



# JUDICIAL COUNCIL OF CALIFORNIA

## JUDICIAL BRANCH BUDGET COMMITTEE

**MATERIALS FOR JUNE 15, 2017**

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# JUDICIAL COUNCIL OF CALIFORNIA

## JUDICIAL BRANCH BUDGET COMMITTEE

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[JBBC@jud.ca.gov](mailto:JBBC@jud.ca.gov)

### JUDICIAL BRANCH BUDGET COMMITTEE

#### OPEN MEETING WITH CLOSED SESSION AGENDA

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

OPEN PORTION OF THIS MEETING IS BEING RECORDED

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**Date:** June 15, 2017  
**Time:** 10:00 a.m.  
**Location:** 455 Golden Gate Avenue, Redwood Room, San Francisco, CA 94102  
**Public Call-in Number:** 1-877-820-7831 Passcode 6677064

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Meeting materials for open portions of the meeting 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.

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

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##### **Call to Order and Roll Call**

##### **Approval of Minutes**

Approve minutes of the May 17, 2017, Judicial Branch Budget Committee meeting.

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

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##### **Public Comment**

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

##### **Written Comment**

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

should be e-mailed to [JBBC@jud.ca.gov](mailto:JBBC@jud.ca.gov) or mailed or delivered to 455 Golden Gate Avenue, San Francisco, CA 94102, attention: Lucy Fogarty. Only written comments received by 10:00 a.m. on June 14, 2017 will be provided to advisory body members prior to the start of the meeting.

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**III. INFORMATION ONLY ITEMS (NO ACTION REQUIRED)**

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**Info 1**

**Budget Update**

Update on the 2017-2018 judicial branch budget.

Presenter(s)/Facilitator(s): Mr. Zlatko Theodorovic, Director, Judicial Council Budget Services

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**IV. DISCUSSION AND POSSIBLE ACTION ITEMS (ITEMS X-X)**

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**Item 1**

**2018-2019 Judicial Branch Budget Change Proposal Concepts (Action Required)**

Review and prioritization of judicial branch Budget Change Proposal concepts.

Presenter(s)/Facilitator(s): Budget Services Ms. Madelynn McClain, Budget Supervisor, Judicial Council

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**V. ADJOURNMENT**

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**Adjourn to Closed Session**

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**VI. CLOSED SESSION (CAL. RULES OF COURT, RULE 10.75(D))**

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**Item 1**

**Innovations Grant Program (Cal. Rules of Court, Rule 10.75(d)(9))**

Review of Requests from Grantees regarding Innovations Grant Programs.

Presenter(s)/Facilitator(s): Ms. Laura Speed, Supervising Attorney, Office of Governmental Affairs

Ms. Maureen Dumas, Principal Manager, Special Projects

**Adjourn Closed Session**



# JUDICIAL COUNCIL OF CALIFORNIA

## JUDICIAL BRANCH BUDGET COMMITTEE

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### JUDICIAL BRANCH BUDGET COMMITTEE

### MINUTES OF OPEN MEETING

May 17, 2017

8:30 am to 12:00 pm

Redwood Room, San Francisco

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**Advisory Body  
Members Present:**

Hon. David M. Rubin (Chair), Hon. James M. Humes, (Vice-Chair), Hon. Marla O. Anderson, Hon. Jeffrey B. Barton (phone), Hon. Kyle S. Brodie, Hon. Gary Nadler, Hon. Dean T. Stout, Ms. Kimberly Flener, and Ms. Audra Ibarra.

**Advisory Body  
Members Absent:**

**Others Present:**

Ms. Jody Patel, Mr. John Wordlaw, Mr. Zlatko Theodorovic (phone), Ms. Lucy Fogarty, Ms. Brandy Sanborn, Ms. Laura Speed, and Ms. Madelynn McClain.

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#### OPEN MEETING

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##### **Call to Order and Roll Call**

The chair called the meeting to order at 8:34 am, and roll was taken. No public comments were received.

##### **Approval of Minutes**

The committee reviewed and approved the minutes of the March 22, 2017 Judicial Branch Budget Committee Meeting.

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#### INFORMATIONAL ITEMS

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##### **Item 1**

##### **Update Regarding Governor's May Revision (No Action Required)**

Update regarding the aspects of the Governor's May Revision that are of interest to the judicial branch.

Presenter(s)/Facilitator(s): Mr. Zlatko Theodorovic, Director, Judicial Council

**Action:** *This was an informational item with no action taken.*

##### **Item 2**

##### **2018-2019 Budget Change Proposals Update (No Action Required)**

Update regarding the status of 2018-2019 budget change proposals.

Presenter(s)/Facilitator(s): Ms. Madelynn McClain, Budget Supervisor, Judicial Council

**Action:** *This was an informational item with no action taken.*

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**A D J O U R N M E N T**

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There being no further business, the meeting was adjourned at 9:03 am.

Approved by the advisory body on enter date.



## JUDICIAL COUNCIL OF CALIFORNIA

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### MEMORANDUM

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Date	Action Requested
June 15, 2017	Approve and prioritize FY 2018–2019 Judicial Branch Budget Change Proposal Concepts
To	Date of Report
Members of the Judicial Branch Budget Committee	June 9, 2017
From	Contact
Lucy Fogarty, Deputy Director, Budget Services	Madelynn McClain Budget Services 916–263–1752 phone madelynn.mcclain@jud.ca.gov
Subject	
FY 2018–2019 Judicial Branch Budget Change Proposal Concepts	

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#### **Executive Summary**

There are twenty-five budget change proposal (BCP) concepts before the Judicial Branch Budget Committee for review, organization, and prioritization. The recommendations of the committee will be submitted to the Judicial Council in July 2017 for approval of submission of BCPs to the Department of Finance in September 2017.

#### **Background**

Under California Rules of Court, rule 10.101(b)(3), the Judicial Council must “[d]evelop the budget of the judicial branch based on the priorities established and the needs of the courts.” To that end, the council submits budget proposals on behalf of the Supreme Court, Courts of Appeal, Judicial Council, Judicial Branch Facilities Program, trial courts, and Habeas Corpus Resource Center to the Department of Finance.

In past years, advisory bodies have developed and prioritized BCPs within their purview and Judicial Council staff has compiled all proposed BCPs into a branch-wide list. This list was reviewed by the Chief Justice and Administrative Director for preliminary prioritization as a starting point for the Judicial Council. The preliminary prioritized list was presented to the Judicial Council by the Administrative Director in July or August for final prioritization and approval by the Judicial Council for submission to the Department of Finance.

In July 2016, the Judicial Council established the Judicial Branch Budget Committee to assist the council in exercising its duties under rule 10.101 with respect to the judicial branch budget. The council assigned the committee the responsibility of reviewing budget change proposals for the judicial branch, coordinating these budget change proposals, and ensuring that they are submitted to the council in a timely manner.

## **Recommendation**

There are currently twenty-five BCP concepts before the committee for consideration that, if approved by the committee and the Judicial Council, will be submitted to the Department of Finance by September 1, 2017 for inclusion in the 2018–2019 Governor’s Budget. Staff recommend that the committee consider the approval of some or all of the BCP concepts, to be submitted to the Judicial Council for approval and prioritization.

For all approved BCP concepts, staff recommend that the committee prioritize all BCPs for submission to the Judicial Council. In order to assist the committee with development of the 2018–2019 priority list, the following attachments are provided:

- Attachment A includes all twenty-five BCP concepts separated into two categories: BCPs previously submitted and new BCPs. For reference, all previous BCP submittals are listed in the prioritization order as approved by the Judicial Council at the August 26, 2016, meeting. All new BCPs are listed in BCP concept number order.
- Attachment B includes the Trial Court Budget Advisory Committee for the Trial Courts and the Judicial Council Technology Committee prioritized BCP concept listing.
- Attachment C is the Chief Justice’s 2017–2018 Budget Priorities for the Judicial Branch.

Finally, staff recommend that BCP concepts 18-02: Judicial Branch Litigation Management Program, 18-07: Judicial Officer Orientation Programs, and 18-08: Funding for Programs Supporting Trial Courts Statewide, be combined into one BCP request, similar to the 2017–2018 submission. These BCP concepts request a shift of expenditures for programs that support the trial courts from the State Trial Court Improvement and Modernization Fund (IMF) to the General Fund, primarily to stabilize the funding structure to ensure that these programs are not reduced or eliminated. For this reason, and to reduce the overall number of requests that could be potentially submitted to the Department of Finance, staff recommend these three BCP concepts be combined into one proposal.

