Recommendation: Rules and Forms – Juvenile Records The Forum worked with the Family and Juvenile Law Advisory Committee to propose an amendment to California Rules of Court, rule 5.552 to conform to the requirements of subdivision (f) of section 827 of the Welfare and Institutions Code, which was added effective January 1, 2015, to clarify the right of an Indian child’s tribe to have access to the juvenile court file of a case involving that child. At that time, no changes were made to rule 5.552, which implements section 827 of the Welfare and Institutions Code. Contrary to section 827 as amended, rule 5.552, continued to require that representatives of an Indian child’s tribe petition the juvenile court if the tribe wanted access to the juvenile court file. This inconsistency created confusion. The proposal was approved by the Judicial Council and the amended rule will come into effect January 1, 2018.</p>
4.	<p>Policy Recommendation: Rules and Forms – Child Support Revise California Rule of Court, rule 5.372 in response to the need for consistent procedures for determining the orderly transfer of title IV-D child support cases from the state court to the tribal court when there is concurrent subject matter jurisdiction. Since implementation of the rule of court, over 40 cases have been considered for transfer between the state courts in Humboldt and Del Norte counties and the Yurok Tribal Court. The Yurok Tribe intends to seek transfer of cases currently under the jurisdiction of state court in the following counties: Lake, Mendocino, Shasta, Siskiyou, and Trinity. In addition, at least one other tribe located in Southern California is expected to soon begin handling title IV-D child support cases. Based on the experience with the transfers that have taken place so far, the participants of a cross-court educational exchange have suggested amendments to rule 5.732 to streamline the process, reduce confusion, and ensure consistency and efficient use of court resources. The amended rule will come to effect January 1, 2018.</p>
5.	<p>Policy Recommendations: Recognition and Enforcement of Tribal Court Orders. The Forum partnered with the Civil and Small Claims Advisory Committee to sponsor legislation (Sen. Bill 406) which established the Tribal Court Civil Money Judgement Act (Code of Civ. Proc. §§ 1730-1742). As originally passed, that Act was to sunset on January 1, 2018. This past year the Forum worked with staff of the Judicial Council’s Governmental Affairs to provide information to the California</p>

#	Project Highlights and Achievements
	Law Revision Commission studying the effect of the Act and other statutes governing recognition and enforcement of foreign orders. Assembly Bill 905, Money Judgements of Other Jurisdictions, signed by the Governor on August 7, 2017, lifted the sunset on the Tribal Court Civil Money Judgement Act.



JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue • San Francisco, California 94102-3688
Telephone 415-865-4200 • Fax 415-865-4205 • TDD 415-865-4272

MEMORANDUM

Date	Action Requested
April 4, 2018	Please Review
To	Deadline
Tribal Court–State Court Forum	N/A
From	Contact
Joy Ricardo	Ann Gilmour
Supervising Attorney, Center for Families, Children & the Courts	Attorney 415-865-4207 phone 415-865-7217 fax ann.gilmour@jud.ca.gov
Subject	
Forum Workbook Summary	

This document contains highlights of the workbook summary compiled from the Tribal Court–State Court Forum (Forum) meeting held on February 15, 2018. Information contained in the workbook summary was captured from eighteen workbooks completed by Forum members.

The highlights give insight into the collaborative efforts, issues and resources that members would like the Forum to focus on or expand upon. It is not the exhaustive list of ideas or issues that members raised. The entire workbook summary will be attached to this document for ease of reference.

Session 1: Forum Member Project Updates

1. **Describe collaborations locally, statewide, or nationally that the Forum should explore to either build on existing Forum projects or develop new ones:**

The majority of participants identified human trafficking as the primary issue that needs more collaborative work. The second ranking issue of importance was generating more funding for tribal courts. There was equal interest placed on other issues, including judicial training and education, recognition of tribal court orders and creating cross jurisdiction enforcement policies.

2. How do you think these collaborations might help the Forum?

- a. *Promote policies that address our common concerns in all proceedings in which the authority to exercise jurisdiction by state judicial branch and tribal justice systems overlap?*

The overall comments reflected that the Forum is an essential component of promoting collaboration building between tribal and state courts. It was noted that the collaborative efforts underscore the importance of creating a culture of respect between tribal and state law enforcement agencies.

Furthermore, collaborative efforts are helpful in the collection of data and reports from tribes in California which can ultimately support tribal court funding efforts. Forum collaborations enhance and increase the accessibility to trainings and resources. An example given of this was the availability of trainings and information regarding human trafficking.

- b. *Institutionalize or help sustain tribal/state/county partnerships?*

The majority of responses reflect agreement that the collaborative efforts facilitated by the Forum will help sustain tribal/state and county partnerships. One comment referred to the function of the Forum as a “clearinghouse” of information and resources.

- c. *Improve education for judges and justice partners?*

Overwhelmingly positive responses given regarding the importance of the Forum in improving the education and trainings for judges and justice partners. One participant noted, “education is critical to developing partnerships”. The Forum collaborations help standardize education needed for court staff on tribal issues and serve as models for “what is possible” tribal and state court systems. Accessibility to education and trainings encourages mutual respect and support between both court systems.

3. What resources, policy changes, materials or other actions, if any, would you recommend the Forum undertake regarding ICWA application and compliance in California?

Input given largely reflected the need for more training/quick reference guides for judges and court staff. Specific training topics identified were on the implementation of ICWA regulations in general and on active efforts.

Other recommendations included: supporting the appointment of attorneys for the tribe in ICWA cases and developing MOU’s for transfer issues and law enforcement participation.

Session 2: Jurisdiction & Safety in Tribal Communities

1. *What are the most pressing issues you see in your community and/or court related to domestic violence, sexual assault, stalking, teen dating violence and human trafficking in tribal communities?*

Participants noted the overlap between domestic violence (including teen violence) and substance abuse. Issues involving post-traumatic stress disorder was also noted.

There is also interest in seeing what models for coordinated responses between law enforcement agencies and prosecutors exist, increasing the resources and training for law enforcement and prosecutors. Issues related to resources for law enforcement include, entry of tribal protective orders into state database. It is recommended that training for prosecutors include understanding the importance on prosecuting cases in culturally appropriate ways.

Further comments included suggestions on increasing the access to services and resources for victims of domestic violence and trafficking.

2. *What resources or action has your community and/or court implemented to address issues related to jurisdiction and safety issues?*

Increased and frequent communication, including the establishment of a MOU with local law enforcement agencies was a shared approach among a couple of the participants.

3. *What activities do you think the Forum should prioritize to address these issues?*

A number of responses centered around increased opportunities to receive training on jurisdiction and safety issues and identifying areas to extend tribal jurisdiction that would better serve Native communities.

The need for coordination and collaboration with law enforcement was also identified as a priority.

Session 3: Accessing Services

1. *What services and/or resources would be most useful in improving tribal-state collaborations in your community?*

Increased access to trainings for stakeholders including state court judges, court staff, judicial partners and tribal police were identified specifically. Training topics noted related to ICWA, training for court clerks on restraining orders from tribal courts and generalized training for state court judges on a range of issues including jurisdiction issues, and more information on tribes and tribal courts. Facilitating regular meetings to discuss and coordinate collaborative efforts between tribal and state courts would be helpful.

2. *What services and/or resources would be most useful in assisting victims of domestic violence, sexual assault, stalking, teen dating violence and human trafficking in your tribal communities?*

Community outreach, education and trainings for community members, justice partners to bring awareness to the issues was frequently noted in this section. Direct services and resources for victims was identified as a continuing need and included public health resources, legal services, housing resources and counseling that is culturally appropriate.

Session 4: Indian Child Welfare Act

1. *What services and/or resources would be most useful improving compliance with ICWA and improving outcomes in ICWA cases in your county?*

ICWA trainings and educational forums were described as services that would be most useful in improving compliance efforts and improving outcomes in ICWA cases. Trainings should be designed for judges, attorneys, court staff and social services (both county and tribal). It was recommended that these trainings be ongoing and mandatory. It was also recommended to remove any barriers that prevent tribes from being represented by counsel in state court proceedings.

2. *What activities should the Forum undertake to improve ICWA compliance and outcomes for Indian children and families?*

It was recommended that the Forum could play a role in ensuring that the stakeholders mentioned in the previous section have access to ongoing and coordinated ICWA trainings and resources. Specific resources for judges included bench cards, a breakdown of the applicable statutes and Rules of Court and ideally the development of software that could be used to more efficiently track compliance with ICWA notice requirements.

Session 5: Forum Priorities 2018-2019

1. Rules/Forms/Legislation

Are there inter-jurisdictional issues relating to the recognition and enforcement of court orders that you would like the Forum to address?

Participants identified the following inter-jurisdictional topics as needing to be addressed by the Forum:

- Presumptive Transfers
- Vehicle code violations
- Tribal Court conservatorship orders

2. Judicial Education

What topics would you like to see addressed at in-person trainings and through distance learning?

Topics identified that would be helpful as in-person trainings and distance learning modules included, ongoing trainings on domestic violence and sex-trafficking, ICWA compliance, enforcement of tribal court orders, and implicit bias.

3. Partnerships

Partnership activities included three areas:

- The identification and sharing of resources to benefit tribal communities that are not solely limited to substance abuse services.
- Trainings on the history of California tribes, including an overview of tribal government.
- Increasing the number of joint courts and seeking joint funding opportunities.



Tribal Court-State Court Forum (Forum)

PARTICIPANT WORKBOOK SUMMARY (18 workbooks received)

February 15, 2018

Session 1: Forum Member Project Updates

Reflecting on local tribal-state-county collaborations, which gave rise to these Forum projects, please take a moment to answer the following questions:

1. **Describe collaborations locally, statewide, or nationally that the Forum should explore to either build on existing Forum projects or develop new ones:**
 - Explore family group conferencing. It is in the New Zealand Constitution and applies to all cases involving the family.
 - I'm a visitor today-can only say Humboldt court appreciates all the work that has been done. We are building on all that work.
 - Working with tribes to develop Tribal Customary Adoption Orders
 - Drug/alcohol courts
 - Human trafficking
 - Continue joint jurisdictional projects
 - Wellness courts
 - Joint jurisdiction courts, human trafficking and missing persons, funding for tribal courts, court safety, increased access to judicial training/education
 - Human trafficking in juvenile and adult Forums as a subset of domestic violence
 - Continuing education re jurisdictional issues
 - Sex trafficking collaboration for detection and trauma informed course for victims. ICWA statewide workgroup
 - You seem to be collaborating pretty well already. Maybe BIA regarding tribal funding in CA.
 - Establish a special unit in the AG's office to oversee appointments by the AG of Special Tribal Prosecutors to prosecute in state court sexual crimes against women including trafficking. Prosecutor would be paid by tribe.
 - Ongoing sex trafficking protocols. Recognizing tribal court orders. Civil/DVPO
 - CDSS Office of Tribal Affairs
 - Build on full faith and credit; cross jurisdiction enforcement policies
 - PL 280 law enforcement/courts are not funded by feds or states. Help us get federal funding-need some baseline funding.
 - Training: educating state judiciary re tribes, tribal juris, federal laws effecting tribes; i.e. Native judges and lawyer should be training the state judiciary and DPSS workers on

ICWA. We are the experts and are from the communities; Joint Juris/Collab partnerships on juvenile issues i.e. Youth courts, diversion, peer courts so Native on off reservation are provided culturally appropriate services and prevention; recognition of tribal court orders: Adding on to the subject matters that CA courts will offer FFC or Comity. Tribal court orders do not cease to be needed once a person crosses the reservation boundary. Issues of exclusion, civil harassment, child support, wage garnishment, etc. are vital orders that need honored and respected in the CA state courts. This can be accomplished with Rules of Court, MOUs, and/or legislation.

2. How do you think these collaborations might help the Forum?

a. *Promote policies that address our common concerns in all proceedings in which the authority to exercise jurisdiction by state judicial branch and tribal justice systems overlap?*

- It will help the state judicial system. The tribal practices can train the state system.
- Make a more seamless system.
- Clarify dependency and juvenile jurisdictional concerns. Does wellness court “have” to be diversion?
- Yes, in some instances.
- It will result in a cooperative environment and a sharing of resources.
- They will assist in establishing communication under PL 280 and ensure positive outcomes for citizen of the state and members of their respective tribes.
- BIA – we need more \$. Also, federal agencies, BIA, DOJ etc. Collect reports and data from tribes in CA for funding [CTAS] but where does it go? they should be reporting back to us.
- Our STEP program already offers training and equipment to prohibit human trafficking this is just an extension of that.
- Very important; not only to protect the public in all jurisdictions but to teach all law enforcing agencies to acknowledge and respect one another.
- Gives credence to the fact that the Forum is not only needed, but REQUIRED! Due to unique legal status of tribes.

b. *Institutionalize or help sustain tribal/state/county partnerships?*

- The Forum should be a clearinghouse for this information.
- Professionalize under resourced jurisdictions.
- Yes, necessary.
- While protecting autonomy, allowing tribal stakeholders to educate and collaborate with surrounding county.
- Provide models for other tribes to enter.
- Yes, tribe/state AG/local courts DA’s
- Partnerships despite belief there are no Native communities in that jurisdiction
- Absolutely. One of the goals for OTA in the coming year.
- SPLIT e.g. let’s tribal courts have access to services for instance if we 5150 people get access to services.

- Yes, because the partnerships are models for other jurisdictions so coming up with good models benefits all counties in CA and all tribes.

c. *Improve education for judges and justice partners?*

- Yes.
- By highlighting possibilities to be considered across jurisdictions.
- Professionalize under resourced jurisdictions.
- Make educational opportunities regarding how joint jurisdictions courts can benefit both state and tribes and the communities they serve.
- Yes, joint education helps encourage mutual respect and support for each other.
- Utilizing the multimedia platforms for further education.
- Additional information for justice partners to identify issues and/or challenges and create positive outcomes.
- Standardize education for court staff around tribal issues.
- Yes, unit would educate and coordinate. Tribal Special Prosecutor will prosecute.
- Ongoing education is critical to develop partnerships.
- Reach out to all counties to offer training resources.
- Many of us judges working in large population centers are not aware of the impact of these issues. Education is always the answer.
- Yes! Because tribal courts are often partners with the state courts. Issues of transfer to tribal court and tribal customary adoption in dep cases, enforcement of tribal court orders and deference to tribal court juris are vital to tribal court existence.

3. **What resources, policy changes, materials or other actions, if any, would you recommend the Forum undertake regarding ICWA application and compliance in California?**

- Support the funding for attorneys representing the tribe in ICWA cases.
- I'm a fan of simple checklists. I would like more state court staff training to support review by the judge.
- Continuing training on the implementation of the ICWA regs (especially as this becomes clearer over time)
- MOA's and MOU's for transfer, encouragement of law enforcement participation as well.
- ICWA court and/or info grams and charts/cheat sheets for judges, probation officers, police officers, and CWW to navigate and investigate ICWA.
- Active efforts.
- Note: to be honest, this is asking for quick responses to colossal policy questions. There is no way to complete.
- I do not have enough knowledge for my county; I am still learning.
- Have specialize courts/perhaps 2 or 3 models/rural-urban-lawyers for tribes where contracts are given to dependency panel attorney-have ICWA team
- JUDGE TRAINING – as a practicing attorney in Riverside and San Bernardino I see that judges don't understand ICWA or the regulations or the provision of WIC that implement ICWA into CA law.

Session 2: Jurisdiction & Safety in Tribal Communities

1. *What are the most pressing issues you see in your community and/or court related to domestic violence, sexual assault, stalking, teen dating violence and human trafficking in tribal communities?*
 - Human trafficking
 - Trust in state system
 - Tremendous amount of DV, especially often coupled with substance abuse issues. This includes teens.
 - Substance abuse. A high percentage of all the above is related to use/abuse of controlled substances.
 - DA & local law enforcement working with tribes in coordinated response. There are “models” that work, right?
 - Lack of education about what constitutes those crimes, prevention, resources to help prosecute those cases in a culturally appropriate way, resources to victims.
 - PTSD
 - Services of victims who may become perpetrators/abusers.
 - Tribal protective orders 1) input into databases 2) full faith and credit
 - Human trafficking 1) identification and use of technology and services for victims.
 - Law enforcement having the resource necessary to investigate, arrest, and report. This will require training and prosecution-having prosecutors who are willing to prosecute and the time to prosecute
 - Lack of resources for victims of SA/DV/TDV and trafficking. Dialog to locate services available to victims regardless of jurisdiction. Lack of protocol between tribe/state on these issues.
 - Human trafficking huge issue.
 - I know all of this exists in all communities, our tribal community is small but active in all these areas. I don't see it in my current assignment.
 - Resources are limited/we should have equal e.g. notice when our kids leave foster care. Putting social media on notice about certain practices e.g. trashing victims.
 - Safe placements for youth victims. Lack of Native homes and appropriate group facilities hampers efforts to get victims to come forward because often they have related drug issues, can't go home because family is not fit, or too scared/embarrassed to go home. Prevention programs and educational programs are key!

2. *What resources or action has your community and/or court implemented to address issues related to jurisdiction and safety issues?*
 - Domestic Violence Council is very active. Greenbook practices are still in place. Annual DV conference.
 - Hopefully Judge Wilson addressed this.
 - None
 - Cross cultural exchanges
 - MOU's with local law enforcement
 - Enforcement of tribal court orders

- Constant communication with local judicial counter parts, outreach to law enforcement.
- HEAT, Girls court, specialty courts, collaboration with sister communities, stakeholders and demographically accessible services for the family.
- The TAP or Tribal Access Program to get access to NCIC database but still need local input. Training for non-law enforcement partners to understand human trafficking and partnering with other sources to provide training.
- Applied for and received BIA court grant
- Established federally commissioned tribal police department
- Having adopted law and order code
- Have granted tribal court jurisdiction to enforce tribal law and order code
- Ongoing dialog with law enforcement/court DA
- CDSS CSECT activities
- I have no knowledge
- We need community education. We have started having conference but need more.
- Education of tribes participating in the tribal court regarding where the state/sheriff is limited i.e. Housing evictions, child support, and overall lack of state resources to answer calls to the reservation. Message is tribes need qualified 1st responders on the reservation.

3. *What activities do you think the Forum should prioritize to address these issues?*

- Coordination with law enforcement.
- Hopefully Judge Wilson addressed this.
- More training for state court judges on tribes, tribal courts and related jurisdiction issues.
- Continue to highlight county sheriffs who are currently doing the work, project pilots to encourage collaborations between county/tribes.
- First identify strengths/resources within the community
- Identify and articulate (in writing) deal breakers then begin to reach out to stakeholders
- Establish ground rules and protocols for collaboration.
- Protective orders input in system and recognition.
- As I said, press the AG to establish unit to address Violence and Trafficking against Women in Indian country. Appoint qualified tribal attorneys, to be special prosecutor to prosecute these crimes in state court. Tribes pay salary.
- Jurisdiction focused agendas-Northern and Southern CA tribes have different issues.
- Review collaborative, holistic approach.
- Education/training
- Dedicated dollars
- Educate the children and parents
- Law changes re social media
- Extending authority to allow tribes to be noticed when kids are missing
- Partnerships with law enforcement to work through key issues where juris is a barrier to safety. Address ALL counties in CA just because no reservation in a county does

not mean there won't be tribal issues PL 280 training is vital and involving Native judges and lawyers are key.

Session 3: Accessing Services

1. *What services and/or resources would be most useful in improving tribal – state collaborations in your community?*
 - ICWA Training-no tribes in county.
 - The stakeholder meetings for our drug court should be promoted as a model for other issues.
 - Ongoing education specific training for clerks re handling of restraining orders from tribal courts.
 - More training for state court judges on tribes, tribal courts and related jurisdiction issues.
 - Shared education, resource dollars for joint projects, technical assistance for grant applications.
 - Technology
 - Self-sufficient resources within the community to ensure cultural integrity.
 - Online training for court staff and judicial partners.
 - Money!lol. training for tribal police maybe something that could be done by our Steps Program.
 - Setting up regular meetings to talk, coordinate, collaborate.
 - Full faith and credit; cross jurisdictional enforcement.
 - Meeting facilitators! Lack of staff to put these meetings together. Also, a neutral s/t's helps get both to table; tribal leader, court and law enforcement and county leaders must all be present. Is a govt to govt effort so all must send leadership

2. *What services and/or resources would be most useful in assisting victims of domestic violence, sexual assault, stalking, teen dating violence and human trafficking in your tribal communities?*
 - No tribal communities in our county.
 - Hopefully Judge Wilson addressed this.
 - Training with people working with teens to help identify those especially vulnerable to trafficking
 - Emergency shelter, legal services, transportation
 - Counseling that is culturally appropriate, education and campaigns to bring about awareness teaching protection for online/social media.
 - Public health resources
 - Community outreach/education
 - Educational multimedia PSAs
 - Anything that is available given there is not one size fits all.
 - Resources: counseling/support
 - Shelters, clothes, jobs, counseling, support, education
 - Safe houses; tech based communication to make reporting of crimes attractive/accessible to young victims.

Session 4: Indian Child Welfare Act

1. *What services and/or resources would be most useful improving compliance with ICWA and improving outcomes in ICWA cases in your county?*

- New statutes addressing the regulations.
- Staff training for court staff.
- Ongoing training for judges and dependency attorneys. Include county counsel, maybe some sort of software program to easily track ICWA compliance re notice.
- ICWA liaison at county level
- More outreach and education.
- Data sharing in terms of statistics, case history, joint trainings between tribes/state/counties.
- Technology that guides you/prompts you through a proper investigation/research of Native American ancestry
- Kinship identifiers
- Educational Forums for court partners
- Ongoing training efforts-dialog between social services state/tribe
- Promote active efforts, remove barriers for tribes to have attorneys appear in state court without jumping through hurdles. Train judges to ask two questions of the beginning of every hearing 1) is this child eligible for enrollment 2) is this child possibly in child of foreign nation. Then ask people in the court if they have any information.
- Education of county and tribal social services re the requirement for in-state placement exhaustion and illegality of housing 300's in juvenile hall.
- Training, regular coordination with state, county, tribal leadership and staff, agreements county-tribal.
- I have no knowledge
- Lawyers for tribes
- Training/training/that is mandatory for all judges and attorneys practicing law that involved ICWA just like family law requires certification, so should ICWA. There are so many training resources, there is no excuse not to require this. The disparity of ICWA compliance among CA counties is unacceptable.

2. *What activities should the Forum undertake to improve ICWA compliance and outcomes for Indian children and families?*

- New statutes addressing the regulations.
- Hopefully Judge Wilson addressed this.
- Ongoing training for judges and dependency attorneys. Include county counsel, maybe some sort of software program to easily track ICWA compliance re notice.
- Provide data with regards to state/county compliance, activities to show model ways to engage and initiate transfers.
- Mappings
- Visual guides
- Breaking down the statutes so that court stakeholders follow the law.
- Training bench cards, rule changes.
- Defer to others more knowledgeable on ICWA.

- Rules of court, coordination, training for judges.
- Training at each court.
- Search specialists for noticing and a handbook on how to link families/children to their tribes. Help courts lead the way toward doing this.
- Coordinated training between tribal and state court judges to ALL counties. Native attorneys and judges must be there to present the history and need for ICWA! Training must be for judges, county counsel, parents and minor's attorneys and social workers, both tribal and state.

Session 5: Forum Priorities 2018-2019

Since its inception, the Forum has made child welfare and domestic violence its top priorities. Nevertheless, as you can see from the Forum's annual agenda (work plan) and some of the work highlighted today, the Forum does undertake projects and make recommendations for improving the administration of justice in all proceedings in which the authority to exercise jurisdiction by the state judicial branch and the tribal justice systems overlap.

The Forum co-chairs would like to lead a group discussion, and ask you to write down your thoughts on the Forum's work relating to policies, education, partnerships, and resources.

1. Rules/Forms/Legislation

The Forum makes policy recommendations that promote access to justice for tribal communities, and many of these recommendations take the form of court rules/forms or proposed legislation. Are there inter-jurisdictional issues relating to the recognition and enforcement of court orders that you would like the Forum to address? Please briefly describe these issues. If the Forum is already working on the issue you identify, staff will contact you to share the progress made and to explore what more the Forum can do.

- We need a legislation foundation that reflects the regulations!
- Since not a Forum member don't really know.
- Recognition of the law rather than the made-up protocol.
- Not enough background to answer.
- Will help.
- Presumptive transfer
- Vehicle code violations
- Our court does little of this but one area of concern is tribal court conservatorship orders.

2. Judicial Education

The Forum makes recommendations on statewide educational publications and programming for judges and judicial support staff. Forum members present locally, statewide, and nationally at conferences. The Forum advises on the development of judicial toolkits and other distance learning materials. What topics would you like to see addressed at in-person trainings and through distance learning?

- How do ACES and Native American experiences overlap.
- The problem with judicial ed is the ones who need it most don't go.
- What to do with the relationship between the state courts and tribes without tribal courts.

- Brochures for tribal specific resources.
- Will present.
- Sex trafficking/ongoing DV
- One pagers or fact sheets that make it easier to understand for tribes.
- Trafficking; ICWA
- More training on Implicit Bias using tribal people as focus. We are too invisible.
- ICWA compliance, PL 280 and how it did NOT divest T's of any juris. Enforcement of court orders, Native judges and attorneys, participating in presenting training.

3. Partnerships

The Forum recommends activities needed to support local tribal court-state court collaborations. Looking at the Forum's existing activities, please identify any new ones relating to:

Sharing Resources and Communicating Information about Partnerships

- Hopefully Judge Wilson addressed this.
- Ashamed to say I don't know
- Identify of appropriate tribal group homes, sexual offenders, mental health, items that are NOT only substance abuse related.

Education and Technical Assistance to Promote Partnerships and Understanding of Tribal Justice Systems

- Hopefully Judge Wilson addressed this.
- Online resources
- Ashamed to say I don't know
- History of CA tribes is vital, taught by Native people including overview of tribal government in CA. then specific issues of tribal justice systems can be addressed.

Tribal/State Collaborations that Increase Resources for Courts

- Hopefully Judge Wilson addressed this.
- Some means for state courts to have fuller list of tribal resources that may be available in dependency cases.
- Apply for grants together.
- Ashamed to say I don't know
- Form more joint courts
- MOU's, compacts that can go for joint funding, i.e. grants.

JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue · San Francisco, California 94102-3688
www.courts.ca.gov/policyadmin-invitationstocomment.htm

INVITATION TO COMMENT

[ItC prefix as assigned]-__

Title	Action Requested
Technology: Remote Access to Electronic Records	Review and submit comments by June 8, 2018
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Adopt Cal. Rules of Court, rules 2.515–2.528 and 2.540–2.545; amend rules 2.500–2.503	January 1, 2019
Proposed by	Contact
Information Technology Advisory Committee Hon. Sheila F. Hanson, Chair	Andrea L. Jaramillo, 916-263-0991 andrea.jaramillo@jud.ca.gov

Executive Summary and Origin

The proposal makes limited amendments to rules governing public access to electronic trial court records and creates a new set of rules governing remote access to such records by parties, parties’ attorneys, court-appointed persons, authorized persons working in a legal organization or qualified legal services project, and government entities. The purpose of the proposal is to facilitate existing relationships and provide clear authority to the courts.

The project to develop the new rules originated with the *California Judicial Branch Tactical Plan for Technology, 2017–2018*. Under the tactical plan, a major task under the “Technology Initiatives to Promote Rule and Legislative Changes” is to develop rules “for online access to court records for parties and justice partners.” (Judicial Council of Cal., *California Judicial Branch Tactical Plan for Technology, 2017–2018* (2017), p. 47.)

Background

Existing rules govern public access to electronic trial court records (Cal. Rules of Court, rules 2.500–2.507) but do not govern access to such records by parties, their attorneys, or justice partners. (See Cal. Rules of Court, rule 2.501(b).) Because courts are moving swiftly toward making remote access to records available to these persons and entities, it is important to provide authority and guidance for the courts and others on these expanded forms of remote access.

The proposals have not been approved by the Judicial Council and are not intended to represent the views of the council, its Rules and Projects Committee, or its Policy Coordination and Liaison Committee. These proposals are circulated for comment purposes only.

Under the leadership of the Information Technology Advisory Committee, nine advisory committees¹ formed the Joint Ad Hoc Subcommittee on Remote Access to develop remote access rules applicable to parties, their attorneys, and justice partners. The formation of the Joint Ad Hoc Subcommittee for this purpose was approved by the advisory bodies' internal oversight committees.

The Proposal

The existing rules governing electronic access to trial court records are found in chapter 2 of division 4 of title 2 of the California Rules of Court (hereafter, chapter 2). Chapter 2's rules currently apply "only to access to court records by the public" and limit what is remotely accessible by the public to registers of action, calendars, indexes, and court records in specific case types. (Cal. Rules of Court, rules 2.501(b), 2.503(b).) The rules in chapter 2 "do not limit access to court records by a party to an action or proceeding, by the attorney of a party, or by other persons or entities that are entitled to access by statute or rule." (Rule 2.501(b).)

Because chapter 2 limits only *public* remote access, a gap exists in the rules with respect to persons and entities that are not the public at large, such as parties, parties' attorneys, and justice partners. Courts have had to fill this gap on a piecemeal, ad hoc basis. The purpose of the proposal is to create a new set of rules applicable statewide governing remote access to electronic records to provide more structure, guidance, and authority for the courts. The proposal neither creates a right to remote access nor provides for a higher level of access to court records using remote access than one would get by viewing court records at the courthouse.

The proposal restructures and expands the scope of chapter 2. It breaks chapter 2 into four articles to cover access not only by the public, but also by parties, their attorneys, legal organizations, court-appointed persons, and government entities. In brief, the new structure consists of:

- **Article 1: General Provisions.** This article builds on existing rules, covers broad concepts on access to electronic records, and expands on the definitions of terms used in chapter 2.
- **Article 2: Public Access.** This article consists of the existing public access rules, with minor amendments.
- **Article 3: Remote Access by a Party, Party's Attorney, Court-Appointed Person, or Authorized Person Working in a Legal Organization or Qualified Legal Services Project.** The content of this article is new and covers remote electronic access by those listed in the article's title.

¹ Advisory Committee on Providing Access and Fairness, Appellate Advisory Committee, Civil and Small Claims Advisory Committee, Criminal Law Advisory Committee, Family and Juvenile Law Advisory Committee, ITAC, Probate and Mental Health Advisory Committee, Traffic Advisory Committee, and Tribal Court–State Court Forum.

- **Article 4: Remote Access by Government Entities.** The content of this article is new and covers remote electronic access by government entities.

Article 1: General Provisions

This article builds on existing rules and broadens the scope of chapter 2 beyond public access.

Rule 2.500. Statement of Purpose. The proposal amends the rule to expand the scope of the chapter to include access by parties, parties’ attorneys, legal organizations, court-appointed persons, and government entities. Language on access to confidential and sealed records is stricken from subdivision (c) because the rules allow access to such records by those who would be legally entitled to access them. For example, although the public at large may not be legally entitled to access a sealed record under any circumstance, a party who could access a sealed record at the courthouse would be able to access that record remotely under the new rules.

Rule 2.501. Application, scope, and information to the public. The proposal amends subdivision (a) to provide more explanation of what types of records are and are not within the scope of chapter 2’s provisions. Chapter 2 governs access only to “court records” as defined in chapter 2 and not to any other type of record that is not a “court record.” The proposal also adds an advisory committee comment providing additional details about the limitation in the scope of the rules to “court records.”

The proposal amends subdivision (b) by striking out the existing language and replacing it with a new provision. The existing language is stricken out because the rules of the chapter in the proposal expand the scope beyond public access and so the limitations in the existing language are no longer applicable. Because the new rules expand the scope of remote access by allowing a greater level of remote access by certain persons and entities, the new provision requires courts to provide information to the public on who may access their court records under the rules of the chapter. Courts may provide the information by linking to information that will be publicly posted on *courts.ca.gov* and may also supplement with information on their own sites in plain language.

Rule 2.502. Definitions. The proposal expands on the definitions found in rule 2.502 by adding new terms applicable to the expanded scope of chapter 2. The proposal also makes minor edits to the existing definitions. Most of the definitions are discussed in other sections, below, where the terms are applicable. For example, the meaning of “government entity” is discussed below in conjunction with article 4, which covers remote access by government entities.

One item of note, however, is that within the scope of chapter 2, a “person” is defined as a natural human being. The reason is that the remote access rules are highly person-centric when describing who can access what. Ultimately, the new rules contemplate that

some natural human being will be remotely accessing electronic court records, and the rules identify which natural humans are authorized to do so. This is not to say that the organizational entities that are legal persons, such as corporations, cannot have access, but they must do so through natural persons.

Article 2: Public Access

Article 2 largely retains the existing public access rules found in rules 2.503—2.507. Rule 2.503 is the only one of these rules with substantive amendments and those amendments are minor. The amendments clarify that the rules in article 2 apply only to access to electronic records by the public.

The amendments also make a technical change to the list of electronic records to which a court must provide for electronic access by the public. Under rule 2.503(b), all records in civil cases must be available remotely, if feasible, except for those listed in rule 2.503(c)(1)—(9). Rule 2.503(c) lists all the case types where electronic access must be provided at the courthouse, but must not be provided remotely. However, under rule 2.503(c) there are 10 case types, not 9. The omission in rule 2.503(b) of reference to the 10th case type was accidental. Rule 2.503(c) was amended effective January 1, 2012, with an addition of a 10th case type, but there was no corresponding amendment to the reference to the list in rule 2.503(b). The proposal corrects the incongruity between subdivisions (b) and (c) of rule 2.503.

Article 3: Remote Access by a Party, Party's Attorney, Court-Appointed Person, or Authorized Persons Working in a Legal Organization or Qualified Legal Services Project

Article 3 contains new rules to cover remote electronic access by a party, party's attorney, court-appointed person, or authorized persons working in a legal organization or qualified legal services project. Each of these types of users are discussed below. The rules make clear that article 3 is not intended to limit remote electronic access available under article 2 (the public access rules). Accordingly, if a user could have remote access to a court record under article 2, that user may do so without meeting the requirements of article 3. The rules under article 3, like the public access rules, require courts to provide remote electronic access if it is feasible to do so. Finally, the rules in article 3 include requirements for identity verification, security of confidential information, and additional conditions of access.

The rules in article 3 have occasional, intentional repetition to ensure that the rules are clear for a person accessing the records. For example, under rule 2.515, which is the rule explaining the scope of article 3, is a provision stating that the rules in article 3 do not limit the access available under article 2. This statement is repeated in and for rule 2.517, which is the rule applicable to parties, so that parties who may not be versed in reading rules of court do not have to search to understand that their ability to gain public access in article 2 is not limited by rule.

Rule 2.515. Application and scope. The proposed rule provides an overview of the scope of article 3 and who may access electronic records under article 3.

Rule 2.516. Remote access to extent feasible. The proposed rule requires courts to allow remote access to electronic records by the types of users identified in rule 2.515. This requirement is similar to the public access requirement in rule 2.503. The advisory committee comment recognizes that financial means and technical capabilities may affect the feasibility of providing remote access.

Rule 2.517. Remote access by a party. The proposed rule allows broad access to remote electronic court records by a *person* (defined as a natural human being in the definitions in rule 2.502) when accessing electronic records in actions or proceedings in which that person is a party. The reason for this limitation is that a natural human being must ultimately be the one who accesses the records. Parties that are not natural human beings can still gain access to their own electronic records but must do so through an attorney or other “authorized person” under the other rules in article 3 or, for certain government entities, article 4.

Rule 2.518. Remote access by a party’s designee. The proposed rule allows a party who is a natural person to designate other persons to access the party’s electronic records, provided that the party is at least 18 years of age. The rule allows the party to set limits on the designee’s access, such as to specific cases or for a specific period of time. In addition, the designee may have only the same access to a party’s electronic records that a member of the public would be entitled to if he or she were to inspect the party’s court records at the courthouse. For example, if a court record is sealed and the designee would not be entitled to view the court record at the courthouse, the designee cannot remotely access the electronic record. The rule states the basic terms of access, though additional terms may be set by the court in a user agreement. The rule does not prescribe a particular method for establishing a designation because the method may depend on the preferences and technical capabilities of individual courts.

Rule 2.519. Remote access by a party’s attorney. The proposed rule allows a party’s attorney to remotely access electronic records in the party’s actions or proceedings. Remote access may also be provided to an attorney appointed by the court to represent a party pending the final order of appointment. Attorneys may also potentially gain access through rule 2.518, in which case the provisions of that rule rather than those of rule 2.519 would apply.

Attorneys of record should be known to the court for remote access purposes because they are of record. The rule also accounts for providing remote access to attorneys who are not the attorneys of record in an underlying proceeding but may nonetheless be

assisting a party. For example, an attorney may be assisting a party with limited aspects of the case, like document preparation, without becoming the attorney of record.

Rule 2.519(c) requires an attorney who is not of record to obtain the party's consent to remotely access the party's court records and represent to the court in the remote access system that the attorney has obtained the party's consent. This process provides a mechanism for an attorney not of record to be known to the court and provides the court with assurance that the party has agreed to allow the attorney to remotely access the party's electronic records. The proposed rule also states the basic terms of access.

Rule 2.520. Remote access by persons working in the same legal organization as a party's attorney. Because attorneys often work with other attorneys and legal staff, proposed rule 2.520 allows remote access by persons "working in the same legal organization" as a party's attorney. Both "legal organization" and "working in" are broad in scope. Under the definitions in amended rule 2.502, "legal organization" means "a licensed attorney or group of attorneys, nonprofit legal aid organization, government legal office, in-house legal office of a nongovernmental organization, or legal program organized to provide for indigent criminal, civil, or juvenile law representation." Those "working in" the same legal organization as a party's attorney may include partners, associates, employees, volunteers, and contractors. The goal with the definition of "legal organization" and the scope of "working in" is intended to capture a full range of ways that attorneys may be working together and with others to provide representation to a party.