As of June 15, 2017, the following Judicial Council advisory committees and boards reviewed and approved the BCP concepts for submission to the committee and Judicial Council:

1. The Administrative Presiding Justices Advisory Committee for the Supreme Court and Courts of Appeal.
2. The Clerks of the Courts of Appeal.
3. The Advisory Committee on Financial Accountability and Efficiency for the Judicial Branch, the Judicial Council, and the Judicial Branch Facilities Program.
4. The Trial Court Budget Advisory Committee for the Trial Courts.
5. The Trial Court Presiding Judges Advisory Committee.
6. The Trial Court Facility Modification Advisory Committee for the Judicial Branch Facilities Program.
7. The Language Access Plan Implementation Task Force.
8. The Judicial Council Technology Committee.
9. The Information Technology Advisory Committee.
10. The Litigation Management Committee.
11. The Governing Committee of Center for Judicial Education and Research.
12. The Family and Juvenile Law Advisory Committee.
13. The Habeas Corpus Resource Center board of directors for the Habeas Corpus Resource Center.

## **Proposals**

Each of the proposals is detailed on the following pages by dollar amount, funding source, associated staffing, and general programmatic or workload need. The following BCP concepts are before the committee for consideration and prioritization (a more detailed list is provided in Attachment D):



BCP Concept #	Title	FY 2018–2019
		Whole Dollars
18-02	Judicial Branch Litigation Management Program	\$5,800,000
18-03	Replace Case Management Systems	TBD
18-04	Upgrade Phoenix system	\$7,761,000
18-05	Statewide Security Systems and Equipment - Maintenance and Replacement	\$3,000,000
18-06	Self-Help Centers in Trial Courts	\$22,000,000
18-07	Judicial Officer Orientation Program	\$787,000
18-08	Funding for Programs Supporting Trial Courts Statewide	\$7,826,000
18-09	Language Access Plan Implementation	\$8,152,000
18-10	Stabilization of Civil Assessment Revenue	\$147,000,000
18-11	Court-Appointed Dependency Counsel	\$22,000,000
18-12	New Judgeships	\$8,426,000
18-13a	Support for Trial Court Operations	\$178,000,000
18-13b	Funding for New Mandates (Trial Court workload)	TBD
18-14	Appellate Court Judicial Workload	\$2,400,000
18-15	Appellate Court Security – California Highway Patrol	\$1,421,000
18-16	Appellate Courts – Court Appointed Counsel Projects	\$1,410,000
18-17	Appellate Court Facility Maintenance Program	\$1,258,000
18-19	Habeas Corpus Resource Center-Case Team Staffing	\$2,600,000
18-20	Trial Court Facilities Operations Costs	\$18 million to \$25 million

18-23	Court Appointed Special Advocate (CASA) in Juvenile Dependency Court	\$500,000
18-24	Digitizing Paper and Filmed Case Files	\$20 million to \$25 million
18-25	Funding to support the California Courts Protective Order Registry	\$974,000
18-26	Self-Represented Litigants Statewide e-Services Solution	TBD
18-27	Single Sign-on Solution	\$3,300,000
18-28	Restoration of Resources for the Immediate and Critical Needs Account	\$560,300,000

### **Previous Committee Action**

The committee reviewed the Initial Funding Requests (IFR) at its March 22, 2017, meeting, unanimously approved all twenty-three submitted IFRs, and directed staff to develop the requests into BCP concepts.

### **Changes since the Previous Committee Action**

There is one new BCP concept to be considered for approval that was incorporated after the March 22, 2017, meeting—BCP concept 18-28: Restoration of Resources for the Immediate and Critical Needs Account (ICNA). This request will replace funds redirected or transferred from the ICNA to the General Fund to support the Judicial Branch Court Construction Program.

BCP concept 18-08: Funding for Programs Supporting Trial Courts Statewide has been amended to incorporate the conversion of 14 consultants in Information Technology to permanent positions. This component will add an additional \$2.8 million to the request. These positions support the following statewide trial court programs: Telecom, California Courts Technology Center – Operations, Data Integration, Enterprise Policy and Planning, and Civil, Small Claims, Probate and Mental Health (V3) Case Management System. This request shifts the costs currently expended for the consultants from the IMF to the General Fund. This request was not included in the concept for review by the Advisory Committee on Financial Accountability and Efficiency for the Judicial Branch, the Judicial Council, and the Judicial Branch Facilities Program (A&E) at its May 24, 2017, meeting. This request will be reviewed by A&E prior to the Judicial Council meeting July 27-28, 2017. If A&E does not approve this request, it will not be included in the BCP concept submitted to the Judicial Council.

BCP concept 18-11(a-d): Court-Appointed Dependency Counsel has been amended to provide 25 percent of the necessary funding each year over four fiscal years. This concept was previously separated into four potential requests of 25 percent of the overall need; 50 percent, 75 percent, or 100 percent. At its May 23, 2017, meeting, the Trial Court Budget Advisory Committee approved the BCP concept; however, requested that the proposal be consolidated into one request that proposed 25 percent each year over 4 years, to reach 100 percent of the total funding need by the end of year 4.

BCP concept 18-13: Support for Trial Court Operations has been amended and will be separated into two proposals. This concept previously incorporated five components in the initial request: Funding to (1) support continued progress to 100 percent of the Workload-Based Allocation and Funding Methodology (WAFM), (2) discretionary funding not allocated via WAFM (rising cost of operations), (3) trial court employee compensation, (4) address the structural imbalance in the Trial Court Trust Fund, and (5) support workload associated with chaptered legislation without appropriation. At its May 23, 2017, meeting, the Trial Court Budget Advisory Committee approved the BCP concept; however, requested that the proposal be separated into two BCP concepts. The first, 18-13a: Support for Trial Court Operations includes items #1 through #4; the second, 18-13b: Funding for New Mandates includes item #5.

These changes have been reflected in the table above and in the attached BCP concept documents for the committee's review.

### **Committee Action**

Staff recommend the committee take action on the following:

1. Approve the consolidation of the following BCP concepts into one request: 18-02: Judicial Branch Litigation Management Program, 18-07: Judicial Officer Orientation Programs, and 18-08: Funding for Programs Supporting Trial Courts Statewide. This will bring the total number of BCP concepts from twenty-five to twenty-three.
2. Consider the approval of some or all of the twenty-three BCP concepts, to be submitted to the Judicial Council for approval and prioritization.
3. Prioritize all approved BCP concepts.

### **Attachments**

1. Attachment A: 2018–2019 Budget Change Proposal Concepts - Informational: For consideration of development of the priority listing by the Judicial Branch Budget Committee
2. Attachment B: The Trial Court Budget Advisory Committee for the Trial Courts and the Judicial Council Technology Committee prioritized list of Budget Change Proposal Concepts
3. Attachment C: The Chief Justice's 2017-2018 Budget Priorities for the Judicial Branch.
4. Attachment D: 2018–2019 Budget Change Proposal Concepts