Under rule 2.520, a party's attorney can designate other persons working in the same legal organization to have remote access, and the attorney must certify that those persons are working in the same legal organization and assisting the attorney with the party's case. The rule does not require certification to take any specific form. The proposed rule also states the terms of access.

Rule 2.521. Remote access by a court-appointed person. In some proceedings, the court may appoint someone to participate in a proceeding or represent the interests of someone who is not technically a "party" to a proceeding (e.g., a minor child in a custody proceeding). The rule provides common examples of court-appointed persons but does not limit remote access to those examples. The proposed rule also states the basic terms of access.

Rule 2.522. Remote access by persons working in a qualified legal services project providing brief legal services. The proposed rule allows remote access to electronic records by persons "working in" a "qualified legal services project" providing "brief legal services." The rule contemplates legal aid programs offering to individuals limited, short-term services for their court matters.

“Brief legal services” for purposes of chapter 2 is defined in rule 2.502 as “legal assistance provided without, or before, becoming a party’s attorney. It includes giving advice, having a consultation, performing research, investigating case facts, drafting documents, and making limited third-party contacts on behalf of a client.”

The rule applies only to qualified legal services projects as defined in Business and Professions Code section 6213(a). The purpose of this limitation is to ensure that the organizations are bona fide entities subject to professional standards. The definition of “qualified legal services project” under Business and Professions Code 6213(a) is:

- (1) A nonprofit project incorporated and operated exclusively in California that provides as its primary purpose and function legal services without charge to indigent persons and that has quality control procedures approved by the State Bar of California.
- (2) A program operated exclusively in California by a nonprofit law school accredited by the State Bar of California that meets the requirements of subparagraphs (A) and (B).
 - (A) The program shall have operated for at least two years at a cost of at least twenty thousand dollars (\$20,000) per year as an identifiable law school unit with a primary purpose and function of providing legal services without charge to indigent persons.
 - (B) The program shall have quality control procedures approved by the State Bar of California.

(Bus. & Prof. Code, § 6213(a).)

When an attorney from a qualified legal services project becomes a party’s attorney and offers services beyond the scope contemplated under this rule, the remote access rules for a party’s attorney would also provide a mechanism for access, as could the party’s designee rule. This proposed rule also states the basic terms of access.

Rule 2.523. Identity verification, identity management, and user access. The proposed rule requires a court to verify the identity of a person eligible to have remote access to electronic records under article 3. Subdivision (b) describes the responsibilities of the court to verify identities and provide unique credentials to users. The rule does not prescribe any particular mechanism for identity verification or credentials because the best solutions may differ from court to court. Subdivision (c) describes responsibilities of users who seek remote access as follows: to provide necessary information for identity verification, to consent to conditions of access, and (3) to obtain authorization by the court to have remote access to electronic records. Subdivision (d) describes

responsibilities of legal organizations and qualified legal services projects to verify the identity of users it designates and notify the court when a user is no longer working in the legal organization or qualified legal services project. Subdivision (e) makes it clear that courts may enter into contracts or participate in statewide master agreements for identity verification, identity management, or access management systems.

Rule 2.524. Security of confidential information. The proposed rule requires that when information in an electronic record is confidential by law or sealed by court order, remote access must be provided through a secure platform and transmissions of the information must be encrypted. Like with the identity verification requirements, courts may participate in contracts for secure access and encryption services.

Rule 2.525. Searches and access to electronic records in search results. The proposed rule allows users who have remote access under article 3 to search for records by case number or case caption. The court must ensure that only users who are authorized to remotely access electronic records are able to access those records. The limitation on searches by case number or case caption is intended to prevent inadvertent unauthorized access. However, recognizing that unauthorized access may still occur, the rule includes measures for the user to take in that event.

Rule 2.526. Audit trails. The purpose of this proposed rule is to ensure that courts are able to see who remotely accessed electronic records, under whose authority the user gained access, what electronic records were accessed, and when the record was accessed. The audit trail is a tool to assist the courts in identifying and investigating any potential issues or misuse of remote access. The rule also requires the court to provide limited audit trails to authorized users who are remotely accessing remote records under article 3. A limited audit trail would show who remotely accessed electronic records in a particular case but would not show which specific electronic records were accessed. The reason for this limited view is to protect confidential information.

Rule 2.527. Additional conditions of access. The proposed rule requires courts to impose reasonable conditions on remote electronic access to preserve the integrity of court records, prevent the unauthorized use of information, and limit possible legal liability. The court may require users to enter into user agreements defining the terms of access, providing for compliance audits, specifying the scope of any liability, and providing for sanctions for misuse up to and including termination of remote access. The court may require each user to submit a signed, written agreement, but the rule does not prescribe any particular format or technical solution for the signature or agreement.

Rule 2.528. Termination of remote access. The proposed rule makes clear that remote access to electronic records is a privilege and not a right and that courts may terminate any grant of permission for remote access.

Article 4: Remote Access by Government Entities

Article 4 contains new rules to cover remote access by persons authorized by government entities for legitimate governmental purposes. Under the definitions in amended rule 2.502, “government entity” means “a legal entity organized to carry on some function of the State of California or a political subdivision of the State of California. A government entity is also a federally recognized Indian tribe or a reservation, department, subdivision, or court of a federally recognized Indian tribe.”

Rule 2.540. Application and scope. The proposed rule identifies which government entities may have remote access to which types of electronic records and is geared toward government entities that have a high volume of business before the court with respect to certain case types. To anticipate all needs across California’s 58 counties and superior courts is impossible; thus, the rule includes a “good cause” provision under which a court may grant remote access to electronic court records in particular case types beyond those specifically identified in the rule. The standard for “good cause” is that the government entity requires access to the electronic records in order to adequately perform its statutory duties or fulfill its responsibilities in litigation.

The proposed rule does not preclude government entities from gaining access to court records through articles 2 and 3. The proposed rule does not grant higher levels of access to court records than currently exists. Rather, like with the rules under article 3, it provides for remote access only to records that the government entity would be able to obtain if its agents appeared at the courthouse to inspect the records in person.

Rule 2.541. Identity verification, identity management, and user access. The proposed rule largely mirrors rule 2.523 and describes responsibilities of the court, authorized persons, and government entities for identity verification and user access. The proposed rule also makes it clear that courts may enter into contracts or participate in statewide master agreements for identity verification, identity management, or access management systems.

Rule 2.542. Security of confidential information. The proposed rule largely mirrors rule 2.524 in requiring secured platforms and encryption of confidential or sealed electronic records and in authorizing courts to participate in contracts for secure access and encryption services.

Rule 2.543. Audit trails. The proposed rule mirrors rule 2.526, requiring the court to be able to generate audit trails and provide limited audit trails to authorized users.

Rule 2.544. Additional conditions of access. The proposed rule mirrors rule 2.527, requiring courts to impose reasonable conditions on remote access.

Rule 2.545. Termination of remote access. As with rule 2.528, this proposed rule makes clear that remote access to electronic records is a privilege and not a right and that courts may terminate any grant of permission for remote access.

Alternatives Considered

The alternative to the proposed rules would be to maintain the status quo where courts handle remote electronic access on a piecemeal, ad hoc basis. Rules are recommended to provide comprehensive authority on a statewide level.

Implementation Requirements, Costs, and Operational Impacts

The proposed remote access rules require the courts to provide remote access if it is feasible to do so and the rules recognize that financial and technological limitations may affect the feasibility of providing remote access. If feasible, implementation would require courts to create user agreements and have systems capable of complying with the rules. Costs and specific implementation requirements would vary across the courts depending on a court's current capabilities and its approach to providing services.

Request for Specific Comments

In addition to comments on the proposal as a whole, the advisory committee is interested in comments on the following:

- Does the proposal appropriately address the stated purpose?
- Proposed rule 2.518 would allow a person who is a party and at least 18 years of age to designate other persons to have remote access to the party's electronic records. What exceptions, if any, should apply where a person under 18 years of age could designate another?
- Should proposed rule 2.518 be limited to certain case types?
- The term "brief legal services" is used in the proposed rules in the context of staff and volunteers of "qualified legal services organizations" providing legal assistance to a client without becoming the client's attorney. The rule was developed to facilitate legal aid organizations providing short-term services without becoming the client's representative in a court matter. Is the term "brief legal services" and its definition clear? Would an alternative term like "preliminary legal services" be more clear?
- Is the term "legal organization" and its definition clear or necessary?
- Rather than using the term "legal organization" in rule 2.520, which covers remote access by persons working in the same legal organization as a person's attorney, would referring to persons "working at the direction of an attorney" be sufficient?
- The reference to "concurrent jurisdiction" in proposed rule 2.540(b)(1)(N) is intended to capture cases in which a tribal entity would have a right to access the court records at the court depending on the nature of the case and type of tribal involvement. Is "concurrent jurisdiction" the best way to describe such cases or would different phrasing be more accurate?
- Is the standard for "good cause" in proposed rule 2.540(b)(1)(O) clear?
- The proposed rules have some internal redundancies, which was intentional, with the goal of reducing the number of places someone reading the rules would need to look to understand how they apply. For example, "terms of remote access" in article 3 appears across different types of users to limit how many rules a user would need to review to understand certain requirements. As another example, rules on identity verification requirements appear in articles 3 and 4. Does the organization of the rules, including the redundant language, provide clear guidance? Would another organizational scheme be clearer?

The advisory committee also seeks comments from *courts* on the following cost and implementation matters:

- Would the proposal provide cost savings? If so, please quantify.
- What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising

processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?

- What implementation guidance, if any, would courts find helpful?
- The audit trail requirements are intended to provide both the courts and users with a mechanism to identify potential misuse of access. Would providing limited audit trails to users under rule 2.256 present a significant operational challenge to the court? If so, is there a more feasible alternative?

Attachments and Links

1. Proposed rules 2.500–2.503, 2.515–2.528, and 2.540–2.545 of the California Rules of Court, at pages 13–35.

Rules 2.515–2.528 and 2.540–2.545 of the California Rules of Court are adopted and rules 2.500–2.503 are amended, effective January 1, 2019, to read:

1 **Chapter 2. ~~Public~~ Access to Electronic Trial Court Records**

2
3 **Article 1. General Provisions**

4
5 **Rule 2.500. Statement of purpose**

6
7 **(a) Intent**

8
9 The rules in this chapter are intended to provide the public, parties, parties’
10 attorneys, legal organizations, court-appointed persons, and government entities
11 with reasonable access to trial court records that are maintained in electronic form,
12 while protecting privacy interests.

13
14 **(b) Benefits of electronic access**

15
16 Improved technologies provide courts with many alternatives to the historical
17 paper-based record receipt and retention process, including the creation and use of
18 court records maintained in electronic form. Providing ~~public~~ access to trial court
19 records that are maintained in electronic form may save the courts, ~~and the public,~~
20 parties, parties’ attorneys, legal organizations, court-appointed persons, and
21 government entities time, money, and effort and encourage courts to be more
22 efficient in their operations. Improved access to trial court records may also foster
23 in the public a more comprehensive understanding of the trial court system.

24
25 **(c) No creation of rights**

26
27 The rules in this chapter are not intended to give the public, parties, parties’
28 attorneys, legal organizations, court-appointed persons, and government entities a
29 right of access to any record that they are not otherwise legally entitled to access.
30 ~~The rules do not create any right of access to records that are sealed by court order~~
31 ~~or confidential as a matter of law.~~

32
33 **Advisory Committee Comment**

34
35 The rules in this chapter acknowledge the benefits that electronic ~~court~~ records provide but
36 attempt to limit the potential for unjustified intrusions into the privacy of individuals involved in
37 litigation that can occur as a result of remote access to electronic ~~court~~ records. The proposed
38 rules take into account the limited resources currently available in the trial courts. It is
39 contemplated that the rules may be modified to provide greater electronic access as ~~the~~ courts’
40 technical capabilities improve and ~~with the~~ knowledge is gained from the experience of ~~the courts~~
41 ~~in~~ providing electronic access under these rules.

1
2 **Rule 2.501. Application, and scope, and information to the public**

3
4 **(a) Application and scope**

5
6 The rules in this chapter apply only to trial court records as defined in rule
7 2.502(4). They do not apply to statutorily mandated reporting between or within
8 government entities, or any other documents or materials that are not court records.

9
10 **(b) ~~Access by parties and attorneys~~ Information to the public**

11
12 ~~The rules in this chapter apply only to access to court records by the public. They~~
13 ~~do not limit access to court records by a party to an action or proceeding, by the~~
14 ~~attorney of a party, or by other persons or entities that are entitled to access by~~
15 ~~statute or rule.~~

16
17 The websites for all trial courts must include a link to information that will inform
18 the public of who may access their electronic records under the rules in this chapter
19 and under what conditions they may do so. This information will be posted publicly
20 on www.courts.ca.gov. Each trial court may post additional information, in plain
21 language, as necessary to inform the public about the level of access that the
22 particular trial court is providing.

23
24 **Advisory Committee Comment**

25
26 The rules on remote access do not apply beyond court records to other types of documents,
27 information, or data. Rule 2.502 defines a court record as “any document, paper, or exhibit filed
28 in an action or proceeding; any order or judgment of the court; and any item listed in Government
29 Code section 68151(a), excluding any reporter’s transcript for which the reporter is entitled to
30 receive a fee for any copy. The term does not include the personal notes or preliminary
31 memoranda of judges or other judicial branch personnel, statutorily mandated reporting between
32 government entities, judicial administrative records, court case information, or compilations of
33 data drawn from court records where the compilations are not themselves contained in a court
34 record.” (Rule 2.502(4), Cal. Rules of Court.) Thus, courts generate and maintain many types of
35 information that are not court records and to which access may be restricted by law. Such
36 information is not remotely accessible as court records, even to parties and their attorneys. If
37 parties and their attorneys are entitled to access to any such additional information, separate and
38 independent grounds for that access must exist.

39
40 **Rule 2.502. Definitions**

41
42 As used in this chapter, the following definitions apply:

- 1 (1) “Authorized person” means a person authorized by a legal organization, qualified
2 legal services project, or government entity to access electronic records.
3
- 4 (2) “Brief legal services” means legal assistance provided without, or before, becoming
5 a party’s attorney. It includes giving advice, having a consultation, performing
6 research, investigating case facts, drafting documents, and making limited third-
7 party contacts on behalf of a client.
8
- 9 ~~(4)~~(3) “Court record” is any document, paper, or exhibit filed by the parties to in an action
10 or proceeding; any order or judgment of the court; and any item listed in
11 Government Code section 68151(a),—excluding any reporter’s transcript for which
12 the reporter is entitled to receive a fee for any copy—that is maintained by the court
13 in the ordinary course of the judicial process. The term does not include the
14 personal notes or preliminary memoranda of judges or other judicial branch
15 personnel, statutorily mandated reporting between or within government entities,
16 judicial administrative records, court case information, or compilations of data
17 drawn from court records where the compilations are not themselves contained in a
18 court record.
19
- 20 (4) “Court case information” consists of information created and maintained by a court
21 about a case or cases and not part of the court records that are filed with the court.
22 This includes information in the case management system and case histories.
23
- 24 ~~(4)~~(5) “Electronic access” means ~~computer~~ access by electronic means to court records
25 available to the public through both public terminals at the courthouse and
26 remotely, unless otherwise specified in the rules in this chapter.
27
- 28 ~~(2)~~(6) “Electronic record” is a ~~computerized~~ court record, regardless of the manner in
29 which it has been computerized that requires the use of an electronic device to
30 access. The term includes both a ~~document~~ record that has been filed electronically
31 and an electronic copy or version of a record that was filed in paper form. The term
32 does not include a court record that is maintained only on microfiche, paper, or any
33 other medium that can be read without the use of an electronic device.
34
- 35 (7) “Government entity” means a legal entity organized to carry on some function of
36 the State of California or a political subdivision of the State of California. A
37 government entity is also a federally recognized Indian tribe or a reservation,
38 department, subdivision, or court of a federally recognized Indian tribe.
39
- 40 (8) “Legal organization” means a licensed attorney or group of attorneys, nonprofit
41 legal aid organization, government legal office, in-house legal office of a
42 nongovernmental organization, or legal program organized to provide for indigent
43 criminal, civil, or juvenile law representation.

1
2 (9) “Party” means a plaintiff, defendant, cross-complainant, cross-defendant,
3 petitioner, respondent, intervenor, objector, or anyone expressly defined by statute
4 as a party in a court case.

5
6 (10) “Person” means a natural human being.

7
8 ~~(3)~~(11) “The public” means an individual a person, a group, or an entity, including print
9 or electronic media, or the representative of an individual, a group, or an entity
10 regardless of any legal or other interest in a particular court record.

11
12 (12) “Qualified legal services project” has the same meaning under the rules of this
13 chapter as in 6213(a) of the Business and Professions Code.

14
15 (13) “Remote access” means electronic access from a location other than a public
16 terminal at the courthouse.

17
18 (14) “User” means an individual person, a group, or an entity that accesses electronic
19 records.

20 21 Article 2. Public Access

22 23 **Rule 2.503. Public access Application and scope**

24 25 **(a) General right of access by the public**

26
27 (1) All electronic records must be made reasonably available to the public in
28 some form, whether in electronic or in paper form, except those that are
29 sealed by court order or made confidential by law.

30
31 (2) The rules in this article apply only to access to electronic records by the
32 public.

33 34 **(b) Electronic access required to extent feasible**

35
36 A court that maintains the following records in electronic form must provide
37 electronic access to them, both remotely and at the courthouse, to the extent it is
38 feasible to do so:

39
40 (1) * * *

41
42 (2) All records in civil cases, except those listed in (c)(1)–~~(9)~~(10).

1 (c) **Courthouse electronic access only**

2
3 A court that maintains the following records in electronic form must provide
4 electronic access to them at the courthouse, to the extent it is feasible to do so, but
5 may provide public remote electronic access only to the records ~~governed by~~
6 specified in subdivision (b):

7
8 (1)–(10) * * *

9
10 (d) * * *

11
12 (e) **Remote ~~electronic~~ access allowed in extraordinary criminal cases**

13
14 Notwithstanding (c)(5), the presiding judge of the court, or a judge assigned by the
15 presiding judge, may exercise discretion, subject to (e)(1), to permit remote
16 ~~electronic~~ access by the public to all or a portion of the public court records in an
17 individual criminal case if (1) the number of requests for access to documents in
18 the case is extraordinarily high and (2) responding to those requests would
19 significantly burden the operations of the court. An individualized determination
20 must be made in each case in which such remote ~~electronic~~ access is provided.

21
22 (1) In exercising discretion under (e), the judge should consider the relevant
23 factors, such as:

24
25 (A) * * *

26
27 (B) The benefits to and burdens on the parties in allowing remote ~~electronic~~
28 access, including possible impacts on jury selection; and

29
30 (C) * * *

31
32 (2) The court should, to the extent feasible, redact the following information
33 from records to which it allows remote access under (e): driver license
34 numbers; dates of birth; social security numbers; Criminal Identification and
35 Information and National Crime Information numbers; addresses and phone
36 numbers of parties, victims, witnesses, and court personnel; medical or
37 psychiatric information; financial information; account numbers; and other
38 personal identifying information. The court may order any party who files a
39 document containing such information to provide the court with both an
40 original unredacted version of the document for filing in the court file and a
41 redacted version of the document for remote ~~electronic~~ access. No juror
42 names or other juror identifying information may be provided by remote
43 ~~electronic~~ access. This subdivision does not apply to any document in the

1 original court file; it applies only to documents that are available by remote
2 ~~electronic~~ access.

3
4 (3) Five days' notice must be provided to the parties and the public before the
5 court makes a determination to provide remote ~~electronic~~ access under this
6 rule. Notice to the public may be accomplished by posting notice on the
7 court's ~~Web site~~ website. Any person may file comments with the court for
8 consideration, but no hearing is required.

9
10 (4) The court's order permitting remote ~~electronic~~ access must specify which
11 court records will be available by remote ~~electronic~~ access and what
12 categories of information are to be redacted. The court is not required to
13 make findings of fact. The court's order must be posted on the court's ~~Web~~
14 site website and a copy sent to the Judicial Council.

15
16 **(f)–(i)** * * *

17
18 **Advisory Committee Comment**

19
20 The rule allows a level of access by the public to all electronic records that is at least equivalent
21 to the access that is available for paper records and, for some types of records, is much greater. At
22 the same time, it seeks to protect legitimate privacy concerns.

23
24 **Subdivision (c).** This subdivision excludes certain records (those other than the register, calendar,
25 and indexes) in specified types of cases (notably criminal, juvenile, and family court matters)
26 from public remote ~~electronic~~ access. The committee recognized that while these case records are
27 public records and should remain available at the courthouse, either in paper or electronic form,
28 they often contain sensitive personal information. The court should not publish that information
29 over the Internet. However, the committee also recognized that the use of the Internet may be
30 appropriate in certain criminal cases of extraordinary public interest where information regarding
31 a case will be widely disseminated through the media. In such cases, posting of selected
32 nonconfidential court records, redacted where necessary to protect the privacy of the participants,
33 may provide more timely and accurate information regarding the court proceedings, and may
34 relieve substantial burdens on court staff in responding to individual requests for documents and
35 information. Thus, under subdivision (e), if the presiding judge makes individualized
36 determinations in a specific case, certain records in criminal cases may be made available over
37 the Internet.

38
39 **Subdivisions (f) and (g).** These subdivisions limit electronic access to records (other than the
40 register, calendars, or indexes) to a case-by-case basis and prohibit bulk distribution of those
41 records. These limitations are based on the qualitative difference between obtaining information
42 from a specific case file and obtaining bulk information that may be manipulated to compile
43 personal information culled from any document, paper, or exhibit filed in a lawsuit. This type of

1 aggregate information may be exploited for commercial or other purposes unrelated to the
2 operations of the courts, at the expense of privacy rights of individuals.

3
4 Courts must send a copy of the order permitting remote ~~electronic~~ access in extraordinary
5 criminal cases to: Criminal Justice Services, Judicial Council of California, 455 Golden Gate
6 Avenue, San Francisco, CA 94102-3688.

7
8 **Rules 2.504–2.507 * * ***

9
10 **Article 3. Remote Access by a Party, Party’s Designee, Party’s Attorney, Court-**
11 **Appointed Person, or Authorized Person Working in a Legal Organization or**
12 **Qualified Legal Services Project**

13
14 **Rule 2.515. Application and scope**

15
16 **(a) No limitation on access to electronic records available through article 2**

17
18 The rules in this article do not limit remote access to electronic records available
19 under article 2.

20
21 **(b) Who may access**

22
23 The rules in this article apply to remote access to electronic records by:

- 24
25 (1) A person who is a party;
26
27 (2) A designee of a person who is a party,
28
29 (3) A party’s attorney;
30
31 (4) An authorized person working in the same legal organization as a party’s
32 attorney;
33
34 (5) An authorized person working in a qualified legal services project providing
35 brief legal services; and
36
37 (6) A court-appointed person.

38
39 **Advisory Committee Comment**

40
41 Article 2 allows remote access in most civil cases, and the rules in article 3 are not intended to
42 limit that access. Rather, the article 3 rules allow broader remote access—by parties, parties’
43 designees, parties’ attorneys, authorized persons working in legal organizations, authorized

1 persons working in a qualified legal services project providing brief services, and court-appointed
2 persons—to those electronic records where remote access by the public is not allowed.

3
4 Under the rules in article 3, a party, a party’s attorney, an authorized person working in the same
5 legal organization as a party’s attorney, or a person appointed by the court in the proceeding
6 basically has the same level of access to electronic records remotely that they would have if they
7 were to seek to inspect the records in person at the courthouse. Thus, if they are legally entitled to
8 inspect certain records at the courthouse, they could view the same records remotely; on the other
9 hand, if they are restricted from inspecting certain court records at the courthouse (for example,
10 because the records are confidential or sealed), they would not be permitted to view the records
11 remotely. In some types of cases, such as unlimited civil cases, the access available to parties and
12 their attorneys is generally similar to the public’s but in other types of cases, such as juvenile
13 cases, it is much more extensive (see Cal. Rules of Court, rule 5.552).

14
15 For authorized persons working in a qualified legal services program, the rule contemplates
16 services offered in high-volume environments on an ad hoc basis. There are some limitations on
17 access under the rule for qualified legal services projects. When an attorney at a qualified legal
18 services project becomes a party’s attorney and offers services beyond the scope contemplated
19 under this rule, the access rules for a party’s attorney would apply.

20
21 **Rule 2.516. Remote access to extent feasible**

22
23 To the extent feasible, a court that maintains records in electronic form must provide
24 remote access to those records to the users described in rule 2.515, subject to the
25 conditions and limitations stated in this article and otherwise provided by law.

26
27 **Advisory Committee Comment**

28
29 This rule takes into account the limited resources currently available in some trial courts. Many
30 courts may not have the financial means or the technical capabilities necessary to provide the full
31 range of remote access to electronic records authorized by this article. When it is more feasible
32 and courts have had more experience with remote access, these rules may be modified to further
33 expand remote access.

34
35 **Rule 2.517. Remote access by a party**

36
37 **(a) Remote access generally permitted**

38
39 A person may have remote access to electronic records in actions or proceedings in
40 which that person is a party.

1 **(b) Level of remote access**

- 2
- 3 (1) In any action or proceeding, a party may be provided remote access to the
4 same electronic records that he or she would be legally entitled to inspect at
5 the courthouse.
- 6
- 7 (2) This rule does not limit remote access to electronic records available under
8 article 2.
- 9
- 10 (3) This rule applies only to electronic records. A person is not entitled under
11 these rules to remote access to documents, information, data, or other
12 materials created or maintained by the courts that are not electronic records.

13

14 **Advisory Committee Comment**

15

16 Because this rule permits remote access only by a party who is a person (defined under rule 2.501
17 as a natural person), remote access would not apply to organizational parties, which would need
18 to gain remote access through the party's attorney rule or, for certain government entities with
19 respect to specified electronic records, the rules in article 4.

20

21 **Rule 2.518. Remote access by a party's designee**

22

23 **(a) Remote access generally permitted**

24

25 A person who is at least 18 years of age may designate other persons to have
26 remote access to electronic records in actions or proceedings in which that person is
27 a party.

28

29 **(b) Level of remote access**

- 30
- 31 (1) A party's designee may have the same access to a party's electronic records
32 that a member of the public would be entitled to if he or she were to inspect
33 the party's court records at the courthouse.
- 34
- 35 (2) A party may limit the access to be afforded a designee to specific cases.
- 36
- 37 (3) A party may limit the access to be afforded a designee to a specific period of
38 time.
- 39
- 40 (4) A party may modify or revoke a designee's level of access at any time.
- 41

1 **(c) Terms of access**

- 2
- 3 (1) A party’s designee may access electronic records only for the purpose of
4 assisting the party or the party’s attorney in the action or proceeding.
- 5
- 6 (2) Any distribution for sale of electronic records obtained remotely under the
7 rules in this article is strictly prohibited.
- 8
- 9 (3) All laws governing confidentiality and disclosure of court records apply to
10 the records obtained under this article.
- 11
- 12 (4) Party designees must comply with any other terms of remote access required
13 by the court.
- 14
- 15 (5) Failure to comply with these rules may result in the imposition of sanctions,
16 including termination of access.

17

18 **Advisory Committee Comment**

19

20 A party must be a natural person to authorize designees for remote access. Under rule 2.501, for
21 purposes of the rules, “persons” are natural persons. Accordingly, the party designee rule would
22 not apply to organizational parties, which would need to gain remote access through the party’s
23 attorney rule or, for certain government entities with respect to specified electronic records, the
24 rules in article 4.

25

26 **Rule 2.519. Remote access by a party’s attorney**

27

28 **(a) Remote access generally permitted**

- 29
- 30 (1) A party’s attorney may have remote access to electronic records in the party’s
31 actions or proceedings under this rule or rule 2.518. If a party’s attorney gains
32 remote access through rule 2.518, the requirements of rule 2.519 do not
33 apply.
- 34
- 35 (2) If a court notifies an attorney of the court’s intention to appoint the attorney
36 to represent a party in a criminal, juvenile justice, child welfare, family law,
37 or probate proceeding, the court may grant remote access to that attorney
38 before an order of appointment is issued by the court.
- 39

1 **(b) Level of remote access**

2
3 A party's attorney may be provided remote access to the same electronic records in
4 the party's actions or proceedings that the party's attorney would be legally entitled
5 to view at the courthouse.

6
7 **(c) Terms of remote access for attorneys who are not the attorney of record in the**
8 **party's actions or proceedings in the trial court**

9
10 An attorney who represents a party, but who is not the party's attorney of record,
11 may remotely access the party's electronic records, provided that the attorney:

- 12
13 (1) Obtains the party's consent to remotely access the party's electronic records;
14 and
15
16 (2) Represents to the court in the remote access system that the attorney has
17 obtained the party's consent to remotely access the party's electronic records.

18
19 **(d) Terms of remote access for all attorneys accessing electronic records**

- 20
21 (1) A party's attorney may remotely access the electronic records only for the
22 purposes of assisting the party with the party's court matter.
23
24 (2) A party's attorney may not distribute for sale any electronic records obtained
25 remotely under the rules in this article. Such sale is strictly prohibited.
26
27 (3) A party's attorney must comply with any other terms of remote access
28 required by the court.
29
30 (4) Failure to comply with these rules may result in the imposition of sanctions,
31 including termination of access.

32
33 **Advisory Committee Comment**

34
35 **Subdivision (c).** An attorney of record will be known to the court for purposes of remote access.
36 However, a person may engage an attorney other than the attorney of record for assistance in an
37 action or proceeding in which the person is a party. Examples include, but are not limited to,
38 when a party engages an attorney to (1) prepare legal documents but not appear in the party's
39 action (e.g., provide limited-scope representation); (2) assist the party with
40 dismissal/expungement or sealing of a criminal record when the attorney did not represent the
41 party in the criminal proceeding; or (3) represent the party in an appellate matter when the
42 attorney did not represent the party in the trial court. Subdivision (c) provides a mechanism for an
43 attorney not of record to be known to the court for purposes of remote access.

1
2 **Rule 2.520. Remote access by persons working in the same legal organization as a**
3 **party's attorney**

4
5 **(a) Application and scope**

- 6
7 (1) This rule applies when a party's attorney is assisted by others working in the
8 same legal organization.
9
10 (2) "Working in the same legal organization" under this rule includes partners,
11 associates, employees, volunteers, and contractors.
12
13 (3) This rule does not apply when a person working in the same legal
14 organization as a party's attorney gains remote access to records as a party's
15 designee under rule 2.518.

16
17 **(b) Designation and certification**

- 18
19 (1) A party's attorney may designate that other persons working in the same
20 legal organization as the party's attorney have remote access.
21
22 (2) A party's attorney must certify that the other persons authorized for access
23 are working in the same legal organization as the party's attorney and are
24 assisting the party's attorney in the action or proceeding.

25
26 **(c) Level of remote access**

- 27
28 (1) Persons designated by a party's attorney under subdivision (b) must be
29 provided access to the same electronic records as the party.
30
31 (2) Notwithstanding subdivision (b), when a court designates a legal organization
32 to represent parties in criminal, juvenile, family, or probate proceedings, the
33 court may grant remote access to a person working in the organization who
34 assigns cases to attorneys working in that legal organization.

35
36 **(d) Terms of remote access**

- 37
38 (1) Persons working in a legal organization may remotely access electronic
39 records only for purposes of assigning or assisting a party's attorney.
40
41 (2) Any distribution for sale of electronic records obtained remotely under the
42 rules in this article is strictly prohibited.
43

- 1 (3) All laws governing confidentiality and disclosure of court records apply to
2 the records obtained under this article.
- 3
- 4 (4) Persons working in a legal organization must comply with any other terms of
5 remote access required by the court.
- 6
- 7 (5) Failure to comply with these rules may result in the imposition of sanctions,
8 including termination of access.
- 9

10 **Rule 2.521. Remote access by a court-appointed person**

11

12 **(a) Remote access generally permitted**

- 13
- 14 (1) A court may grant a court-appointed person remote access to electronic
15 records in any action or proceeding in which the person has been appointed
16 by the court.
- 17
- 18 (2) Court-appointed persons include an attorney appointed to represent a minor
19 child under Family Code section 3150; a Court Appointed Special Advocate
20 volunteer in a juvenile proceeding; an attorney appointed under Probate Code
21 section 1470, 1471, or 1474; an investigator appointed under Probate Code
22 section 1454; a probate referee designated under Probate Code section 8920;
23 a fiduciary, as defined in Probate Code section 39; an attorney appointed
24 under Welfare and Institutions Code section 5365; or a guardian ad litem
25 appointed under Code of Civil Procedure section 372 or Probate Code section
26 1003.

27

28 **(b) Level of remote access**

29

30 A court-appointed person may be provided with the same level of remote access to
31 electronic records as the court-appointed person would be legally entitled to if he or
32 she were to appear at the courthouse to inspect the court records.

33

34 **(c) Terms of remote access**

- 35
- 36 (1) A court-appointed person may remotely access electronic records only for
37 purposes of fulfilling the responsibilities for which he or she was appointed.
- 38
- 39 (2) Any distribution for sale of electronic records obtained remotely under the
40 rules in this article is strictly prohibited.
- 41
- 42 (3) All laws governing confidentiality and disclosure of court records apply to
43 the records obtained under this article.

1
2 (4) A court-appointed person must comply with any other terms of remote access
3 required by the court.

4
5 (5) Failure to comply with these rules may result in the imposition of sanctions,
6 including termination of access.

7
8 **Rule 2.522. Remote access by persons working in a qualified legal services project**
9 **providing brief legal services**

10
11 **(a) Application and scope**

12
13 (1) This rule applies to qualified legal services projects as defined in section
14 6213(a) of the Business and Professions Code.

15
16 (2) “Working in a qualified legal services project” under this rule includes
17 attorneys, employees, and volunteers.

18
19 (3) This rule does not apply to a person working in or otherwise associated with
20 a qualified legal services project who gains remote access to court records as
21 a party’s designee under rule 2.518.

22
23 **(b) Designation and certification**

24
25 (1) A qualified legal services project may designate persons working in the
26 qualified legal services project who provide brief legal services, as defined in
27 article 1, to have remote access.

28
29 (2) The qualified legal services project must certify that the authorized persons
30 work in their organization.

31
32 **(c) Level of remote access**

33
34 Authorized persons may be provided remote access to the same electronic records
35 that the authorized person would be legally entitled to inspect at the courthouse.

36
37 **(d) Terms of remote access**

38
39 (1) Qualified legal services projects must obtain the party’s consent to remotely
40 access the party’s electronic records.

41

- 1 (2) Authorized persons must represent to the court in the remote access system
2 that the qualified legal services project has obtained the party's consent to
3 remotely access the party's electronic records.
4
5 (3) Qualified legal services projects providing services under this rule may
6 remotely access electronic records only to provide brief legal services.
7
8 (4) Any distribution for sale of electronic records obtained under the rules in this
9 article is strictly prohibited.
10
11 (5) All laws governing confidentiality and disclosure of court records apply to
12 electronic records obtained under this article.
13
14 (6) Qualified legal services projects must comply with any other terms of remote
15 access required by the court.
16
17 (7) Failure to comply with these rules may result in the imposition of sanctions,
18 including termination of access.
19

20 **Rule 2.523. Identity verification, identity management, and user access**

21
22 **(a) Identity verification required**

23
24 Before allowing a person who is eligible under the rules in article 3 to have remote
25 access to electronic records, a court must verify the identity of the person seeking
26 access.
27

28 **(b) Responsibilities of the court**

29
30 A court that allows persons eligible under the rules in article 3 to have remote
31 access to electronic records must have an identity proofing solution that verifies the
32 identity of, and provides a unique credential to, each person who is permitted
33 remote access to the electronic records. The court may authorize remote access by a
34 person only if that person's identity has been verified, the person accesses records
35 using the credential provided to that individual, and the person complies with the
36 terms and conditions of access, as prescribed by the court.
37

38 **(c) Responsibilities of persons accessing records**

39
40 A person eligible to be given remote access to electronic records under the rules in
41 article 3 may be given such access only if that person:
42

- 1 (1) Provides the court with all information it directs in order to identify the
2 person to be a user;
3
4 (2) Consents to all conditions for remote access required by article 3 and the
5 court; and
6
7 (3) Is authorized by the court to have remote access to electronic records.
8

9 **(d) Responsibilities of the legal organizations or qualified legal services projects**
10

- 11 (1) If a person is accessing electronic records on behalf of a legal organization or
12 qualified legal services project, the organization or project must approve
13 granting access to that person, verify the person’s identity, and provide the
14 court with all the information it directs in order to authorize that person to
15 have access to electronic records.
16
17 (2) If a person accessing electronic records on behalf of a legal organization or
18 qualified legal services project leaves his or her position or for any other
19 reason is no longer entitled to access, the organization or project must
20 immediately notify the court so that it can terminate the person’s access.
21

22 **(e) Vendor contracts, statewide master agreements, and identity and access**
23 **management systems**
24

25 A court may enter into a contract with a vendor to provide identity verification,
26 identity management, or user access services. Alternatively, if a statewide identity
27 verification, identity management, or access management system, or a statewide
28 master agreement for such systems is available, courts may use those for identity
29 verification, identity management, and user access services.
30

31 **Rule 2.524. Security of confidential information**
32

33 **(a) Secure access and encryption required**
34

35 If any information in an electronic record that is confidential by law or sealed by
36 court order may lawfully be provided remotely to a person or organization
37 described in rule 2.515, any remote access to the confidential information must be
38 provided through a secure platform and any electronic transmission of the
39 information must be encrypted.
40

1 **(b) Vendor contracts and statewide master agreements**

2
3 A court may enter into a contract with a vendor to provide secure access and
4 encryption services. Alternatively, if a statewide master agreement is available for
5 secure access and encryption services, courts may use that master agreement.
6

7 **Advisory Committee Comment**

8
9 This rule describes security and encryption requirements; levels of access are provided for in
10 rules 2.517–2.522.
11

12 **Rule 2.525. Searches and access to electronic records in search results**

13
14 **(a) Searches**

15
16 A user authorized under this article to remotely access a party’s electronic records
17 may search for the records by case number or case caption.
18

19 **(b) Access to electronic records in search results**

20
21 A court providing remote access to electronic records under this article must ensure
22 that authorized users are able to access the electronic records only at the levels
23 provided in this article.
24

25 **(c) Unauthorized access**

26
27 If a user gains access to an electronic record that the user is not authorized to access
28 under this article, the user must:
29

- 30 (1) Report the unauthorized access to the court as directed by the court for that
31 purpose;
32
33 (2) Destroy all copies, in any form, of the record; and
34
35 (3) Delete from the user’s browser history all information that identifies the
36 record.
37

38 **Rule 2.526. Audit trails**

39
40 **(a) Ability to generate audit trails required**

41
42 The court must have the ability to generate an audit trail that identifies each
43 remotely accessed record, when an electronic record was remotely accessed, who

1 remotely accessed the electronic record, and under whose authority the user gained
2 access to the electronic record.