**Informational: For consideration of development of the BCP priority listing by the Judicial Branch Budget Committee**

2017-18 Priority List	BCP Tracking #	Requesting Entity	Title	Description
<b>Budget Change Proposals Previously Submitted in 2017-18 (listed in priority order)</b>				
1	18-13a	Trial Courts	Support for Trial Court Operations	Funding to (1) support continued progress to 100 percent of the Workload-Based Allocation and Funding Methodology (WAFM), (2) discretionary funding not allocated via WAFM (rising cost of operations), (3) trial court employee compensation, and (4) address the structural imbalance in the Trial Court Trust Fund.
2	18-03	IT	Replace Case Management Systems	Funding to support the replacement of outdated, no longer supported case management systems.
3	18-11	Trial Courts	Court-Appointed Dependency Counsel	Funding to support court-appointed dependency counsel workload to fund adequate and competent representation for parents and children required by Welfare and Institutions Code section 317.
4	18-12	Trial Courts	New Judgeships	Funding for 10 of the 50 trial court judgeships authorized by the Legislature in FY 2007-08 (AB 159, Chapter 722, Statutes of 2007).
5	18-16	Appellate Courts	Supreme Court and Appellate Courts - California Court Appointed Counsel Projects, San Francisco	Funding to support an increase in the contracts with the five Court of Appeal Court-Appointed Counsel Projects and the Supreme Court Court-Appointed Counsel Project, San Francisco (CAP-SF).
7	18-28	REFM Cap Programs	Restoration of resources for the Immediate and Critical Needs Account	This request will return previously redirected funds (\$510.3 million) from the Immediate and Critical Needs Account (ICNA) and eliminate the ongoing transfer of \$50 million from the ICNA to the Trial Court Trust Fund to support trial court operations and support solvency of the ICNA.
8	18-14	Appellate Courts	Appellate Court Judicial Workload	Funding for two additional appellate court justices and their necessary chambers staff for Division Two of the Fourth Appellate District to meet substantial and growing workload demands.
11	18-02	LSO	Judicial Branch Litigation Management Program	Funding to enable the centralization of the Litigation Management Program pool to provide for the defense and indemnification of all Judicial Branch entities.
11	18-07	CJER	Judicial Officer Orientation Program	Funding to support costs of faculty and trial court participants at required education courses. These courses are for newly appointed or elected judges, newly hired subordinate judicial officers, and judges and judicial officers assigned to adjudicate a substantive law assignment in which they have not worked before.
11	18-08	Judicial Council	Programs supporting trial courts statewide	Funding to shift costs supporting programs that provide services to trial courts statewide currently funded from the State Trial Court Improvement and Modernization Fund (IMF) to the General Fund.

**Informatonal: For consideration of development of the BCP priority listing by the Judicial Branch Budget Committee**

2017-18 Priority List	BCP Tracking #	Requesting Entity	Title	Description
11	18-25	IT	Shift costs to operate the California Courts Protective Order Registry (CCPOR) from the State Improvement and Modernization Fund to the General Fund	Funding to shift the costs to operate the CCPOR from the IMF to the GF. This request will also include the costs to expand the program (currently in 43 counties and their respective law enforcement agencies plus 13 tribal courts with read-only access). CCPOR is a statewide repository of protective orders containing both data and scanned images of orders that can be accessed by judges, court staff, and law enforcement officers.
12	18-05	REFM Cap Programs	Security system and equipment maintenance and replacement for Trial Courts	Funding to provided dedicated funding to address security system maintenance and allow for replacement and refreshing of obsolete systems.
12	18-20	REFM Cap Programs	Trial Court Facilities Operations Costs	Funding to support trial court facilities operations costs, including liability insurance needs, ongoing rent and utilities; and, provide routine maintenance at a level that will prevent deterioration and preserve assets.
13	18-09	COSSO	Implementation of Language Access Plan	Funding for the implementation and support of the Strategic Plan for Language Access in the California Courts (adopted by the Judicial Council on January 22, 2015). Specific priorities in this request include: Increase court interpreter reimbursement fund, signage, Administrative Infrastructure support, and maintenance of the online Language Access Toolkit.
14	18-17	Appellate Courts	Appellate Court Facility Maintenance Program	Funding to perform an in-depth building assessment of the two state-owned, court managed appellate court facilities and to establish and support an Appellate Court Facility Maintenance Program.
15	18-19	HCRC	Habeas Corpus Resource Center	Funding to create four case teams to provide legal representation to inmates on California's death row.
16	18-15	Appellate Courts	Appellate Court Security	Funding to support security services provided by the California Highway Patrol Judicial Protection Section at the Courts of Appeal.
<b>New Budget Change Proposals (listed in BCP Concept # order)</b>				
N/A	18-04	BAP	Upgrade Phoenix system	Funding to upgrade the Phoenix Program to continue to provide improved administrative infrastructure for the Trial Courts. The request includes funding for migration, consulting, software licensing, and software maintenance.
N/A	18-06	CFCC	Self-Help Centers in Trial Courts	Funding to support self-help centers in trial court facilities, primarily for attorney and qualified paralegal staff at each court and will encourage cooperative projects across county lines such as increased technology, sharing of bilingual resources to provide services as cost-effectively as possible.

**Informatonal: For consideration of development of the BCP priority listing by the Judicial Branch Budget Committee**

2017-18 Priority List	BCP Tracking #	Requesting Entity	Title	Description
N/A	18-10	Trial Courts	Stabilization of Civil Assessment Revenue	Funding to replace the civil assessment revenues currently deposited into the TCTF with General Fund. Deposit civil assessment revenues, including the \$48.3 million in MOE buyout, into the General Fund instead of the TCTF and instead, provide a General Fund amount TBD into the TCTF to replace the civil assessment revenues that will be paid into the General Fund.
N/A	18-13b	Trial Courts	Funding for New Mandates	Funding to support workload associated with chaptered legislation without appropriation.
N/A	18-23	CFCC	Court Appointed Special Advocates (CASA) in Juvenile Dependency Court	Funding to support the court-appointed special advocates grants program. CASA programs are nonprofit organizations which provide trained volunteers who are assigned by a juvenile court judge to a child in foster care.
N/A	18-24	IT	Digitizing Paper and Filmed Case Files	Funding to digitize paper and filmed case files for the Superior and Appellate Courts. Electronic case files will eliminate the need for physical storage facilities and would allow for greater public access and convenience.
N/A	18-26	IT	Self-Represented Litigants Statewide E-Services Solution	Funding to support implementation of a branch-branded SRL E-Services website that optimizes and leverages existing branch, local court, and vendor resources to offer branch wide SRL e-capabilities such as facilitating interactive FAQ, triage functionality, document assembly providing guidance to SRLs submitting court documents, and interoperates with the impending branch wide e-filing solution.
N/A	18-27	IT	Single Sign-On Solution	Funding to deploy an Identity Management solution that will provide a unique username and password to every judicial branch employee and judicial officer, attorneys, members of the public, and justice partners who access judicial branch computer systems and electronic services.



# JUDICIAL COUNCIL OF CALIFORNIA

TRIAL COURT BUDGET  
ADVISORY COMMITTEE

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## TRIAL COURT BUDGET ADVISORY COMMITTEE

### MINUTES OF OPEN MEETING

May 23, 2017

3:00 p.m. - 5:00 p.m.

Teleconference

**Advisory Body Members Present:** Judges: Hon. Jonathan B. Conklin (Chair), Hon. Jeffrey B. Barton, Hon. Kevin C. Brazile, Hon. Mark Ashton Cope, , Hon. Joyce D. Hinrichs, Hon. Elizabeth W. Johnson, Hon. Ira R. Kaufman, and Hon. Brian L. McCabe.

Executive Officers: Mr. Jake Chatters, Ms. Rebecca Fleming, Mr. W. Samuel Hamrick, Jr., Mr. Kevin Harrigan, Mr. Jeffrey E. Lewis, Mr. Michael D. Planet, Mr. Michael M. Roddy, Ms. Linda Romero-Soles, Mr. Brian Taylor, Ms. Tania Ugrin-Capobianco, and Mr. David Yamasaki.

**Advisory Body Members Absent:** Judges: Hon. Andrew S. Blum, Hon. Laurie M. Earl, Hon. James E. Herman, Hon. Paul M. Marigonda, and Hon. Glenda Sanders.

Executive Officers: Ms. Sherri R. Carter (proxy to Mr. Jake Chatters)

Judicial Council Staff Advisory Members: Ms. Jody Patel, Ms. Millicent Tidwell, Mr. John Wordlaw, and Mr. Zlatko Theodorovic.

**Others Present:** Ms. Lucy Fogarty, Ms. Brandy Sanborn, and Ms. Natalie Daniel.

#### OPEN MEETING

##### Call to Order and Roll Call

The chair called the meeting to order at 3:04 p.m. and roll was called.

##### Approval of Minutes

The advisory body reviewed and approved the minutes of the April 13, 2017 Trial Court Budget Advisory Committee (TCBAC) meeting.

#### DISCUSSION AND POSSIBLE ACTION ITEMS (ITEMS 1)

**Item 1 – Prioritization of Trial Court Budget Change Proposal (BCP) Concepts for 2018-2019 (Action Required)**

Review and prioritize trial court BCP concepts as well as BCP concept submissions in which the Trial Court Budget Advisory Committee was identified as having purview and the opportunity to provide input for submission to the Judicial Branch Budget Committee for its review.