3
4 **(b) Limited audit trails available to authorized users**

5
6 (1) A court providing remote access to electronic records under this article must
7 make limited audit trails available to authorized users under this article.

8
9 (2) A limited audit trail must show the user who remotely accessed electronic
10 records in a particular case but must not show which specific electronic
11 records were accessed.

12
13 **Rule 2.527. Additional conditions of access**

14
15 To the extent consistent with these rules and other applicable law, a court must
16 impose reasonable conditions on remote access to preserve the integrity of its
17 records, prevent the unauthorized use of information, and limit possible legal
18 liability. The court may choose to require each user to submit a signed, written
19 agreement enumerating those conditions before it permits that user to remotely
20 access electronic records. The agreements may define the terms of access, provide
21 for compliance audits, specify the scope of liability, and provide for the imposition
22 of sanctions for misuse up to and including termination of remote access.

23
24 **Rule 2.528. Termination of remote access**

25
26 **(a) Remote access is a privilege**

27
28 Remote access to electronic records under this article is a privilege and not a right.

29
30 **(b) Termination by court**

31
32 A court that provides remote access may, at any time and for any reason, terminate
33 the permission granted to any person eligible under the rules in article 3 to remotely
34 access electronic records.

35
36 **Article 4. Remote Access by Government Entities**

37
38 **Rule 2.540. Application and scope**

39
40 **(a) Applicability to government entities**

41
42 The rules in this article provide for remote access to electronic records by
43 government entities described in subdivision (b) below. The access allowed under

1 these rules is in addition to any access these entities or authorized persons working
2 for such entities may have under the rules in articles 2–3.

3
4 **(b) Level of remote access**

5
6 (1) A court may provide authorized persons from government entities with
7 remote access to electronic records as follows:

8
9 (A) Office of the Attorney General: criminal electronic records and juvenile
10 justice electronic records.

11
12 (B) California Department of Child Support Services: family electronic
13 records, child welfare electronic records, and parentage electronic
14 records.

15
16 (C) Office of a district attorney: criminal electronic records and juvenile
17 justice electronic records.

18
19 (D) Office of a public defender: criminal electronic records and juvenile
20 justice electronic records.

21
22 (E) Office of a county counsel: criminal electronic records, mental health
23 electronic records, child welfare electronic records, and probate
24 electronic records.

25
26 (F) Office of a city attorney: criminal electronic records, juvenile justice
27 electronic records, and child welfare electronic records.

28
29 (G) County department of probation: criminal electronic records, juvenile
30 justice electronic records, and child welfare electronic records.

31
32 (H) County sheriff’s department: criminal electronic records and juvenile
33 justice electronic records.

34
35 (I) Local police department: criminal electronic records and juvenile
36 justice electronic records.

37
38 (J) Local child support agency: family electronic records, child welfare
39 electronic records, and parentage electronic records.

40
41 (K) County child welfare agency: child welfare electronic records.
42

1 (L) County public guardian: criminal electronic records, mental health
2 electronic records, and probate electronic records.

3
4 (M) County agency designated by the board of supervisors to provide
5 conservatorship investigation under chapter 3 of the Lanterman-Petris-
6 Short Act (Welf. & Inst. Code, §§ 5350–5372): criminal electronic
7 records, mental health electronic records, and probate electronic
8 records.

9
10 (N) Federally recognized Indian tribe (including any reservation,
11 department, subdivision, or court of the tribe) with concurrent
12 jurisdiction: child welfare electronic records, family electronic records,
13 juvenile justice electronic records, and probate electronic records.

14
15 (O) For good cause, a court may grant remote access to electronic records
16 in particular case types to government entities beyond those listed in
17 (b)(1)(A)–(N). For purposes of this rule, “good cause” means that the
18 government entity requires access to the electronic records in order to
19 adequately perform its statutory duties or fulfill its responsibilities in
20 litigation.

21
22 (P) All other remote access for government entities is governed by articles
23 2–3.

24
25 (2) Subject to (b)(1), the court may provide a government entity with the same
26 level of remote access to electronic records as the government entity would
27 be legally entitled to if a person working for the government entity were to
28 appear at the courthouse to inspect court records in that case type. If a court
29 record is confidential by law or sealed by court order and a person working
30 for the government entity would not be legally entitled to inspect the court
31 record at the courthouse, the court may not provide the government entity
32 with remote access to the confidential or sealed electronic record.

33
34 (3) This rule applies only to electronic records. A government entity is not
35 entitled under these rules to remote access to any documents, information,
36 data, or other types of materials created or maintained by the courts that are
37 not electronic records.

38
39 (c) **Terms of remote access**

40
41 (1) Government entities may remotely access electronic records only to perform
42 official duties and for legitimate governmental purposes.

1 (2) Consents to all conditions for remote access required by article 4 and the
2 court; and

3
4 (3) Is authorized by the court to have remote access to electronic records.

5
6 **(d) Responsibilities of government entities**

7
8 (1) If a person is accessing electronic records on behalf of a government entity,
9 the government entity must approve granting access to that person, verify the
10 person's identity, and provide the court with all the information it needs to
11 authorize that person to have access to electronic records.

12
13 (2) If a person accessing electronic records on behalf of a government entity
14 leaves his or her position or for any other reason is no longer entitled to
15 access, the government entity must immediately notify the court so that it can
16 terminate the person's access.

17
18 **(e) Vendor contracts, statewide master agreements, and identity and access**
19 **management systems**

20
21 A court may enter into a contract with a vendor to provide identity verification,
22 identity management, or user access services. Alternatively, if a statewide identity
23 verification, identity management, or access management system or a statewide
24 master agreement for such systems is available, courts may use those for identity
25 verification, identity management, and user access services.

26
27 **Rule 2.542. Security of confidential information**

28
29 **(a) Secure access and encryption required**

30
31 If any information in an electronic record that is confidential by law or sealed by
32 court order may lawfully be provided remotely to a government entity, any remote
33 access to the confidential information must be provided through a secure platform,
34 and any electronic transmission of the information must be encrypted.

35
36 **(b) Vendor contracts and statewide master agreements**

37
38 A court may enter into a contract with a vendor to provide secure access and
39 encryption services. Alternatively, if a statewide master agreement is available for
40 secure access and encryption services, courts may use that master agreement.

1 **Rule 2.543. Audit trails**

2
3 **(a) Ability to generate audit trails required**

4
5 The court must have the ability to generate an audit trail that identifies each
6 remotely accessed record, when an electronic record was remotely accessed, who
7 remotely accessed the electronic record, and under whose authority the user gained
8 access to the electronic record.

9
10 **(b) Audit trails available to government entity**

11
12 (1) A court providing remote access to electronic records under this article must
13 make limited audit trails available to authorized users of the government
14 entity.

15
16 (2) A limited audit trail must show the user who remotely accessed electronic
17 records in a particular case, but must not show which specific electronic
18 records were accessed.

19
20 **Rule 2.544. Additional conditions of access**

21
22 To the extent consistent with these rules and other applicable law, a court must impose
23 reasonable conditions on remote access to preserve the integrity of its records, prevent the
24 unauthorized use of information, and protect itself from liability. The court may choose
25 to require each user to submit a signed, written agreement enumerating those conditions
26 before it permits that user to access electronic records remotely. The agreements may
27 define the terms of access, provide for compliance audits, specify the scope of liability,
28 and provide for sanctions for misuse up to and including termination of remote access.

29
30 **Rule 2.545. Termination of remote access**

31
32 **(a) Remote access is a privilege**

33
34 Remote access under this article is a privilege and not a right.

35
36 **(b) Termination by court**

37
38 A court that provides remote access may terminate the permission granted to any
39 person or entity eligible under the rules in article 4 to remotely access electronic
40 records at any time for any reason.

CAPITOL OFFICE
Room 4130
Sacramento, CA 95814
(916) 319-2075
FAX (916) 319-2175

Assembly California Legislature

MARIE WALDRON
ASSEMBLYMEMBER, 75TH DISTRICT



DISTRICT OFFICE
350 W. 5th Ave. Suite 110
Escondido, CA 92025
(760) 480-7570
FAX (760) 480-7516

COMMITTEES
Health
Governmental Organization
Vice Chair: Arts, Entertainment,
Sports, Tourism and Internet Media
Vice Chair: Local Government
Assembly Rules & Joint Rules
Select Committee on Health Care
Delivery & Universal Coverage
Select Committee on Sexual
Harassment

AB 3176: INDIAN CHILD WELFARE ACT

COAUTHORS: NONE

IN BRIEF:

The Indian Child Welfare Act (ICWA) was enacted in 1978 in response to a crisis affecting American Indian and Alaska Native children, families, and tribes. Studies revealed that large numbers of Native children were being separated from their parents, extended families, and tribes by state child welfare and private adoption agencies even when fit and willing relatives were available.

EXISTING LAW:

California passed SB 678 (Ducheny; 2006) codifying ICWA in California in order to increase compliance with national requirements regarding Indian children's relationships with their tribes and the role of tribes in child custody proceedings.

THE ISSUE:

Since its passage, ICWA has provided important rights and protections to Indian families. However, the implementation and interpretation of ICWA has been inconsistent across States; creating significant gaps in protection. As a result, the Bureau of Indian Affairs promulgated regulations to address the need for consistent interpretation and implementation of the minimum Federal standards ICWA provides to ensure that all Indian children and their families receive the same rights and protections across all States.

THE SOLUTION:

This bill changes the California Welfare and Institutions Code to comply with the 2016 Bureau of Indian Affairs Indian Child Welfare Act regulations.

SUPPORT:

California Tribal Families Coalition (Sponsor)

CONTACT:

Robert Wilson, Office of Assemblymember Waldron
(916) 319-2075 or Robert.Wilson@asm.ca.gov

AMENDED IN ASSEMBLY APRIL 2, 2018

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 3176

Introduced by Assembly Member Waldron
(Coauthors: Assembly Members Daly and Reyes)

February 16, 2018

An act to amend Sections 224, 224.2, 224.3, 224.6, 305.5, 361.31, 361.7, and 16507.4 of, and to repeal and add Section 224.1 of, the Welfare and Institutions Code, relating to Indian children.

LEGISLATIVE COUNSEL'S DIGEST

AB 3176, as amended, Waldron. Indian children.

(1) Existing federal law, the Indian Child Welfare Act of 1978 (ICWA), governs the proceedings for determining the placement of an Indian child when that child is removed from the custody of his or her parent or guardian. Existing law specifies that the state is committed to protecting the essential tribal relations and best interest of an Indian child by promoting practices in accordance with ICWA. Existing law requires a court in all Indian child custody proceedings to, among other things, comply with ICWA. Under existing law, a determination by an Indian tribe that an unmarried person who is under 18 years of age, is either a member of an Indian tribe, or is eligible for membership in an Indian tribe and a biological child of a member of an Indian tribe, constitutes a significant political affiliation with the tribe and requires application of ICWA to the proceedings.

Under existing law, if a court, social worker, or probation officer knows or has reason to know that an Indian child is involved in a custody proceeding, a notice meeting specified requirements is required to be sent to the minor's parents or legal guardian, Indian custodian, and the

minor's tribe. Existing law also requires the notice to be sent to all tribes of which the child may be a member or eligible for membership, as provided.

This bill would require the party seeking placement of the child to send notice of specified hearings to each tribe in which a child may be a member or is eligible for membership if a biological parent is a member, to the child's parents, and the child's Indian custodian, if applicable.

(2) Existing law also requires notice of an Indian child custody proceeding to be sent to the Sacramento Area Director of the Bureau of Indian Affairs, and if the identity or location of the parents, Indian custodians, or the tribe is known, a copy of the notice is required to be sent to the Secretary of the Interior, unless the secretary waives notice.

The bill would instead require notice to be sent to the appropriate Bureau of Indian Affairs regional director if the identity or location of the parents, Indian custodian, or tribe cannot be ascertained. The bill would require the notice to include additional information, including the name of the petitioner and the name and address of the petitioner's attorney, and a notice that all parties are required to keep confidential the information contained in the notice. The bill would prohibit an Indian child custody proceeding from being held until at least 10 days after receipt of the notice by the parent, Indian custodian, tribe, or secretary.

(3) Under existing law, a court, a county welfare department, and the probation department have an affirmative and continuing duty to inquire whether a child is or may be an Indian child in all dependency proceedings and in any juvenile wardship proceeding if the child is at risk of entering foster care or is in foster care.

This bill would require those entities to inquire if a child is or may be an Indian child on the record at specified hearings. The bill would declare that the duty to inquire begins at the earliest possible moment and would set forth specific steps a social worker, probation officer, or court is required to take to make that inquiry.

(4) Existing law requires a state or local authority who removes an Indian child, who is a ward of a tribal court, or who resides or is domiciled within a reservation of an Indian tribe that has exclusive jurisdiction over child custody proceedings, from the custody of his or her parents or Indian custodian to provide a notice of the removal to the tribe no later than the next working day following the removal of the child, as provided. Under existing law, if the tribe determines that

the child is an Indian child, the state or local authority is required to transfer the child custody proceeding to the tribe within 24 hours after receipt of written notice from the tribe, unless the court finds good cause to deny the petition to transfer, as specified.

This bill instead would require a court, if either the child's residence or domicile is on a reservation of which the tribe exercises exclusive jurisdiction over child custody proceedings, or if a child is a ward of a tribal court, to dismiss the state court child custody proceeding and ensure that the tribal court is sent all information regarding the proceeding, unless the court determines that certain criteria are met, including that either parent objects to the transfer, the tribal court declines the transfer, or good cause exists to deny the transfer.

(5) Existing law authorizes an emergency removal of an Indian child who is a ward of a tribal court or who resides or is domiciled within a reservation of an Indian tribe, but is temporarily located off the reservation, from a parent or Indian custodian, in order to prevent imminent physical damage or harm to the child.

This bill would require a petition for a court order authorizing an emergency removal or continued emergency placement to contain a statement of the risk of imminent physical damage or harm to the Indian child, as specified. The bill would require the emergency removal or placement of an Indian child to terminate immediately if the removal or placement is no longer necessary to prevent imminent physical damage or harm to the child, as provided.

(6) Existing law sets forth placement preferences for an Indian child who is removed from the physical custody of his or her parents or Indian custodian parents. Existing law authorizes a court to determine that good cause exists not to follow those placement preferences.

This bill would require that, if a party asserts that good cause exists to not follow the placement preferences, the reason for that belief or assertion shall be stated orally on the record or provided in writing to the court and to the parties to the child custody proceeding. The bill would require the person seeking departure from the placement preferences to bear the burden of proof, as provided.

(7) By increasing the duties on county welfare departments, the bill would impose a state-mandated local program.

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

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

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 224 of the Welfare and Institutions Code
2 is amended to read:

3 224. (a) The Legislature finds and declares the following:

4 (1) There is no resource that is more vital to the continued
5 existence and integrity of Indian tribes than their children, and the
6 State of California has an interest in protecting Indian children
7 who are members of, or are eligible for membership in, an Indian
8 tribe. The state is committed to protecting the essential tribal
9 relations and best interest of an Indian child by promoting practices,
10 in accordance with applicable state and federal law, designed to
11 prevent the child’s involuntary out-of-home placement and,
12 whenever that placement is necessary or ordered, by placing the
13 child, whenever possible, in a placement that reflects the unique
14 values of the child’s tribal culture and is best able to assist the
15 child in establishing, developing, and maintaining a political,
16 cultural, and social relationship with the child’s tribe and tribal
17 community.

18 (2) It is in the interest of an Indian child that the child’s
19 membership in the child’s Indian tribe and connection to the tribal
20 community be encouraged and protected, regardless of whether
21 the child is in the physical custody of an Indian parent or Indian
22 custodian at the commencement of a child custody proceeding,
23 the parental rights of the child’s parents have been terminated, or
24 where the child has resided or been domiciled.

25 (b) In all Indian child custody proceedings, the court shall
26 consider all of the findings contained in subdivision (a), strive to
27 promote the stability and security of Indian tribes and families,
28 comply with applicable federal law, and seek to protect the best
29 interest of the child. Whenever an Indian child is removed from a
30 foster care home or institution, guardianship, or adoptive placement
31 for the purpose of further foster care, guardianship, or adoptive
32 placement, placement of the child shall be in accordance with
33 applicable state and federal law.

1 (c) A determination by an Indian tribe that an unmarried person,
2 who is under the age of 18 years, is either (1) a member or citizen
3 of an Indian tribe or (2) eligible for membership or citizenship in
4 an Indian tribe and a biological child of a member or citizen of an
5 Indian tribe shall constitute a significant political affiliation with
6 the tribe and shall require the application of relevant state and
7 federal law to the proceedings.

8 (d) In any case in which this code or other applicable state or
9 federal law provides a higher standard of protection to the rights
10 of the parent or Indian custodian of an Indian child, or the Indian
11 child's tribe, than the rights provided under the federal Indian
12 Child Welfare Act of 1978 (25 U.S.C. Sec. 1901 et seq.), the court
13 shall apply the higher standard.

14 (e) Any Indian child, the Indian child's tribe, or the parent or
15 Indian custodian from whose custody the child has been removed,
16 may petition the court to invalidate an action in an Indian child
17 custody proceeding for foster care or guardianship placement or
18 termination of parental rights if the action violated Sections 1911,
19 1912, and 1913 of the federal Indian Child Welfare Act of 1978.