Presenter(s)/Facilitator(s): Hon. Jonathan B. Conklin, Chair, Trial Court Budget Advisory Committee

*Action: The Trial Court Budget Advisory Committee voted to approve and prioritize the following Budget Change Proposal Concepts from Table 1 and Table 2 as follows:*

1. *Stabilization of Civil Assessment Revenue*
  - Approve: 19
2. *Court Appointed Counsel in Juvenile Dependency Proceedings (combined over a four-year ask of 25 percent per year)*
  - Approve: 19
3. *Support for Trial Court Operations (removing the estimated \$214.4 million for mandated proposition and legislation related workload )*
  - Approve: 17
  - Oppose: 2
4. *Mandated Proposition and Legislation Related Workload (added)*
  - Approve: 18
  - Abstain: 1
5. *Funding for 10 of the 50 Judgeships Authorized by AB 159*
  - Approve: 19
6. *Trial Court Facilities Operations Costs*
  - Approve: 18
  - Abstain: 1
7. *Case Management System Replacement*
  - Approve: 18
  - Abstain: 1
8. *Statewide Security Systems and Equipment - Maintenance and Replacement*
  - Approve: 18
  - Abstain: 1
9. *All remaining BCP Concepts from Table 2 are acknowledged and supported by the TCBCAC but without prioritization or inclusion with the Committee's BCP Concept submissions*
  - Approve: 18
  - Abstain: 1

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**INFORMATION ONLY ITEMS (NO ACTION REQUIRED)**

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None



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**A D J O U R N M E N T**

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There being no further business, the meeting was adjourned at 3:58 p.m.

Approved by the advisory body on enter date.

Table 1

#	BCP Concept (in alphabetical order)	2018-2019 Dollar Amount
1	Court Appointed Counsel in Juvenile Dependency Proceedings	\$22,000,000
2	Court Appointed Counsel in Juvenile Dependency Proceedings	\$44,100,000
3	Court Appointed Counsel in Juvenile Dependency Proceedings	\$66,100,000
4	Court Appointed Counsel in Juvenile Dependency Proceedings	\$88,200,000
5	Funding for 10 of the 50 Judgeships Authorized by AB 159	\$8,300,000 to \$15,400,000
6	Stabilization of Civil Assessment Revenue	\$147,000,000
7	Support for Trial Court Operations	\$450,000,000 to \$500,000,000

Table 2

#	BCP Concept (in alphabetical order)	2018-2019 Dollar Amount
A	Advancing the Implementation of the <i>Strategic Plan for Language Access in the California Courts</i>	\$8,100,000
B	Case Management System Replacement	TBD
C	Court Appointed Special Advocates (CASA) in Juvenile Dependency Court	\$500,000
D	Deploy a Single Sign-On Solution for the Judicial Branch	\$3,300,000
E	Deploy and Maintain California Courts Protective Order Registry (CCPOR) for the Superior Courts	\$974,000
F	Digitizing Paper and Filmed Case Files for the Superior Courts and Appellate Courts	\$20,000,000 to \$25,000,000
G	Funding for Programs Supporting Trial Courts Statewide	\$7,500,000
H	Judicial Branch Litigation Management Program	\$5,800,000
I	Phoenix System Required Updates	\$7,929,000
J	Self Represented Litigants Statewide E-Services Solution	TBD
K	Statewide Security Systems and Equipment – Maintenance and Replacement	\$3,000,000
L	Trial Court Facilities Operations Costs	\$18,000,000 to \$25,000,000



# JUDICIAL COUNCIL OF CALIFORNIA

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

MR. MARTIN HOSHINO  
*Administrative Director,*  
*Judicial Council*

## TECHNOLOGY COMMITTEE

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Date  
 May 22, 2017

Action Requested  
 Please Review and Accept

To  
 Hon. David M. Rubin, Chair, Judicial  
 Branch Budget Committee

Contact  
 Marsha G. Slough  
 Marsha.Slough@jud.ca.gov

From  
 Hon. Marsha G. Slough,  
 Chair, Judicial Council Technology  
 Committee

Subject  
 Prioritization of Technology Budget  
 Change Proposals

The purpose of this email is provide you the prioritization listing of potential Technology Budget Change Proposals (BCPs) that the Judicial Council Technology Committee (JCTC) ranked at its May 17 meeting. Following its March meeting, the Judicial Branch Budget Committee provided a listing of the Budget Change Proposals and identified the following as technology related and requested the JCTC rank these. The committee reviewed the BCP Concepts and took the following action ranking the BCPs in the order listed below.

1. Case Management System replacements;
2. Deploy and maintain California Court Protective Order Registry (CCPOR);
3. Phoenix System Required updates;
4. Self-Represented Litigants (SRL) Statewide E-Services Solution;
5. Digitizing Paper and Filmed Case Files for the Superior and Appellate Courts; and
6. Single Source Sign-On for the Judicial Branch

Further, on May 19, the Information Technology Advisory Committee (ITAC) unanimously approved and supported the development of the Self-Represented Litigants (SRL) Statewide E-Services Solution and Single Source Sign-On for the Judicial Branch concept proposals into full BCPs. ITAC specifically supported these two initiatives as they directly impact its current workstream efforts, as authorized by annual agenda.

May 22, 2017

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Please let me know if you require further information from the Judicial Council Technology Committee.

Sincerely,

A handwritten signature in black ink, appearing to read "Marsha G. Slough". The signature is fluid and cursive, with a long horizontal stroke at the end.

Marsha G. Slough, Chair  
Technology Committee

C:      Judicial Council Technology Committee  
          Judicial Branch Budget Committee  
          Mr. Martin Hoshino, Administrative Director



## JUDICIAL BRANCH BUDGET PRIORITIES 2017–2018

Just over 1 cent out of every dollar from the General Fund is spent on California’s courts, which are tasked with keeping the public safe, resolving disputes under the law, and preserving constitutional rights. With a minimal growth budget proposal from the Governor, the judicial branch is advocating for a budget that will help courts avoid service cuts that jeopardize the fundamental rights of the public, businesses, and local communities.

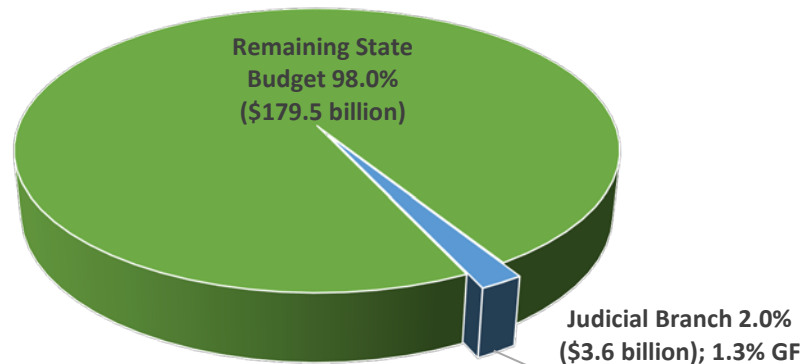
Judicial Branch Priorities Included in the Governor’s Proposed Budget		
<i>New Funding</i> – For court operations/employee costs; reducing language access barriers and expanding court interpreter availability; and replacing outdated case management systems in nine county trial courts.		\$34.5M
Additional Priority Issues for the State Budget		
The Governor’s proposal addresses limited areas of need, however, it does not address additional priority issues where funding support is vital to maintain adequate court services, protect public safety, and preserve equal access to California’s courts. All 58 trial courts would benefit from the additional funding requests outlined below.		
Need	\$	Background
<b>1. Existing Workload/Funding Shortfall</b>	158.5M	<ul style="list-style-type: none"> <li>Only partially closes the current shortfall of more than \$400 million between court funding and court costs to adequately provide service to the public (\$117.5 million).</li> <li>Prevents delays in guarding due process rights, reuniting and stabilizing families, resolving business litigation, protecting the public, and the issuance of domestic violence temporary restraining orders; and partially restores self-help services.</li> <li>Helps forestall reduced services, potential furloughs or last resort layoffs, and address equitable compensation for trial court employees (\$41 million).</li> </ul>
<b>2. Dependency Counsel</b>	22.0M	<ul style="list-style-type: none"> <li>Protects children by speeding up family reunification and permanent placement of foster kids, and limit families' reentry into dependency.</li> <li>Improves proper representation, promotes fully informed judicial decisions, and reduces caseloads from a ratio of 225 clients per attorney, one of the highest in the nation, to a more reasonable 188.</li> </ul>
<b>3. Court Construction/Facilities</b>	510.0M 50.0M	<ul style="list-style-type: none"> <li>Avoids further delays in building and maintaining safe, secure, and economical courthouses, and eliminates significant threats to public safety from requiring courts to continue operating out of dangerous and deteriorating buildings.</li> <li>Since 2009, \$1.4 billion has been taken from court construction funds to provide relief for the State budget deficit. This money has not been returned. Funds taken include removal of \$510 million to the State’s General Fund as well as an ongoing redirection of \$50 million for court operations. These actions continue to have an adverse impact on access to justice.</li> </ul>
<b>4. Judgeships</b>	--	<ul style="list-style-type: none"> <li>Governor’s proposal to reallocate four judicial vacancies to courts with greatest need is an important first step as the fastest growing counties contend with a critical shortage of judges to hear cases.</li> <li>In 2007, the Legislature authorized 50 new judges; however, these positions remain unfunded and unfilled. The current judicial needs assessment study shows a statewide need for 188 new judgeships.</li> </ul>



## JUDICIAL BRANCH BUDGET PRIORITIES 2017–2018

Other Considerations, Issues, and Impacts	
<p>Judicial branch workload and funding is impacted by a number of ongoing issues, annual changes in the law, and shifts in demographics and economic trends. The judicial branch continues to address these through its policies, rules, and recommendations. Key issues are outlined below.</p>	
<p><b>Unfunded New Workload</b></p>	<ul style="list-style-type: none"> <li>• Unfunded impacts from pending implementation of several new laws that take effect this year and a number of ballot initiatives approved by the voters in November will significantly increase both court workload and costs.</li> <li>• Collaborative courts and self-help services for unrepresented litigants will suffer absent new appropriations similar to actions taken on Criminal Justice Realignment.</li> </ul>
<p><b>Filings Decline</b></p>	<ul style="list-style-type: none"> <li>• Statewide filings declined by 26% over the last 10 years. However, decreased filings do not equate to decreased workload: 92% of decline is in case types with lowest associated workload (misdemeanors, infractions, small claims, limited civil). For same period, filings increased in more time-consuming, resource intensive cases (e.g., mental health filings up 83%; trial court criminal and civil appeals up 25%).</li> <li>• Decline reflects broad impact of recession and successive years of budget cuts. Funding reductions for courts contributed to fewer filings because access to services is reduced in kind.</li> <li>• Since trial courts are not fully funded for workload, filings decline partially reduces funding shortfall, but does not eliminate it.</li> </ul>
<p><b>Eliminating Driver's License Suspensions</b></p>	<ul style="list-style-type: none"> <li>• Significant fiscal impact on branch and state operations related to Governor's proposal to eliminate statutory provisions on suspending driver's licenses for failure to pay fines and penalties.</li> </ul>
<p><b>Declining Revenue Sources</b></p>	<ul style="list-style-type: none"> <li>• Judicial Council will work with Administration and Legislature to address fairness and public safety issues associated with court-related fines, fees, and assessments as well as mitigate potential loss of revenue for court operations and corresponding impact on public's access to justice.</li> </ul>
<p><b>1% Reserves Cap Challenge</b></p>	<ul style="list-style-type: none"> <li>• Since June 2014, 55 of 58 trial courts forced to get cash advances to avoid missing payroll or other payment obligations.</li> <li>• Cap continues to result in cash-flow problems for local courts, inhibits replacement of failing equipment, and limits long-term planning.</li> </ul>

Judicial Branch Budget as a Percentage of Total State Budget (Proposed)



BCP Tracking #	Title	Description	Requested Dollar Amount	Fund Source	Previous Submittal	Requested Positions	Comments
18-02	Judicial Branch Litigation Management Program	Funding to enable the centralization of the Litigation Management Program pool to provide for the defense and indemnification of all Judicial Branch entities.	\$5,800,000	General Fund	Y	0.0	This concept was submitted in 2017-2018 and was combined into one BCP request titled, <u>General Fund Support of Statewide Programs and Services</u> . The BCP was denied.
18-03	Case Management Systems Replacement	Funding to support the replacement of outdated, no longer supported case management systems.	TBD	General Fund	Y	0.0	This BCP request will support case management system replacement in specific counties. Previous requests for CCMS V3 and Sustain Justice Edition Case Management Replacement in specific counties were included in the 2016 Budget Act and included in the 2017-2018 Proposed Governor's Budget, respectively.
18-04	Upgrade Phoenix system	Funding to upgrade the Phoenix Program to continue to provide improved administrative infrastructure for the Trial Courts. The request includes funding for migration, consulting, software licensing, and software maintenance.	\$7,761,000	General Fund	N	3.0	
18-05	Security system and equipment maintenance and replacement for Trial Courts	Funding to provided dedicated funding to address security system maintenance and allow for replacement and refreshing of obsolete systems.	\$3,000,000	General Fund	Y	0.0	This BCP request was included as part of the <u>Trial Court Facilities Operations Cost Adjustment</u> BCP, which also included a request to fund unfunded inflationary costs associated with maintaining existing trial court facilities. This BCP was denied.
18-06	Self-Help Centers in Trial Courts	Funding to support self-help centers in trial court facilities, primarily for attorney and qualified paralegal staff at each court and will encourage cooperative projects across county lines such as increased technology, sharing of bilingual resources to provide services as cost-effectively as possible.	\$22,000,000	General Fund	N	0.0	This BCP request was approved by respective subcommittees/advisory committees for submission to the Department of Finance in 2017-2018; however, the Judicial Council did not approve the request to move forward as the Branch received \$25 million in innovative grant funding, of which, \$8 million was specifically identified to support Self-Help, Family, and Juvenile courts.
18-07	Judicial Officer Orientation Program	Funding to support costs of faculty and trial court participants at required education courses. These courses are for newly appointed or elected judges, newly hired subordinate judicial officers, and judges and judicial officers assigned to adjudicate a substantive law assignment in which they have not worked before.	\$787,000	General Fund	Y	0.0	This concept was submitted in 2017-2018 and was combined into one BCP request titled, <u>General Fund Support of Statewide Programs and Services</u> . The BCP was denied.

BCP Tracking #	Title	Description	Requested Dollar Amount	Fund Source	Previous Submittal	Requested Positions	Comments
18-08	Programs supporting trial courts statewide	Funding to shift costs supporting programs that provide services to trial courts statewide currently funded from the State Trial Court Improvement and Modernization Fund (IMF) to the General Fund.	\$7,826,000	General Fund	Y	14.0	This concept was submitted in 2017-2018 and was combined into one BCP request titled, <u>General Fund Support of Statewide Programs and Services</u> . The BCP was denied; however, the 2016 Budget Act provided \$8.7 million General Fund to shift costs associated with the Phoenix Financial System from the IMF. This request would shift the remaining costs associated with programs that directly support trial courts from the IMF to the GF.
18-09	Implementation of Language Access Plan	Funding for the implementation and support of the Strategic Plan for Language Access in the California Courts (adopted by the Judicial Council on January 22, 2015). Specific priorities in this request include: Increase court interpreter reimbursement fund, signage, Administrative Infrastructure support, and maintenance of the online Language Access Toolkit.	\$8,152,000	General Fund	Y	2.0	A similar BCP was submitted in 2017-2018; however, only one piece of the BCP was approved: 2.0 positions and \$352,000 IMF to support the Video Remote Interpreting spoken language pilot. The 2016 Budget Act included \$7 million General Fund to expand interpreter services into all civil proceedings.
18-10	Stabilization of Civil Assessment Revenue	Funding to replace the civil assessment revenues currently deposited into the TCTF with General Fund. Deposit civil assessment revenues, including the \$48.3 million in MOE buyout, into the General Fund instead of the TCTF and instead, provide General Fund into the TCTF to replace the civil assessment revenues that will be paid into the General Fund.	\$147,000,000	General Fund	N	0.0	The buyout of the \$48.3 million MOE obligation payment was included in the <u>Support for Trial Court Operations</u> BCP submitted for the 2017-18 Governor's Budget, which was denied. The Judicial Branch has not submitted a request to backfill declining civil assessment revenues.
18-11	Court-Appointed Dependency Counsel	Funding to support court-appointed dependency counsel workload to fund adequate and competent representation for parents and children required by Welfare and Institutions Code section 317.	\$22,000,000	General Fund	Y	0.0	Although no BCP was submitted, the 2015 Budget Act included \$22 million specifically for Court-Appointed Dependency Counsel. This funding was added during the legislative process. A BCP was submitted in 2017-2018 for another \$22 million, which was denied.
18-12	New Judgeships	Funding for 10 of the 50 trial court judgeships authorized by the Legislature in FY 2007-08 (AB 159, Chapter 722, Statutes of 2007).	\$8,426,000	General Fund	Y	0.0	This BCP was denied.