20 SEC. 2. Section 224.1 of the Welfare and Institutions Code is
21 repealed.

22 SEC. 3. Section 224.1 is added to the Welfare and Institutions
23 Code, to read:

24 224.1. For purposes of this chapter, the following definitions
25 apply:

26 (a) "Active efforts" means affirmative, active, thorough, and
27 timely efforts intended primarily to maintain or reunite an Indian
28 child with his or her family. If an agency is involved in a child
29 custody proceeding, active efforts shall involve assisting the parent,
30 parents, or Indian custodian through the steps of a case plan and
31 with accessing or developing the resources necessary to satisfy
32 the case plan. To the maximum extent possible, active efforts shall
33 be provided in a manner consistent with the prevailing social and
34 cultural conditions and way of life of the Indian child's tribe and
35 shall be conducted in partnership with the Indian child and the
36 Indian child's parents, extended family members, Indian
37 custodians, and tribe. Active efforts shall be tailored to the facts
38 and circumstances of the case and may include any of the
39 following:

- 1 (1) Conducting a comprehensive assessment of the
2 circumstances of the Indian child’s family, with a focus on safe
3 reunification as the most desirable goal.
- 4 (2) Identifying appropriate services and helping the parents
5 overcome barriers, including actively assisting the parents in
6 obtaining those services.
- 7 (3) Identifying, notifying, and inviting representatives of the
8 Indian child’s tribe to participate in providing support and services
9 to the Indian child’s family and in family team meetings,
10 permanency planning, and resolution of placement issues.
- 11 (4) Conducting or causing to be conducted a diligent search for
12 the Indian child’s extended family members, and contacting and
13 consulting with extended family members to provide family
14 structure and support for the Indian child and the Indian child’s
15 parents.
- 16 (5) Offering and employing all available and culturally
17 appropriate family preservation strategies and facilitating the use
18 of remedial and rehabilitative services provided by the child’s
19 tribe.
- 20 (6) Taking steps to keep siblings together whenever possible.
- 21 (7) Supporting regular visits with parents or Indian custodians
22 in the most natural setting possible, as well as trial home visits of
23 the Indian child during any period of removal, consistent with the
24 need to ensure the health, safety, and welfare of the child.
- 25 (8) Identifying community resources including housing, financial
26 assistance, transportation, mental health and substance abuse
27 services, and peer support services, and actively assisting the Indian
28 child’s parents or, when appropriate, the child’s family, in utilizing
29 and accessing those resources.
- 30 (9) Monitoring progress and participation in services.
- 31 (10) Considering alternative ways to address the needs of the
32 Indian child’s parents and, where appropriate, the family, if the
33 optimum services do not exist or are not available.
- 34 (11) Providing postreunification services and monitoring.
- 35 (b) “Assistant Secretary” means the Assistant Secretary of the
36 Bureau of Indian Affairs.
- 37 (c) “Bureau of Indian Affairs” means the Bureau of Indian
38 Affairs of the Department of the Interior.
- 39 (d) “Continued custody” means physical custody or legal
40 custody or both, under any applicable tribal law or tribal custom

1 or state law, that a parent or Indian custodian already has or had
2 at any point in the past. The biological mother of an Indian child
3 is deemed to have had custody of the Indian child.

4 (e) “Custody” means physical custody or legal custody or both,
5 under any applicable tribal law or tribal custom or state law.

6 (f) “Domicile” means either of the following:

7 (1) For a parent, Indian custodian, or legal guardian, the place
8 that a person has been physically present and that the person
9 regards as home. This includes a person’s true, fixed, principal,
10 and permanent home, to which that person intends to return and
11 remain indefinitely even though the person may be currently
12 residing elsewhere.

13 (2) For an Indian child, the domicile of the Indian child’s
14 parents, Indian custodian, or legal guardian. In the case of an Indian
15 child whose parents are not married to each other, the domicile of
16 the Indian child means the domicile of the Indian child’s custodial
17 parent.

18 (g) “Emergency proceeding” means and includes any court
19 action that involves an emergency removal or emergency placement
20 of an Indian child.

21 (h) “Extended family member” is defined by the law or custom
22 of the Indian child’s tribe or, in the absence of a law or custom, is
23 a person who is 18 years of age or older and who is the Indian
24 child’s grandparent, aunt or uncle, brother or sister, brother-in-law
25 or sister-in-law, niece or nephew, first or second cousin, or
26 stepparent.

27 (i) “Hearing” means a judicial session held for the purpose of
28 deciding issues of fact, of law, or both.

29 (j) “Indian” means a person who is a member of an Indian tribe,
30 or who is an Alaska Native and a member of a Regional
31 Corporation as defined in Section 7 of the Alaska Native Claims
32 Settlement Act (43 U.S.C. Sec. 1606 et seq.).

33 (k) (1) “Indian child” means any unmarried person who is under
34 18 years of age and is either of the following:

35 (A) A member or citizen of an Indian tribe.

36 (B) Eligible for membership or citizenship in an Indian tribe
37 and is the biological child of a member or citizen of an Indian
38 tribe.

39 (2) The term “Indian child” also means a person who is 18 years
40 of age or older, but under 21 years of age, who is a member of an

1 Indian tribe or eligible for membership in an Indian tribe and who
2 is the biological child of a member or citizen of an Indian tribe,
3 and who is under the jurisdiction of a dependency court. An Indian
4 child custody proceeding involving a person 18 years of age or
5 older shall be conducted in a manner that respects the person's
6 status as a legal adult.

7 (l) (1) "Indian child's tribe" means the Indian tribe of which
8 an Indian child is a member, or in which an Indian child is eligible
9 for membership.

10 (2) In the case of an Indian child who meets the definition of
11 Indian child through more than one tribe, deference to be
12 considered the Indian child's tribe shall be given to the tribe that
13 the Indian child is already a member, unless otherwise agreed to
14 by the tribes.

15 (A) If an Indian child meets the definition of Indian child
16 through more than one tribe because the child is a member of more
17 than one tribe or the child is not a member but is eligible for
18 membership in more than one tribe, the court shall provide the
19 opportunity in any involuntary child custody proceeding for the
20 tribes to determine the tribe that shall be designated as the Indian
21 child's tribe.

22 (B) If the tribes are able to reach an agreement, the ~~agreed-upon~~
23 *agreed-upon* tribe shall be designated as the Indian child's tribe.

24 (C) If the tribes are unable to reach an agreement, the court shall
25 designate as the Indian child's tribe, for purposes of the federal
26 Indian Child Welfare Act of 1978 (ICWA) (25 U.S.C. Sec. 1901
27 et seq.), the Indian tribe ~~that~~ *with which* the Indian child has the
28 most significant contacts, taking into consideration all of the
29 following:

30 (i) Preference of the parents for membership of the child.

31 (ii) Length of past domicile or residence of the Indian child, on
32 or near the reservation of each tribe.

33 (iii) Tribal membership of the child's custodial parent or Indian
34 custodian.

35 (iv) Interest asserted by each tribe in the child custody
36 proceeding.

37 (v) Whether there has been a previous adjudication with respect
38 to the Indian child by a court of one or more of the tribes.

39 (vi) Self-identification by the Indian child, if the child is of
40 sufficient age and capacity to meaningfully self-identify.

1 (3) A determination of the Indian child’s tribe for purposes of
2 ICWA does not constitute a determination for any other purpose.

3 (m) (1) “Indian child custody proceeding” means and includes
4 any action involving an Indian child, other than an emergency
5 proceeding, that may culminate in one of the following outcomes:

6 (A) Foster care placement, which includes any action removing
7 an Indian child from his or her parent or Indian custodian for
8 temporary placement in a foster home or institution or the home
9 of a guardian or conservator where the parent or Indian custodian
10 may not have the child returned upon demand, but where parental
11 rights have not been terminated.

12 (B) Termination of parental rights, which includes any action
13 involving an Indian child resulting in the termination of the
14 parent-child relationship.

15 (C) Preadoptive placement, which includes the temporary
16 placement of an Indian child in a foster home or institution after
17 the termination of parental rights, but prior to or in lieu of adoptive
18 placement.

19 (D) Adoptive placement, which includes the permanent
20 placement of an Indian child for adoption, including any action
21 resulting in a final decree of adoption.

22 (E) If a child is placed in foster care or another out-of-home
23 placement as a result of a status offense, that status offense
24 proceeding is considered a child custody proceeding.

25 (2) An action that may culminate in one of the five outcomes
26 specified pursuant to paragraph (1) is considered a separate child
27 custody proceeding from an action that may culminate in a different
28 one of those five outcomes. There may be several child custody
29 proceedings involving any given Indian child. Within each child
30 custody proceeding, there may be several hearings.

31 (3) ICWA includes requirements that apply whenever an Indian
32 child is the subject of either of the following proceedings:

33 (A) A child custody proceeding, including:

34 (i) An involuntary proceeding.

35 (ii) A voluntary proceeding that may prohibit the parent or
36 Indian custodian from regaining custody of the child upon demand.

37 (iii) A proceeding involving status offenses, if any part of the
38 proceeding results in the need for out-of-home placement of the
39 child, including a foster care, preadoptive, or adoptive placement,
40 or termination of parental rights.

1 (B) An emergency proceeding.

2 (4) If a proceeding listed in paragraph (3) concerns a child who
3 meets the definition of “Indian child,” ICWA applies to that
4 proceeding. In determining whether ICWA applies to a proceeding,
5 the court shall not consider factors that include the participation
6 of the parents or the Indian child in tribal cultural, social, religious,
7 or political activities, the relationship between the Indian child and
8 his or her parents, whether the parent ever had custody of the child,
9 or the Indian child’s blood quantum.

10 (5) If ICWA applies at the commencement of a proceeding, it
11 does not cease to apply simply because the child reaches 18 years
12 of age during the pendency of the proceeding.

13 (n) “Indian custodian” means any Indian who has legal custody
14 of an Indian child under applicable tribal law or custom or state
15 law, or to whom temporary physical care, custody, and control has
16 been transferred by the parent of the child.

17 (o) “Indian foster home” means a foster home where one or
18 more of the licensed or approved foster parents is an Indian as
19 defined in Section 3 of ICWA (25 U.S.C. Sec. 1903(3)).

20 (p) “Indian organization” means, solely for purposes of
21 eligibility for grants, any legally established group, association,
22 partnership, corporation, or other legal entity that is owned or
23 controlled by Indians, or of which a majority of the members are
24 Indians.

25 (q) “Indian preference” means preference and opportunities for
26 employment and training provided to Indians in the administration
27 of grants in accordance with the Indian Self-Determination and
28 Education Assistance Act (25 U.S.C. Sec. 5301 et seq.).

29 (r) “Indian tribe” means any Indian tribe, band, nation, or other
30 organized group or community of Indians federally recognized as
31 eligible for the services provided to Indians by the Secretary of
32 the Interior because of their status as Indians, including any Alaska
33 Native village as defined in Section 1602(c) of the Alaska Native
34 Claims Settlement Act (43 U.S.C. Sec. 1602(c)).

35 (s) “Involuntary proceeding” means a child custody proceeding
36 in which the parent does not consent of his or her free will to the
37 foster care, preadoptive, or adoptive placement, or termination of
38 parental rights. “Involuntary proceeding” also means a child
39 custody proceeding in which the parent consents to the foster care,

1 preadoptive, or adoptive placement, under threat of removal of the
2 child by a state court or agency.

3 (t) “Parent” or “parents” means any biological parent or parents
4 of an Indian child, or any Indian who has lawfully adopted an
5 Indian child, including adoptions under tribal law or custom.
6 “Parent” does not include an unwed biological father if paternity
7 has not been acknowledged or established.

8 (u) “Reservation” means Indian country as defined in Section
9 1151 of Title 18 of the United States Code, and any land not
10 covered under that section, title to which is held by the United
11 States in trust for the benefit of any Indian tribe or individual, or
12 held by any Indian tribe or individual subject to a restriction by
13 the United States against alienation.

14 (v) “Secretary” means the Secretary of the Interior or the
15 secretary’s authorized representative.

16 (w) “Status offense” means an offense that would not be
17 considered criminal if committed by an adult, including, but not
18 limited to, school truancy and incorrigibility.

19 (x) “Tribal court” means a court with jurisdiction over child
20 custody proceedings and that is either a Court of Indian Offenses,
21 a court established and operated under the law or custom of an
22 Indian tribe, or any other administrative body of a tribe vested with
23 authority over child custody proceedings.

24 (y) “Upon demand” means that the parent or Indian custodian
25 may regain custody simply upon verbal request, without any
26 formalities or ~~contingencies~~: *contingencies*.

27 (z) “Voluntary proceeding” means a child custody proceeding
28 that is not an involuntary proceeding, including, but not limited
29 to, a proceeding for fostercare, preadoptive or adoptive placement
30 that either parent, both parents, or the Indian custodian has, of his
31 or her or their free will, without a threat of removal by a state
32 agency, consented to for the Indian child, or a proceeding for
33 voluntary termination of parental rights.

34 SEC. 4. Section 224.2 of the Welfare and Institutions Code is
35 amended to read:

36 224.2. (a) If the court, a social worker, or probation officer
37 knows or has reason to know that an Indian child is involved, any
38 notice sent in an Indian child custody proceeding under this code
39 shall be sent to the minor’s parents or legal guardian, Indian

1 custodian, if any, and the minor's tribe and comply with all of the
2 following requirements:

3 (1) Notice shall be sent by registered or certified mail with return
4 receipt requested. Additional notice by first-class mail is
5 recommended, but not required.

6 (2) Notice to the tribe shall be to the tribal chairperson, unless
7 the tribe has designated another agent for service.

8 (3) Notice shall be given of all child custody hearings, including,
9 but not limited to, detention hearings, disposition hearings, review
10 hearings to terminate reunification services, and adoption hearings.

11 A copy of each notice sent pursuant to this paragraph shall be filed
12 with the court, along with a return receipt or proof of service. The
13 notice required pursuant to this paragraph shall be sent by the party
14 seeking placement of the child to all of the following:

15 (A) Each tribe in which the child is a member or tribe in which
16 the child is eligible for membership if a biological parent is a
17 member.

18 (B) The child's parents.

19 (C) The child's Indian custodian, if applicable.

20 (4) *If the identity or location of the parents, Indian custodian,*
21 *or the minor's tribe* cannot be ascertained, a copy of the notice
22 shall be sent directly to the appropriate Bureau of Indian Affairs
23 regional director. To establish tribal identity, any known
24 information about the child's direct lineal ancestors should be
25 provided to the Bureau of Indian Affairs, who may be able to
26 identify tribes to contact.

27 (5) In addition to the information specified in other sections of
28 this article, notice shall include all of the following information:

29 (A) The name, birth date, and birthplace of the Indian child, if
30 known.

31 (B) The name of any Indian tribe in which the child is a member
32 or tribe in which the child may be eligible for membership, if
33 known.

34 (C) All names known of the Indian child's biological parents,
35 grandparents, and great-grandparents, or Indian custodians,
36 including maiden, married and former names or aliases, as well
37 as their current and former addresses, birth dates, places of birth
38 and death, tribal enrollment information of other direct lineal
39 ancestors of the child, and any other identifying information, if
40 known.

1 (D) A copy of the petition, complaint, or other document by
2 which the Indian child custody proceeding was initiated, and if a
3 hearing has been scheduled, information on the date, time, and
4 location of the hearing.

5 (E) A copy of the child's birth certificate, if available.

6 (F) The location, mailing address, and telephone number of the
7 court and all parties notified pursuant to this section.

8 (G) A statement of the following:

9 (i) The name of the petitioner and the name and address of *the*
10 petitioner's attorney. In an Indian child custody proceeding
11 involving a public or private entity, the statement shall include the
12 name and contact information of the social worker or case manager.

13 (ii) The absolute right of the child's parents, Indian custodians,
14 and tribe to intervene in the proceeding.

15 (iii) The right of the child's parents, Indian custodians, and tribe
16 to petition the court to transfer the proceeding to the tribal court
17 of the Indian child's tribe, absent objection by either parent and
18 subject to declination by the tribal court.

19 (iv) The right of the child's parents, Indian custodians, and tribe
20 to, upon request, be granted up to an additional 20 days from the
21 receipt of the notice to prepare for the proceeding.

22 (v) The potential legal consequences of the proceedings on the
23 future custodial and parental rights of the child's parents or Indian
24 custodians.

25 (vi) That if the parents or Indian custodians are unable to afford
26 counsel, counsel will be appointed to represent the parents or Indian
27 custodians pursuant to Section 1912 of the federal Indian Child
28 Welfare Act of 1978 (25 U.S.C. Sec. 1901 et seq.).

29 (vii) That all parties notified shall keep confidential the
30 information contained in the notice, and the notice shall not be
31 disclosed to anyone who does not need the information to exercise
32 rights under federal law.

33 (viii) The mailing address, telephone number, and email address
34 of the court and information relating to all the parties involved in
35 the child custody proceeding and individuals required to be notified
36 under this section.

37 (b) If a tribe acknowledges that a child is a member or eligible
38 for membership in that tribe, the tribe shall be provided with all
39 notices, reports, pleadings, and other documents that any other

1 party is entitled *to* under this section, unless the tribe declines in
2 writing to receive any further information.

3 (c) Proof of the notice, including copies of notices sent and all
4 return receipts and responses received, shall be filed with the court
5 in advance of the hearing except as permitted under subdivision
6 (d).

7 (d) Except in an emergency Indian child custody proceeding,
8 an Indian child custody proceeding shall not be held until at least
9 10 days after receipt of the notice by the parent, Indian custodian,
10 tribe, and the Secretary of the Interior. The parent, Indian custodian,
11 or tribe may, upon request, be granted up to 20 additional days
12 from the date that the notice was received to prepare for
13 participation in the proceedings. This subdivision does not limit
14 the rights of the parent, Indian custodian, or tribe to more than 10
15 days' notice if a longer notice period is required by other law.

16 (e) With respect to giving notice to Indian tribes, the court shall
17 impose sanctions on a person who knowingly and willfully falsifies
18 or conceals a material fact concerning whether the child is an
19 Indian child, or counsels a party to do so.

20 (f) The inclusion of contact information of any adult or child
21 that would otherwise be required to be included in the notification
22 pursuant to this section, shall not be required if that person is at
23 risk of harm as a result of domestic violence, child abuse, sexual
24 abuse, or stalking.

25 SEC. 5. Section 224.3 of the Welfare and Institutions Code is
26 amended to read:

27 224.3. (a) The court, county welfare department, and the
28 probation department have an affirmative and continuing duty to
29 inquire whether a child is an Indian child, and shall so inquire on
30 the record at any detention hearing, disposition hearing, review
31 hearing to terminate reunification services, or selection and
32 implementation hearing.

33 (b) The duty to inquire begins once there is a reason to know
34 that the child is an Indian child. If there is insufficient evidence to
35 determine if the child is an Indian child, the social worker or
36 probation officer shall make further inquiry and use due diligence
37 to work with all of the tribes of which there is reason to suspect
38 the child may be a member, or eligible for membership, or if a
39 biological parent is a member.