BCP Tracking #	Title	Description	Requested Dollar Amount	Fund Source	Previous Submittal	Requested Positions	Comments
18-13a	Support for Trial Court Operations	Funding to (1) support continued progress to 100 percent of the Workload-Based Allocation and Funding Methodology (WAFM), (2) discretionary funding not allocated via WAFM (rising cost of operations), (3) trial court employee compensation, and (4) address the structural imbalance in the Trial Court Trust Fund.	\$178,000,000	General Fund	Y	0.0	Items #1 and #3 were included in the <u>Support for Trial Court Operations</u> BCP submitted for the 2017-2018 Governor's Budget, which was denied.
18-13b	Funding for New Mandates	Funding to support workload associated with chaptered legislation without appropriation.	TBD	General Fund	N	0.0	Several bills were signed by the Governor in August 2017 which increased workload to the trial courts; however, the legislation did not include funding to support the workload. BCPs for the chaptered legislation were submitted to the Department of Finance, but were ultimately denied.
18-14	Appellate Court Judicial Workload	Funding for two additional appellate court justices and their necessary chambers staff for Division Two of the Fourth Appellate District to meet substantial and growing workload demands.	\$2,400,000	General Fund	Y	10.0	This BCP was denied.
18-15	Appellate Court Security	Funding to support security services provided by the California Highway Patrol Judicial Protection Section at the Courts of Appeal.	\$1,421,000	General Fund	Y	0.0	This BCP was denied.
18-16	Supreme Court and Appellate Courts - California Court Appointed Counsel Projects, San Francisco	Funding to support an increase in the contracts with the five Court of Appeal Court-Appointed Counsel Projects and the Supreme Court Court-Appointed Counsel Project, San Francisco (CAP-SF).	\$1,410,000	General Fund	Y	0.0	We received partial approval in the 2017-2018 Proposed Governor's Budget. The 2017-2018 request included 10 years of cost increases; however, the Governor's Budget included only 3 years of those cost increases.
18-17	Appellate Court Facility Maintenance Program	Funding to perform an in-depth building assessment of the two state-owned, court managed appellate court facilities and to establish and support an Appellate Court Facility Maintenance Program.	\$1,258,000	General Fund	Y	0.0	The BCP was denied.

BCP Tracking #	Title	Description	Requested Dollar Amount	Fund Source	Previous Submittal	Requested Positions	Comments
18-19	Habeas Corpus Resource Center	Funding to create four case teams to provide legal representation to inmates on California's death row.	\$2,600,000	General Fund	Y	34.0	The BCP was denied.
18-20	Trial Court Facilities Operations Costs	Funding to support trial court facilities operations costs, including liability insurance needs, ongoing rent and utilities; and, provide routine maintenance at a level that will prevent deterioration and preserve assets.	\$18,000,000 - \$25,000,000	General Fund	Y	0.0	This request will incorporate Risk Management (Insurance/Litigation Costs), Increased Operations Costs for New/Renovated Facilities, and Ongoing Trial Court Facilities Operations Costs into one BCP request. These requests were submitted separately in 2017-2018, which were denied.
18-23	Court Appointed Special Advocates (CASA) in Juvenile Dependency Court	Funding to support the court-appointed special advocates grants program. CASA programs are nonprofit organizations which provide trained volunteers who are assigned by a juvenile court judge to a child in foster care.	\$500,000	General Fund	N	0.0	
18-24	Digitizing Paper and Filmed Case Files	Funding to digitize paper and filmed case files for the Superior and Appellate Courts. Electronic case files will eliminate the need for physical storage facilities and would allow for greater public access and convenience.	\$20,000,000 - \$25,000,000	General Fund	N	0.0	
18-25	Shift costs to operate the California Courts Protective Order Registry (CCPOR) from the State Improvement and Modernization Fund to the General Fund	Funding to shift the costs to operate the CCPOR from the IMF to the GF. This request will also include the costs to expand the program (currently in 43 counties and their respective law enforcement agencies plus 13 tribal courts with read-only access). CCPOR is a statewide repository of protective orders containing both data and scanned images of orders that can be accessed by judges, court staff, and law enforcement officers.	\$974,000	General Fund	Y	1.0	This concept was submitted in 2017-2018 and was combined into one BCP request titled, <u>General Fund Support of Statewide Programs and Services</u> . The BCP was denied.
18-26	Self-Represented Litigants Statewide E-Services Solution	Funding to support implementation of a branch-branded SRL E-Services website that optimizes and leverages existing branch, local court, and vendor resources to offer branch wide SRL e-capabilities such as facilitating interactive FAQ, triage functionality, document assembly providing guidance to SRLs submitting court documents, and interoperates with the impending branch wide e-filing solution.	TBD	General Fund	N	2.0	

BCP Tracking #	Title	Description	Requested Dollar Amount	Fund Source	Previous Submittal	Requested Positions	Comments
18-27	Single Sign-On Solution	Funding to deploy an Identity Management solution that will provide a unique username and password to every judicial branch employee and judicial officer, attorneys, members of the public, and justice partners who access judicial branch computer systems and electronic services.	\$3,300,000	General Fund	N	0.0	
18-28	Restoration of resources for the Immediate and Critical Needs Account	Funding to replace funds redirected or transferred from the ICNA to the General Fund to support the Judicial Branch Court Construction Program.	\$560,300,000	General Fund	N	0.0	
			\$1,022,915,000				

**2018-2019 FY Budget Change Proposal Concept**

**Requesting Entity:** Legal Services  
**Contact:** Eric Schnurpfeil  
**Concept No.:** 18-02

**Proposal Title:** Judicial Branch Litigation Management Program

**Fiscal Summary:**

Fund Source	Proposed JCC Positions	Total Personal Services	Operating Expenses & Equipment	Proposed Total 2018-2019	Proposed Total 2019-2020	Proposed Total 2020-2021
General Fund	0.0	\$0	\$5,800,000	\$5,800,000	\$5,800,000	\$5,800,000

**Detailed Funding By Fiscal Year:**

	Proposed Total 2018-2019	Proposed Total 2019-2020	Proposed Total 2020-2021
Ongoing	\$5,800,000	\$5,800,000	\$5,800,000
One-Time	\$0	\$0	\$0
Total	\$5,800,000	\$5,800,000	\$5,800,000

**Proposal Summary:** Proposed augmentation of \$5.8 million General Fund beginning in 2018-2019 and ongoing to support the defense and indemnity (as permitted) of all Judicial Branch entities. This request also includes provisional language to allow the Judicial Council to encumber funds through June 30, 2020, to provide greater flexibility to schedule contract payments. Approximately \$5.4 million has historically been budgeted annually from the General Fund and the State Trial Improvement and Modernization Fund (IMF) (see detail below). Shifting IMF expenditures to the General Fund will assist with the long term solvency of the IMF as well as centralize the Litigation Management Program into a single pool of available funds to be used for all entities of the Judicial Branch permitting the Judicial Branch more flexibility to respond to litigation demands and increasing exposures.

Historical expenditure authority (\$5,351,000):

- \$200,000 – General Fund
- \$4,500,000 – Improvement and Modernization, Trial Court Litigation Management Fund (LMP)<sup>1</sup>
- \$651,000 – Improvement and Modernization, Trial Court Transactions Assistance Program (TCTAP)

**Background Information:** While the overall program is dedicated to the defense and indemnification of all Judicial Branch entities for government claims and litigation, as well as various risk reduction expenditures, the individual fund allocations are restricted to defined parties. Litigation funding is currently divided into three categories: (1) Supreme Court, Courts of Appeal and Judicial Council government claims and litigation (\$200,000 from General Fund ), (2) Trial Court government claims and litigation (\$4.5M from IMF-Trial Court Litigation Management) and (3) Trial Court transactional

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<sup>1</sup> See n.1, above.