1 (c) If there is reason to know that the child may be an Indian
2 child, but there is insufficient evidence to determine if the child is
3 an Indian child, the social worker or probation officer shall also
4 make further inquiry by interviewing the parents, Indian custodian,
5 and extended family members to gather the information required
6 in paragraph (5) of subdivision (a) of Section 224.2. The social
7 worker or probation officer shall contact the Bureau of Indian
8 Affairs and the State Department of Social Services for assistance
9 in identifying the names and contact information of the tribes in
10 which the child may be a member or eligible for membership and
11 contacting the tribes and any other person that reasonably may be
12 expected to have information regarding the child's membership
13 status or eligibility.

14 (d) The court shall ask each participant in an emergency,
15 voluntary, or involuntary child custody proceeding whether the
16 participant knows or has reason to know that the child is an Indian
17 child. The inquiry shall be made at the commencement of the
18 proceeding and all responses shall be on the record. The court shall
19 instruct the parties to inform the court if they subsequently receive
20 information that provides evidence that the child is an Indian child.

21 (e) If there is reason to know that the child is an Indian child,
22 but the court does not have sufficient evidence to determine that
23 the child is or is not an Indian child, the court shall do both of the
24 following:

25 (1) Confirm, by way of a report, declaration, or testimony
26 included in the record that the agency or other party used due
27 diligence to identify and work with all of the tribes of which there
28 is reason to know the child may be a member, or eligible for
29 membership, or to determine if a biological parent is a member.

30 (2) Treat the child as an Indian child, unless and until it is
31 determined on the record that the child does not meet the definition
32 of an Indian child.

33 (f) The circumstances that may provide reason to know the child
34 is an Indian child include, but are not limited to, the following:

35 (1) A person having an interest in the child, including the child,
36 an officer of the court, a tribe, an Indian organization, a public or
37 private agency, or a member of the child's extended family
38 provides information suggesting the child is a member of a tribe
39 or eligible for membership in a tribe.

1 (2) The residence or domicile of the child, the child’s parents,
2 or Indian custodian is in a predominantly Indian community.

3 (3) The child or the child’s family has received services or
4 benefits from a tribe or services that are available to Indians from
5 tribes or the federal government, including the Indian Health
6 Service.

7 (g) If the court, social worker, or probation officer knows or
8 has reason to know that an Indian child is involved, the social
9 worker or probation officer shall provide notice in accordance with
10 Section 224.2.

11 (h) A determination by an Indian tribe that a child is or is not a
12 member of or eligible for membership in that tribe, or testimony
13 attesting to that status by a person authorized by the tribe to provide
14 that determination, shall be conclusive. Information that the child
15 is not enrolled or eligible for enrollment in the tribe is not
16 determinative of the child’s membership status unless the tribe
17 also confirms in writing that enrollment is a prerequisite for
18 membership under tribal law or custom.

19 SEC. 6. Section 224.6 of the Welfare and Institutions Code is
20 amended to read:

21 224.6. (a) When testimony of a “qualified expert witness” is
22 required in an Indian child custody proceeding, a “qualified expert
23 witness” may include, but is not limited to, a social worker,
24 sociologist, physician, psychologist, traditional tribal therapist and
25 healer, tribal spiritual leader, tribal historian, or tribal elder,
26 provided the individual is not an employee of the person or agency
27 recommending foster care placement or termination of parental
28 rights.

29 (b) In considering whether to involuntarily place an Indian child
30 in foster care or to terminate the parental rights of the parent of an
31 Indian child, the court shall:

32 (1) Require that a qualified expert witness testify regarding
33 whether continued custody of the child by the parent or Indian
34 custodian is likely to result in serious emotional or physical damage
35 to the child.

36 (2) Consider evidence concerning the prevailing social and
37 cultural standards of the Indian child’s tribe, including that tribe’s
38 family organization and child-rearing practices.

1 (c) Persons with the following characteristics, in descending
2 order, are most likely to meet the requirements for a qualified
3 expert witness for purposes of Indian child custody proceedings:

4 (1) A person designated by the Indian child's tribe as being
5 qualified to testify to the prevailing social and cultural standards
6 of the Indian child's tribe.

7 (2) A member of the Indian child's tribe who is recognized by
8 the tribal community as knowledgeable in tribal customs as they
9 pertain to family organization and childrearing practices.

10 (3) An expert witness having substantial experience in the
11 delivery of child and family services to Indians, and extensive
12 knowledge of prevailing social and cultural standards and
13 childrearing practices within the Indian child's tribe.

14 (4) A professional person having substantial education and
15 experience in the area of his or her specialty.

16 (d) The court or any party may request the assistance of the
17 Indian child's tribe or Bureau of Indian Affairs agency serving the
18 Indian child's tribe in locating persons qualified to serve as expert
19 witnesses.

20 (e) The court may accept a declaration or affidavit from a
21 qualified expert witness in lieu of testimony only if the parties
22 have so stipulated in writing and the court is satisfied the stipulation
23 is made knowingly, intelligently, and voluntarily.

24 SEC. 7. Section 305.5 of the Welfare and Institutions Code is
25 amended to read:

26 305.5. (a) (1) The court in any voluntary or involuntary child
27 custody proceeding involving an Indian child shall determine the
28 residence and domicile of the Indian child. If either the residence
29 or domicile is on a reservation in which the tribe exercises
30 exclusive jurisdiction over child custody proceedings, the state
31 court shall expeditiously notify the tribal court of the pending
32 dismissal based on the tribe's exclusive jurisdiction, dismiss the
33 state court child custody proceeding, and ensure that the tribal
34 court is sent all information regarding the Indian child custody
35 proceeding. This information includes, but is not limited to, the
36 pleadings and any court record.

37 (2) If the court determines that a child is a ward of a tribal court,
38 the state court shall expeditiously notify the tribal court of the
39 pending dismissal, dismiss the state court child custody proceeding,
40 and ensure that the tribal court is sent all information regarding

1 the Indian child custody proceeding, including, but not limited to,
2 the pleadings and any court record.

3 (b) In the case of an Indian child who is not domiciled or
4 residing within a reservation of an Indian tribe or who resides or
5 is domiciled within a reservation of an Indian tribe that does not
6 have exclusive jurisdiction over child custody proceedings pursuant
7 to Section 1911 or 1918 of Title 25 of the United States Code, the
8 court shall transfer the proceeding to the jurisdiction of the child's
9 tribe upon petition at any time, either orally on the record or in
10 writing, of either parent, the Indian custodian, if any, or the child's
11 tribe, unless the court finds good cause not to transfer. Upon receipt
12 of a transfer petition, the state court shall ensure the tribal court is
13 promptly notified in writing of the transfer petition. The notification
14 may request a timely response regarding whether the tribal court
15 wishes to decline transfer. The state court shall dismiss the
16 proceeding or terminate jurisdiction only after receiving proof that
17 the tribal court has accepted the transfer of jurisdiction. At the time
18 that the state court dismisses the proceeding or terminates
19 jurisdiction, the state court shall expeditiously provide the tribal
20 court with all records related to the proceeding, including, but not
21 limited to, the pleadings and any court record. The state court shall
22 also make an order transferring the physical custody of the child
23 to the tribal court to ensure the transfer of the custody of the Indian
24 child and the proceeding is accomplished smoothly and in a way
25 that minimizes disruption of services to the family.

26 (c) (1) Upon receipt of a transfer petition from an Indian child's
27 parent, Indian custodian, or tribe, the court shall transfer the Indian
28 child custody proceeding unless the court determines that the
29 transfer is not appropriate because one or more of the following
30 criteria are met:

31 (A) Either parent objects to the transfer.

32 (B) The tribal court declines the transfer.

33 (C) Good cause exists for denying the transfer.

34 (2) If the court believes, or any party asserts, that good cause
35 to deny a transfer exists, the reasons for that belief or assertion
36 shall be stated orally on the record or provided in writing on the
37 record.

38 (3) Each party to the Indian child custody proceeding shall have
39 the opportunity to provide the court with views regarding whether
40 good cause exists to deny the transfer.

1 (4) In determining whether good cause exists, the court shall
2 not consider any of the following:

3 (A) Whether the foster care or termination of parental rights
4 proceeding is at an advanced stage if the Indian child's parent,
5 Indian custodian, or tribe did not receive notice of the Indian child
6 custody proceeding until an advanced stage.

7 (B) Whether there have been prior proceedings involving the
8 child for which no petition to transfer was filed.

9 (C) Whether the transfer could affect the placement of the child.

10 (D) The Indian child's cultural connections with the tribe or its
11 reservation.

12 (E) The socioeconomic conditions or any negative perception
13 of tribal or Bureau of Indian Affairs social services or judicial
14 systems.

15 (5) The basis for any court decision to deny a transfer shall be
16 stated orally on the record or in a written order.

17 (d) This section does not prevent the emergency removal of an
18 Indian child who is a ward of a tribal court or resides or is
19 domiciled within a reservation of an Indian tribe, but is temporarily
20 located off the reservation, from a parent or Indian custodian or
21 the emergency placement of the child in a foster home or institution
22 in order to prevent imminent physical damage or harm to the child.
23 Pursuant to this section, the state or local authority shall ensure
24 that the emergency removal or placement terminates immediately
25 when the removal or placement is no longer necessary to prevent
26 imminent physical damage or harm to the child and shall
27 expeditiously initiate an Indian child custody proceeding, transfer
28 the child to the jurisdiction of the Indian child's tribe, or restore
29 the child to the parent or Indian custodian, as may be appropriate.

30 (e) An emergency removal or placement of an Indian child shall
31 terminate immediately if the removal or placement is no longer
32 necessary to prevent imminent physical damage or harm to the
33 child.

34 (f) In a proceeding for an emergency removal or placement of
35 an Indian child, the court shall do all of the following:

36 (1) Make a finding on the record that the emergency removal
37 or placement is necessary to prevent imminent physical damage
38 or harm to the child.

1 (2) Promptly hold a hearing on whether the emergency removal
2 or placement continues to be necessary whenever new information
3 indicates that the emergency situation has ended.

4 (3) At each court hearing related to the emergency removal or
5 placement, determine whether the emergency removal or placement
6 is no longer necessary to prevent imminent physical damage or
7 harm to the child.

8 (4) Immediately terminate, or ensure that the county social
9 welfare department immediately terminates, the emergency
10 proceeding once the court or county social welfare department
11 possesses sufficient evidence to determine that the emergency
12 removal or placement is no longer necessary to prevent imminent
13 physical damage or harm to the child.

14 (g) A proceeding for an emergency removal or placement may
15 be terminated by one or more of the following actions:

16 (1) Initiation of a child custody proceeding subject to the
17 provisions of the federal Indian Child Welfare Act of 1978 (25
18 U.S.C. Sec. 1901 ~~et seq.~~ *seq.*).

19 (2) Transfer of the child to the jurisdiction of the appropriate
20 Indian tribe.

21 (3) Restoration of the child to the parent or Indian custodian.

22 (h) A petition for a court order authorizing the emergency
23 removal or continued emergency placement, and its accompanying
24 documents, shall contain a statement of the risk of imminent
25 physical damage or harm to the Indian child and any evidence that
26 the emergency removal or placement continues to be necessary to
27 prevent that imminent physical damage or harm to the child. The
28 petition and its accompanying documents shall also contain the
29 following information:

30 (1) The name, age, and last known address of the child.

31 (2) The name and address of the child's parent or Indian
32 custodian, if any.

33 (3) The steps taken to provide notice to the child's parent, *Indian*
34 custodian, and tribe of the emergency proceeding.

35 (4) If the child's parents or Indian custodians are unknown, a
36 detailed explanation of the efforts that have been made to locate
37 and contact them, including contact with the Secretary of the
38 Interior.

39 (5) The residence and the domicile of the Indian child.

1 (6) If either the residence or the domicile of the Indian child is
2 believed to be on a reservation or in an Alaska Native village, the
3 name of the tribe affiliated with that reservation or village.

4 (7) The tribal affiliation of the child and of the parents or Indian
5 custodian.

6 (8) A specific and detailed account of the circumstances that
7 led the agency responsible for the emergency removal of the child
8 to take that action.

9 (9) If the child is believed to reside or be domiciled on a
10 reservation where the tribe exercises exclusive jurisdiction over
11 child custody matters, a statement of efforts that have been made
12 and that are being made to contact the tribe and transfer the child
13 to the tribe's jurisdiction.

14 (10) A statement of the efforts that have been taken to assist the
15 parent or Indian custodian so that the Indian child may safely be
16 returned to his or her custody.

17 (i) If, in the course of an Indian child custody proceeding, a
18 party asserts or the court has reason to believe, that the Indian child
19 may have been improperly removed from the custody of his or her
20 parent or Indian custodian, or that the Indian child has been
21 improperly retained, the court shall expeditiously determine
22 whether there was improper removal or retention. If the court finds
23 that the Indian child was improperly removed or retained, the court
24 shall terminate the proceeding and the child shall be returned
25 immediately to his or her parent or Indian custodian, unless
26 returning the child to the parent or Indian custodian would subject
27 the child to substantial and immediate danger or threat of danger.

28 (j) When an Indian child is transferred from a county juvenile
29 court to an Indian tribe pursuant to subdivision (a), (b), or (d), the
30 county shall, pursuant to Section 827.15, release the child case file
31 to the tribe having jurisdiction.

32 SEC. 8. Section 361.31 of the Welfare and Institutions Code
33 is amended to read:

34 361.31. (a) If an Indian child is removed from the physical
35 custody of his or her parents or Indian custodian pursuant to
36 Section 361, the child's placement shall comply with this section.
37 The placement shall be analyzed each time there is a change in
38 placement.

39 (b) Any foster care or guardianship placement of an Indian child,
40 or any emergency removal of a child who is known to be, or if

1 there is reason to know that the child is, an Indian child shall be
2 in the least restrictive setting that most approximates a family
3 situation and in which the child's special needs, if any, may be
4 met. The child shall also be placed within reasonable proximity
5 to the child's home, taking into account any special needs of the
6 child. Preference shall be given to the child's placement with one
7 of the following, in descending priority order:

8 (1) A member of the child's extended family, as defined in
9 Section 1903 of the federal Indian Child Welfare Act of 1978 (25
10 U.S.C. Sec. 1901 et seq.).

11 (2) A foster home licensed, approved, or specified by the child's
12 tribe.

13 (3) An Indian foster home licensed or approved by an authorized
14 non-Indian licensing authority.

15 (4) An institution for children approved by an Indian tribe or
16 operated by an Indian organization that has a program suitable to
17 meet the Indian child's needs.

18 (c) In any adoptive placement of an Indian child, preference
19 shall be given to a placement with one of the following, in
20 descending priority order:

21 (1) A member of the child's extended family, as defined in
22 Section 1903 of the federal Indian Child Welfare Act of 1978 (25
23 U.S.C. Sec. 1901 et seq.).

24 (2) Other members of the child's tribe.

25 (3) Another Indian family.

26 (d) Notwithstanding the placement preferences listed in
27 subdivisions (b) and (c), if a different order of placement preference
28 is established by the child's tribe, the court or agency effecting the
29 placement shall follow the order of preference established by the
30 tribe, so long as the placement is the least restrictive setting
31 appropriate to the particular needs of the child as provided in
32 subdivision (b).

33 (e) Where appropriate, the placement preference of the Indian
34 child, if of sufficient age, or parent shall be considered. In applying
35 the preferences, a consenting parent's request for anonymity shall
36 also be given weight by the court or agency effecting the
37 placement.

38 (f) The prevailing social and cultural standards of the Indian
39 community in which the parent or extended family members of
40 an Indian child reside, or with which the parent or extended family

1 members maintain social and cultural ties, or the prevailing social
2 and cultural standards of the Indian child's tribe shall be applied
3 in meeting the placement preferences under this section. A
4 determination of the applicable prevailing social and cultural
5 standards may be confirmed by the Indian child's tribe or by the
6 testimony or other documented support of a qualified expert
7 witness, as defined in subdivision (c) of Section 224.6, who is
8 knowledgeable regarding the social and cultural standards of the
9 Indian child's tribe.

10 (g) Any person or court involved in the placement of an Indian
11 child shall use the services of the Indian child's tribe, whenever
12 available through the tribe, in seeking to secure placement within
13 the order of placement preference established in this section and
14 in the supervision of the placement.

15 (h) If a party asserts that good cause not to follow the placement
16 preferences exists, the reason for that assertion shall be stated
17 orally on the record or provided in writing to the parties to the
18 child custody proceeding and the court.

19 (i) The party seeking departure from the placement preferences
20 shall bear the burden of proving by clear and convincing evidence
21 that there is good cause to depart from the placement preferences.

22 (j) A court's determination of good cause to depart from the
23 placement preferences shall be made on the record or in writing
24 and shall be based on one or more of the following considerations:

25 (1) The request of one or both of the Indian child's parents, if
26 they attest that they have reviewed the placement options.

27 (2) The request of the child, if the child is of sufficient age and
28 capacity to understand the decision that is being made.

29 (3) The presence of a sibling attachment that can be maintained
30 only through a particular placement.

31 (4) The extraordinary physical, mental, or emotional needs of
32 the Indian child, including, but not limited to, specialized treatment
33 services that may be unavailable in the community ~~of~~ in which the
34 child will be placed.

35 (5) The unavailability of a suitable placement after a
36 determination by the court that a diligent search was conducted.
37 For purposes of this paragraph, the standard for determining
38 whether a placement is unavailable shall conform to the prevailing
39 social and cultural standards of the Indian community in which
40 the Indian child's parent or extended family resides or with which

1 the Indian child's parent or extended family members maintain
2 social and cultural ties.

3 (k) A placement shall not depart from the preferences based on
4 the socioeconomic status of any placement relative to another
5 placement.

6 (l) A placement shall not depart from the preferences based
7 solely on ordinary bonding or attachment that flowed from time
8 spent in a nonpreferred placement that was made in violation of
9 the federal Indian Child Welfare Act of 1978 (25 U.S.C. Sec. 1901
10 et seq.).

11 (m) A record of each foster care placement or adoptive
12 placement of an Indian child shall be maintained in perpetuity by
13 the State Department of Social Services. The record shall document
14 the active efforts to comply with the applicable order of preference
15 specified in this section, and shall be made available within 14
16 days of a request by a tribe.

17 SEC. 9. Section 361.7 of the Welfare and Institutions Code is
18 amended to read:

19 361.7. (a) Notwithstanding Section 361.5, a party seeking an
20 involuntary foster care placement of, or termination of parental
21 rights over, an Indian child shall provide evidence to the court that
22 active efforts have been made to provide remedial services and
23 rehabilitative programs designed to prevent the breakup of the
24 Indian family and that these efforts have proved unsuccessful. The
25 active efforts shall be documented in detail in the record.

26 (b) What constitutes active efforts shall be assessed on a
27 case-by-case basis. The active efforts shall be made in a manner
28 that takes into account the prevailing social and cultural values,
29 conditions, and way of life of the Indian child's tribe. Active efforts
30 shall utilize the available resources of the Indian child's extended
31 family, tribe, tribal and other Indian social service agencies, and
32 individual Indian caregiver service providers.

33 (c) A foster care placement or guardianship shall not be ordered
34 in the proceeding in the absence of a determination, supported by
35 clear and convincing evidence, including testimony of a qualified
36 expert witness, as defined in Section 224.6, that the continued
37 custody of the child by the parent or Indian custodian is likely to
38 result in serious emotional or physical damage to the child.

39 SEC. 10. Section 16507.4 of the Welfare and Institutions Code
40 is amended to read:

1 16507.4. (a) Notwithstanding any other provisions of this
2 chapter, voluntary family reunification services shall be provided
3 without fee to families who qualify, or would qualify if application
4 had been made therefor, as recipients of public assistance under
5 the Aid to Families with Dependent Children program as described
6 in the State Plan in effect on July 1, 1996. If the family is not
7 qualified for aid, voluntary family reunification services may be
8 utilized, provided that the county seeks reimbursement from the
9 parent or guardian on a statewide sliding scale according to income
10 as determined by the State Department of Social Services and
11 approved by the Department of Finance. The fee may be waived
12 if the social worker determines that the payment of the fee may
13 be a barrier to reunification. Section 17552 of the Family Code
14 shall also apply.

15 (b) An out-of-home placement of a minor without adjudication
16 by the juvenile court may occur only when all of the following
17 conditions exist:

18 (1) There is a mutual decision between the child's parent or
19 guardian and the county welfare department in accordance with
20 regulations promulgated by the State Department of Social
21 Services.

22 (2) There is a written agreement between the county welfare
23 department and the parent or guardian specifying the terms of the
24 voluntary placement. The State Department of Social Services
25 shall develop a form for voluntary placement agreements that shall
26 be used by all counties. The form shall indicate that foster care
27 under the Aid to Families with Dependent Children program is
28 available to those children.

29 (3) If there is reason to know that a child is an Indian child
30 pursuant to Section 224.3, the following criteria are met:

31 (A) The parent or Indian custodian's consent to the voluntary
32 out-of-home placement is executed in writing at least 10 days after
33 the child's birth and recorded before a judge.

34 (B) The judge certifies that the terms and consequences of the
35 consent were fully explained in detail in English and were fully
36 understood by the parent or that they were interpreted into a
37 language that the parent understood.

38 (C) A parent of an Indian child may withdraw his or her consent
39 for any reason at any time and the child shall be returned to the
40 parent.

1 (D) The placement preferences are in compliance with Section
2 366.31.

3 (c) In the case of a voluntary placement pending relinquishment,
4 a county welfare department shall have the option of delegating
5 to a licensed private adoption agency the responsibility for
6 placement by the county welfare department. If a delegation occurs,
7 the voluntary placement agreement shall be signed by the county
8 welfare department, the child’s parent or guardian, and the licensed
9 private adoption agency.

10 (d) The State Department of Social Services shall amend its
11 plan pursuant to Part E (commencing with Section 670) of
12 Subchapter IV of Chapter 7 of Title 42 of the United States Code
13 in order to conform to mandates of Public Law 96-272 and Public
14 Law 110-351 for federal financial participation in voluntary
15 placements.

16 SEC. 11. No reimbursement is required by this act pursuant to
17 Section 6 of Article XIII B of the California Constitution because
18 this act implements a federal law or regulation and results only in
19 costs mandated by the federal government, within the meaning of
20 Section 17556 of the Government Code.

ASSEMBLY BILL

No. 3047

**Introduced by Assembly Member Daly
(Coauthor: Assembly Member Reyes)**

February 16, 2018

An act to amend Section 70617 of the Government Code, relating to court fees.

LEGISLATIVE COUNSEL'S DIGEST

AB 3047, as introduced, Daly. Court fees: waiver: Indian Child Welfare Act.

Existing law establishes fees for various court filings, including a \$500 fee for filing in superior court an application to appear as counsel pro hac vice and a fee for the annual renewal of that application.

This bill would waive the fee and renewal fee for filing pro hac vice when the applicant is an attorney representing a tribe in a child welfare matter under the federal Indian Child Welfare Act.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 70617 of the Government Code, as
- 2 amended by Section 9 of Chapter 26 of the Statutes of 2015, is
- 3 amended to read:
- 4 70617. (a) Except as provided in subdivisions (d) and (e), the
- 5 uniform fee for filing a motion, application, or any other paper
- 6 requiring a hearing subsequent to the first paper, is forty dollars

- 1 (\$40). Papers for which this fee shall be charged include the
2 following:
- 3 (1) A motion listed in paragraphs (1) to (12), inclusive, of
4 subdivision (a) of Section 1005 of the Code of Civil Procedure.
 - 5 (2) A motion or application to continue a trial date.
 - 6 (3) An application for examination of a third person controlling
7 defendant’s property under Section 491.110 or 491.150 of the
8 Code of Civil Procedure.
 - 9 (4) Discovery motions under Title 4 (commencing with Section
10 2016.010) of Part 4 of the Code of Civil Procedure.
 - 11 (5) A motion for a new trial of ~~any~~ a civil action or special
12 proceeding.
 - 13 (6) An application for an order for a judgment debtor
14 examination under Section 708.110 or 708.160 of the Code of
15 Civil Procedure.
 - 16 (7) An application for an order of sale of a dwelling under
17 Section 704.750 of the Code of Civil Procedure.
 - 18 (8) An ex parte application that requires a party to give notice
19 of the ex parte appearance to other parties.
 - 20 (b) There shall be no fee under subdivision (a) or (c) for filing
21 any of the following:
 - 22 (1) A motion, application, demurrer, request, notice, or
23 stipulation and order that is the first paper filed in an action and
24 on which a first paper filing fee is paid.
 - 25 (2) An amended notice of motion.
 - 26 (3) A civil case management statement.
 - 27 (4) A request for trial de novo after judicial arbitration.
 - 28 (5) A stipulation that does not require an order.
 - 29 (6) A request for an order to prevent civil harassment.
 - 30 (7) A request for an order to prevent domestic violence.
 - 31 (8) A request for entry of default or default judgment.
 - 32 (9) A paper requiring a hearing on a petition for emancipation
33 of a minor.
 - 34 (10) A paper requiring a hearing on a petition for an order to
35 prevent abuse of an elder or dependent adult.
 - 36 (11) A paper requiring a hearing on a petition for a writ of
37 review, mandate, or prohibition.
 - 38 (12) A paper requiring a hearing on a petition for a decree of
39 change of name or gender.

1 (13) A paper requiring a hearing on a petition to approve the
2 compromise of a claim of a minor.

3 (c) The fee for filing the following papers not requiring a hearing
4 is twenty dollars (\$20):

5 (1) A request, application, or motion for, or a notice of, the
6 continuance of a hearing or case management conference. The fee
7 shall be charged no more than once for each continuance. The fee
8 shall not be charged if the continuance is required by the court.

9 (2) A stipulation and order.

10 (3) A request for an order authorizing service of summons by
11 posting or by publication under Section 415.45 or 415.50 of the
12 Code of Civil Procedure.

13 (d) The fee for filing a motion for summary judgment or
14 summary adjudication of issues is five hundred dollars (\$500).

15 (e) (1) The fee for filing in the superior court an application to
16 appear as counsel pro hac vice is five hundred dollars (\$500). This
17 fee is in addition to any other fee required of the applicant. Two
18 hundred fifty dollars (\$250) of the fee collected under this
19 paragraph shall be transmitted to the state for deposit into the
20 Immediate and Critical Needs Account of the State Court Facilities
21 Construction Fund, established in Section 70371.5. The remaining
22 two hundred fifty dollars (\$250) of the fee shall be transmitted to
23 the state for deposit into the Trial Court Trust Fund, established
24 in Section 68085.

25 (2) An attorney whose application to appear as counsel pro hac
26 vice has been granted shall pay to the superior court, on or before
27 the anniversary of the date the application was granted, an annual
28 renewal fee of five hundred dollars (\$500) for each year that the
29 attorney maintains pro hac vice status in the case in which the
30 application was granted. The entire fee collected under this
31 paragraph shall be transmitted to the state for deposit into the Trial
32 Court Trust Fund, established in Section 68085.

33 (3) *Fees imposed by this subdivision shall be waived when the*
34 *applicant is an attorney representing a tribe in a child welfare*
35 *matter under the federal Indian Child Welfare Act (25 U.S.C. Sec.*
36 *1901 et seq.).*

37 (f) Regardless of whether each motion or matter is heard at a
38 single hearing or at separate hearings, the filing fees required by
39 subdivisions (a), (c), (d), and (e) apply separately to each motion

- 1 or other paper filed. The Judicial Council may publish rules to
- 2 give uniform guidance to courts in applying fees under this section.
- 3 (g) This section shall become operative on July 1, 2018.

O

ASSEMBLY BILL

No. 3076

**Introduced by Assembly Member Reyes
(Coauthor: Assembly Member Daly)**

February 16, 2018

An act to add Section 10553.13 to the Welfare and Institutions Code, relating to child welfare.

LEGISLATIVE COUNSEL'S DIGEST

AB 3076, as introduced, Reyes. Indian child welfare: legal services.

Existing federal law, the Indian Child Welfare Act, governs the proceedings for determining the placement of an Indian child when that child is removed from the custody of his or her parent or guardian. Existing provisions of state law govern child custody proceedings, adoption proceedings, and dependency proceedings, including termination of parental rights, the voluntary relinquishment of a child by a parent, and guardianship proceedings. Existing law recognizes that the Indian Child Welfare Act applies if the subject of these proceedings is or may be an Indian child, and specifies conforming procedures in these cases with regard to the right to notice and intervention accorded the child's tribe and the standard of proof applied in evaluating the evidence submitted, among other things.

Existing law authorizes the Director of Social Services to enter into an agreement with a tribe, consortium of tribes, or tribal organization, regarding the care and custody of Indian children and jurisdiction over Indian child custody proceedings, under specified circumstances. Existing law requires these agreements to provide for the delegation to the tribe, consortium of tribes, or tribal organization the responsibility that would otherwise be the responsibility of the county for the provision

of child welfare services or assistance payments under the Aid to Families with Dependent Children-Foster Care (AFDC-FC) program, under which counties provide payments to foster care providers on behalf of qualified children in foster care, or both.

This bill would, subject to funding in the annual Budget Act, require the State Department of Social Services to provide grants to qualified nonprofit legal services organizations to provide legal services to Indian tribes in, and legal training and technical assistance to eligible nonprofit organizations regarding, child welfare matters under the Indian Child Welfare Act. The bill would require that the grants be provided only to qualified nonprofit legal services organizations that meet specified requirements, including specified years of related experience and meeting the requirements to receive funding from the Trust Fund Program administered by the State Bar of California. The bill would require the department to annually report to the fiscal committees of the Legislature specified information, including the implementation timeline and any further barriers and challenges to Indian tribes in obtaining legal services in these child welfare matters.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 10553.13 is added to the Welfare and
- 2 Institutions Code, to read:
- 3 10553.13. (a) Subject to funding in the annual Budget Act,
- 4 the department shall provide grants to qualified nonprofit legal
- 5 services organizations, as described in this section.
- 6 (b) Grants shall be for the purpose of providing one or both of
- 7 the following services:
- 8 (1) Legal services to Indian tribes in child welfare matters under
- 9 the federal Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.).
- 10 (2) (A) Legal training and technical assistance to eligible
- 11 nonprofit organizations regarding child welfare matters under the
- 12 federal Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.).
- 13 (B) For purposes of this section, the following definitions shall
- 14 apply:
- 15 (i) “Legal training and technical assistance” includes, but is not
- 16 limited to, webinars, in-person training, and technical assistance
- 17 in the form of answering questions via telephone, email, or fax.

1 (ii) “Eligible nonprofit organization” means an organization
2 that meets the requirements set forth in Section 501(c)(3),
3 501(c)(4), or 501(c)(5) of the United States Internal Revenue Code.

4 (c) Grants shall be provided only to qualified nonprofit legal
5 services organizations that meet all of the following requirements:

6 (1) The requirements set forth in Section 501(c)(3), 501(c)(4),
7 or 501(c)(5) of the United States Internal Revenue Code.

8 (2) The requirements to receive funding from the Trust Fund
9 Program administered by the State Bar of California.

10 (3) Have conducted trainings on the federal Indian Child Welfare
11 Act (25 U.S.C. Sec. 1901 et seq.) for persons beyond their staff.

12 (4) Except as provided in paragraph (5), have at least three years
13 of experience handling child welfare matters under the federal
14 Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.).

15 (5) For a legal services organization that provides legal training
16 and technical assistance, have at least 10 years of experience
17 conducting legal services for Indian tribes.

18 (d) Grant recipients shall maintain adequate legal malpractice
19 insurance.

20 (e) The department shall annually report all of the following
21 information to the fiscal committees of the Legislature:

22 (1) Implementation timeline.

23 (2) Number of applications submitted.

24 (3) Qualified nonprofit legal services organizations that were
25 awarded grants.

26 (4) Any further barriers and challenges to Indian tribes in
27 obtaining legal services in child welfare matters under the federal
28 Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.).



JUDICIAL COUNCIL
OF CALIFORNIA

455 Golden Gate Avenue
San Francisco, CA
94102-3688
Tel 415-865-4200
TDD 415-865-4272
Fax 415-865-4205
WWW.COURTS.CA.GOV

FACT SHEET

February 2016

Youth Courts

The first youth court programs grew out of efforts by the American Bar Association and other national and community organizations to hold youth accountable for their actions before they develop a pattern of law-breaking behavior. Youth courts began in Odessa, Texas in the early 1980s and eventually arrived in California's Humboldt and Contra Costa Counties in the mid- to late-1980s. Youth courts are also known as peer courts, teen courts and student courts. According to statistics from the U.S. Office of Juvenile Justice and Delinquency Prevention (OJJDP), there were 78 youth courts in 1994, and there are now approximately 1,400 youth courts in 49 states.

What are Youth Courts?

Youth court is a diversion program and an alternative approach to the traditional juvenile justice system. A youth charged with an offense has the opportunity to waive the hearing and sentencing procedures of traditional juvenile court and agree to a sentencing forum with a jury of their peers. Youth court provides real consequences for first-time juvenile offenders and involves teen volunteers and former defendants in the court process. Through direct participation, youth court is designed to educate youth about the juvenile justice system, while addressing each juvenile's accountability to their community and peers.

The target population is teens arrested on misdemeanor charges and some minor felonies—anything from graffiti writing to small-time drug sales. These courts usually handle nonviolent first-time defendants accused of shoplifting, vandalism, starting schoolyard fights, and committing crimes unlikely to be prosecuted otherwise.

Youth courts allow teens to hold each other accountable for their illegal actions and reduce the likelihood that teens will engage in delinquent behavior. Teens and parents, who are required to be involved in their teen's intake session and court hearings, get exposure to the judicial process and are likely to realize the importance of being proactive in making changes in their lives.

Teen Court puts an end to the 'revolving door' and empowers our young people to take responsibility for their actions and the actions of their peers. _ Honorable Judge Thomas Adams, Santa Barbara County Superior Court

Benefits of Youth Court

Although research on youth courts is still emerging, individual research conducted on youth court programs across the nation has found outcomes at least as positive as other diversionary alternatives, and some that were superior to other alternatives. Recent studies show that youth court participation produces the following benefits:

- *Accountability:* Youth court helps ensure that juvenile offenders are held accountable for their illegal behavior, even when their offenses are relatively minor and would not likely result in sanctions from the traditional juvenile justice system.
- *Timeliness:* An effective youth court can move juvenile offenders from arrest to sanctions within few days rather than the months that may pass with traditional juvenile courts. This expedited response may increase the positive impact of court sanctions, regardless of their severity.
- *Cost savings:* Youth court is a cost-effective alternative to traditional juvenile court for some young offenders because youth court workers are volunteers, and because of reduced recidivism. If managed properly, a youth court may handle a substantial number of offenders at relatively little cost to the community.
- *Community connection:* A successful youth court may affect the entire community by increasing public appreciation of the legal system, enhancing community-court relationships, encouraging greater respect for the law among youth, and promoting volunteerism among both adults and youth.
- *Youth Influence Youth:* Teens respond better to pro-social peers than to adult authority figures; hence, they react positively to the youth court program. Youth court provides young people with avenues for positive development and personal success. Youth volunteers learn from each other and gain a deeper understanding of the legal system.
- *Prevention:* Youth courts prevent further delinquent acts by empowering and educating youth.

Youth Court Resources

Desktop Guide Provides Key Information on Cases Handled by Youth Courts

The [American Bar Association](#) (ABA) and the Office of Juvenile Justice and Delinquency Prevention (OJJDP) have announced the release of [Youth Cases for Youth Courts: A Guide to the Typical Offenses Handled by Youth Courts](#) (PDF). Published by the ABA with funding from OJJDP and others, this desktop guide provides community leaders with helpful information that equips them to address questions critical to the effective implementation of youth courts.

[National Association of Youth Courts](#)

[California Association of Youth Courts](#)

[Center for Court Innovation](#)

Contact:

Donna Strobel, MS, Analyst, Center for Families, Children & the Courts, 415-865-8024, donna.strobel@jud.ca.gov

Yolanda Leung, Associate Analyst, Center for Families, Children & the Courts, 415-865-8075, yolanda.leung@jud.ca.gov

CALIFORNIA ASSOCIATION OF YOUTH COURTS
and the
Judicial Council of California
invite you to

Save the Date
June 21 – 23, 2018

**13th Annual
Youth Court
Summit**



Uniting Together to Lead Tomorrow

Join us for California's leading educational and training event for youth courts throughout the state. This year's summit will be held at Sonoma State University.



*Registration opens end of April
\$150/Youth and \$250/Adults*

Visit our website for future details:

<http://calyouthcourts.com/>



JUDICIAL COUNCIL
OF CALIFORNIA

SAVE THE DATE

California Association of Youth Courts
and the
Judicial Council of California
invites you to attend

Creating Alternatives in Juvenile Justice

Youth Court Regional Roundtable

April 26, 2018

10:00 am – 3:00 pm

Riverside District Attorney's Office, Press Room

3960 Orange Street, Riverside, CA 92501



Youth courts provide an alternative approach to the traditional juvenile justice system for first time, non-violent offenders and are designed to educate youth about the juvenile justice system while addressing each juvenile's accountability to his or her community and peers. The purpose of the roundtable is to highlight promising practices in youth courts and to address truancy and discipline issues in school. Join the discussion on how youth courts can be used to respond to these growing issues.

To register: [Riverside Roundtable Registration](#)

There is a \$25 registration fee to cover the cost of materials and food. Registration closes April 19.

~~~~~

**3.5 hours of MCLE Credit is available for licensed attorneys.** The Judicial Council is approved as a Mandatory Continuing Legal Education (MCLE) provider by the State Bar of California.

**4.5 hours of STC Credit:** This roundtable offers Standards and Training for Corrections (STC) credit.

For additional information, contact Donna Strobel at [donna.strobel@jud.ca.gov](mailto:donna.strobel@jud.ca.gov) or (415) 865-8024.



JUDICIAL COUNCIL  
OF CALIFORNIA