## 2018-2019 FY Budget Change Proposal Concept

assistance for labor arbitrations and proceedings before the Public Employee Relations Board and for retention of outside counsel in specialized areas of law/risk avoidance (\$651,000 from IMF-Trial Court Transactions Assistance Program). Providing an augmentation to the General Fund, increasing total funding to address rising costs of litigation, broadening the use of the funds, and permitting the Judicial Council to encumber funds through June 30, 2020, will provide Legal Services the flexibility to better serve the branch's litigation needs.

**Justification:** Consolidating all litigation funds for the defense and indemnification of all Judicial Branch entities will allow for greater flexibility in the overall handling of government claim and litigation matters. The augmentation of \$5.8 million General Fund will consolidate all litigation resources into one fund source, provide a modest increase in resources to support increased litigation costs, and will specifically allow Legal Services to maximize resources to support all types of litigation, ensuring that ongoing litigation expenses can be paid and eliminating unnecessary administrative work to transfer available resources between fund sources. The proposed consolidation will provide Legal Services the flexibility and resources to better serve the branch's litigation needs. Further, increasing the period of availability for an additional year allows Legal Services to accommodate unique settlements and payment structures. Moreover, the Judicial Branch litigation appropriations are being strained by the rising costs of litigation and the additional burden of trial court facilities-related claims and litigation following the transfer of courthouses from the counties.

**Fiscal Impact:** This request will result in an ongoing General Fund augmentation of \$5.8 million. Currently, \$5.2 million is budgeted annually from the IMF to support litigation related costs. This request will shift those expenditures to the General Fund and increase the total amount available for litigation by \$449,000, for a total ongoing General Fund augmentation of \$5.8 million. Consolidation of these funds, as well as an augmentation, will give the Litigation Management Program more flexibility in managing litigation; avoid the need for accounting for three separate funds and requests for transfer of money between funds; avoid the need for micro-managing case budgets to ensure that the individual funding sources are not depleted; avoid the need for cumbersome and time-consuming paperwork to request amendments to contracts and to shift funds at year-end when encumbrances cannot be "rolled over" for use in subsequent fiscal years; assist the Judicial Branch to address rising costs of litigation and the additional burden of trial court facilities-related claims and litigation following the transfer of courthouses from the counties. Currently, resources within the IMF are insufficient to support these litigation costs ongoing. Continuation of these expenditures from the IMF will result in negative fund balances in future years.

**Outcomes and Accountability:** Litigation expenses (attorney fees, costs, judgments, settlements, pre-litigation costs and fees) are monitored each fiscal year, and a detailed annual report is provided to the Litigation Management Committee. The three-year summary of litigation expenses below, listing total expenditures combining General Fund, Litigation Management Program Fund, and TCTAP Fund, reflects the trend that resulted in last year's significant litigation budget shortfall.<sup>2</sup> Based on current trends and forecasting for FY 2016-2017, it is probable that the full allocation will be exhausted and supplemental transfers may be required.

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<sup>2</sup> See attached chart showing 3-year history of litigation expenditures, broken down by fund source.

## 2018-2019 FY Budget Change Proposal Concept

2014-2015	\$4,120,378
2015-2016	\$5,753,483
2016-2017 (as of 3/2017)	\$4,176,474

### Other Alternatives Considered:

**Alternative #1:** Provide \$5.4 million General Fund to shift funding currently provided from the IMF to the General Fund. This option does not provide the additional \$449,000 in funding.

#### PROS:

- Provides relief to the IMF and stabilizes funding.
- Provides flexibility in managing the litigation program.

#### CONS:

- May not have sufficient funding to support the rising costs of litigation and the additional burden of trial court facilities-related claims and litigation following the transfer of courthouses from the counties.
- Results in additional General Fund resources.

**Alternative #2:** Continue current funding practice, maintaining current total funding of \$5,351,000 (\$200,000 General Fund and \$5,151,000 IMF) to support (1) Supreme Court, Courts of Appeal, and Judicial Council claims and litigation (General Fund), (2) trial court claims and litigation (IMF, Trial Court Litigation Management Fund), and (3) trial court arbitrations, Public Employment Relations Board matters, and outside consultants on risk management issues (IMF, Trial Court Transactions Assistance Program). This request would maintain the status quo.

**PRO:** No impact to the General Fund.

#### CONS:

- Continue to have inefficiencies and loss of flexibility in managing matters, particularly in fiscal years of strained resources in which individual funds may be depleted by year-end.
- May not have sufficient funding to support the rising costs of litigation and the additional burden of trial court facilities-related claims and litigation following the transfer of courthouses from the counties.

**Alternative #3:** Provide \$2.9 million General Fund beginning in 2018-2019 and ongoing. This option would continue to rely on the Judicial Council allocating \$2.9 million from the IMF, but bring the total program expenditure authority to \$5.8 million.

#### PROS:

- Provides some relief to the IMF fund.
- Allows for increased litigation exposure from facilities litigation and rising litigation costs.

## 2018-2019 FY Budget Change Proposal Concept

### CONS:

- Continues reliance on the IMF.
- Does not consolidate all litigation expenses to one funding source.
- Results in additional General Fund resources.

**2018-2019 FY Budget Change Proposal Concept**

**Requesting Entity:** Judicial Council Information Technology Office  
**Contact:** Virginia Sanders-Hinds  
**Concept No.:** 18-03

**Proposal Title:** Case Management System Replacement

**Fiscal Summary:**

Fund Source	Proposed JCC Positions	Total Personal Services	Operating Expenses & Equipment	Proposed Total 2018-2019	Proposed Total 2019-2020	Proposed Total 2020-2021
General Fund	0.0	TBD	TBD	TBD	TBD	TBD

**Detailed Funding By Fiscal Year:**

	Proposed Total 2018-2019	Proposed Total 2019-2020	Proposed Total 2020-2021
Ongoing	TBD	TBD	TBD
One-Time	TBD	TBD	TBD
Total	TBD	TBD	TBD

**Proposal Summary:** Proposed General Fund augmentation (amount \$TBD) for the procurement and deployment of a modern case management system for the next wave of courts in need of a replacement for their aging systems. There are a number of courts still relying on case management systems developed with older technology. These legacy systems do not have the ability to integrate with document management systems and e-filing services - foundations for modern case management systems. The courts, the subject of this proposal, will select and procure a new modern case management system using the existing Master Services Agreement (MSA) for case management systems or they will issue a Request for Proposal. Funding will address deployment costs such as hosting, software licensing, hardware, data conversion, and professional services.

The costs to replace the case management system for the next wave of courts will be determined based on the final list of courts and the technology solutions they select. The courts will need to determine if they will use the existing case management system Master Services Agreement (MSA) or if they will issue a Request for Proposal for a replacement case management system. It is expected that by late-May 2017, the listing of courts will be determined, and that by February 2018 the vendor(s) will be selected by the courts. Rough cost estimates will be available in December 2017. It is expected that this request will be a placeholder request for the Spring 2018-2019 process.

Courts identified as having an urgent need to replace their case management systems include Amador, Colusa, Contra Costa, Marin, Mariposa, Mono, Nevada, Shasta, and Solano; however, the exact list of courts is being finalized.



## 2018-2019 FY Budget Change Proposal Concept

**Background Information:** The California court system—the largest in the nation, with more than 2,000 judicial officers, 19,000 court employees, and nearly 10 million cases—serves over 38 million people — 12.5% of the United States population. During 2013–2014, 7.5 million cases were filed in these courts at some 500 court locations throughout the state.

Central to court operations is the case management system, which facilitates tracking and recording of case information, processing and managing filings and collecting and reporting on revenues from filings, fines and fees. Having an effective and efficient case management is essential for courts to function productively in the modern era where digital communication is the standard.

From 2002 to 2012, the technology strategy for the judicial branch was to deploy a single statewide case management system to serve all superior courts, with features and functions to improve service, public access, and integration with justice partners. In 2012, the Judicial Council voted to cancel the statewide project, due to the lack of funding for deployment to the superior courts across the state.

Although deployment of the statewide system was canceled, the need for modern technology remained. At a judicial branch technology summit held in 2012, the California Department of Technology made it clear that additional funding for technology initiatives would depend on the ability of the branch to establish a sound, long-term strategy for technology.

Following the summit, the Chief Justice authorized the creation of a Technology Planning Task Force focused on judicial branch technology governance, strategic planning, and funding. The work of the Task Force, comprised of judicial officers, court executive officers, chief information officers, and other stakeholders, culminated with the development of the Court Technology Governance and Strategic Plan<sup>1</sup>. The plan, approved by the Judicial Council in 2014, included the Technology Governance and Funding Model, a Strategic Plan for Technology and a Tactical Plan for Technology. The plans established a common, shared roadmap and common goals, giving courts the opportunity to innovate and leverage solutions as a branch, or in a multi-court consortium. There were four key technology goals identified through the work of the task force and this BCP directly aligns with the first three goals.

- Promote the Digital Court
- Optimize Branch Resources
- Optimize Infrastructure
- Promote Rule and Legislative Changes

In pursuit of the goal of the Digital Court, a group of trial courts formed a workgroup to focus on the procurement of a modern case management system. Beginning in 2012 and concluding in 2013, the work group collaborated on a RFP which resulted in a Master Services Agreements (MSA) that qualified three vendors. Courts that had funding reserves available, used the MSA to procure new case management systems. To date over 30 courts have leveraged the MSA for procurement of a new case management system. This was the first phase of the plan for the Digital Court.

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<sup>1</sup> Court Technology Governance and Strategic Plan: <http://www.courts.ca.gov/documents/jc-20141028-item4.pdf>

## 2018-2019 FY Budget Change Proposal Concept

The second phase addressed the needs of medium and large size courts, which had been targeted for implementation of the statewide case management system, but lacked funding to procure a system under the MSA. Four courts, all running the interim CMS V3 application, submitted and received approval for a budget change proposal for FY2016-2017 funding. The funds will enable these courts to procure and deploy new case management systems and establish their foundation for the Digital Court.

The third phase of the plan for the Digital Court has been addressed by the Sustain Justice Edition courts. Similar to the V3 courts, the SJE courts were awaiting the statewide case management system, but cancellation of the program left them with the challenge of funding the procurement and deployment of a new system. Following the path of the V3 courts, the nine SJE courts worked together to form a consortium and leverage their buying power to procure a new system. They collaborated on a Request for Proposal for a new modern case management system and selected a product with favorable pricing based on their procurement as a nine-court consortium. The SJE courts used the pricing from the Request for Proposal to develop a joint budget change proposal for fiscal year 2017-2018, for one-time funding of \$4.1M, to acquire and deploy a new case management system. Budget approval is pending.

This BCP represents the fourth phase of the plan for the Digital Court and efforts to move the courts to modern technology platforms for case management. The courts considered for this BCP include the following:

Court	Judicial Officers	Court Staff	Total Case Filings
Amador	2.3	27	8,248
Colusa	2.3	13	9,697
Contra Costa	46	315	151,654
Marin	12.7	114	42,853
Mariposa	2.3	14	3,560
Mono	2.3	15	8,352
Nevada	7.6	58	24,320
Shasta	12	174	43,469
Solano	23	211	59,808

**Justification:** The courts have made significant progress toward the goal of a statewide implementation of the Digital Court. Several courts have identified solutions and engaged in transition activities, moving them away from their legacy systems. A number of courts, however, still have case management systems which cannot adapt to and integrate with advanced technology solutions. The budget change proposal addresses the needs of the remaining courts.

Following are metrics highlighting progress to date and remaining effort

Phase 1) Trial courts with plans underway for replacing aging systems: ~72% of the Total Filings

Phase 2) Trial courts currently running the V3 case management system: ~ 21% of the Total Filings

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Phase 3) Trial courts currently running the SJE case management system: ~ 2% of the Total Filings

Phase 4) Trial courts that are still in need of a new case management system: ~ 5% of the Total Filings

Obtaining funding for replacing these aging systems is key to “Promoting the Digital Court,” the first goal in the *Court Technology Governance and Strategic Plan*. The benefits of extending modern technology to the public, the courts and our justice partners will not be realized until all courts have modern case management systems.

**Fiscal Impact:** This request will provide a General Fund augmentation; however, at this time, the cost to replace the legacy case management systems for the next wave of courts is unknown. Following the model employed for earlier case management system initiatives, requested funding will address one-time procurement and implementation costs. The courts will fund the ongoing maintenance and support for the systems. Cost information will be developed based on the final list of courts and their preferred solutions. The courts will have the option to use the branch wide Master Services Agreement or issue a Request for Proposal (RFP) for a new case management system. It is expected that by late-May 2017, the list of courts will be finalized, and by February 2018 the preferred solutions will be determined. Rough cost estimates will be available in December 2017. It is expected that this request will be a placeholder request for the Spring 2018-2019 process.

**Outcomes and Accountability:** The Interbranch Agreement, which will be used to facilitate the transfer of funds to the courts, has specific reporting requirements that courts must adhere to. Each court will be responsible for monitoring day-to-day project activities and will make periodic reports regarding program performance and financial status. Accounting records will be supported by appropriate documentation. The courts will provide information regarding all fund expenditures to the council. The information requested may include, but is not limited to, performance and financial reports. Performance reports will contain a comparison of actual accomplishments to the objectives, for the reporting period. Results will be quantified wherever possible. Courts with project costs greater than or equal to five million will submit project documentation to the California Department of Technology, with copies to Judicial Council of California staff.

**Projected Outcomes:** The outcomes will vary by court, as each court will utilize different modules and features of a new case management system. Having a more modern case management system will make it possible to for this wave of courts to implement e-filing and provide a public portal, enabling online access to case information. A new case management system will also provide the courts with operational efficiencies. For example, providing the public with access to case data through a web portal will reduce staff time currently required to answer questions from the public at the counter or over the phone and allow staff resources to be redirected to perform other tasks. Our justice partners will also benefit from having greater access to case information through data exchanges and direct interfaces with the new case management system.

### **Other Alternatives Considered:**

**Alternative #1:** Do not approve additional funding to support the replacement of Case Management Systems.

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**PRO:** No impact to the General Fund.

**CONS:**

- Inability to integrate with current technology solutions such as document management will be limited or not possible.
- Inability to implement e-Filing.
- Limited access to case information for both the public and justice partners
- Inability to leverage technology to support data analytics statewide.

**Alternative #2:** Provide General Fund (Amount \$TBD) to support new Case Management Systems (courts to be specified later).

**PROS:**

- Ensure a stable platform and increased access to justice. As the legacy system continues to age, there is a growing risk of: instability of the platform, and potential of run-to-failure scenario;
- Ability to have advanced integration of document management and case/workflow management to increase functionality and realize cost savings. A fully integrated DMS will allow more efficient and timely access to view case documents both from the bench and outside the courtroom. It will also allow significant cost savings by eliminating the need for third-party document management solutions.
- Improve data sharing with key stakeholders
- Capability to provide online access to real-time case information for both the public and justice partners.
- Enable the timely exchange of data between the courts, law enforcement agencies and justice partners
- Allow each court to potentially implement e-filing.
- Support improvements in staff productivity and workflow due to improved efficiencies realized with migration to new systems.
- Provide a solution that is more configurable and customizable to address the ever-changing needs of the court, justice partners, and the public.
- Enhance ability to mine data for more efficient analysis, effective delivery of justice, and improved reporting.
- With case management as a core service for court operations, a system failure carries the risk of a widespread outage for an unknown duration. The ability to recover would depend upon the technology and availability of resources to address the problem. A system failure would result in a direct, negative impact to court services and the ability of the court to serve the public

**CONS:**

- Requires additional General Fund resources.

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- Implementation requires significant staff resources from all areas of the court including operations, accounting, courtroom and IT.

**Alternative #3:** Delay the procurement of a new Case Management System.

**PRO:** Cost associated with deploying a new CMS would be delayed.

**CONS:**

- Costs are delayed but not avoided.
- All benefits of a new case management system delayed.
- Inability to integrate with current technology solutions such as document management will be limited or not possible until upgrade.
- Inability to implement e-Filing until upgrade.
- Limited access to case information for both the public and justice partners until upgrade.
- Inability to leverage technology to support data analytics statewide until upgrade.

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**Requesting Entity:** Judicial Council Technology Committee  
**Contact:** Doug Kauffroath  
**Concept No.:** 18-04

**Proposal Title:** Upgrade Phoenix System

**Fiscal Summary:**

Fund Source	Proposed JCC Positions	Total Personal Services	Operating Expenses & Equipment	Proposed Total 2018-2019	Proposed Total 2019-2020	Proposed Total 2020-2021
General Fund	1.0	\$128,000	\$7,633,000	\$7,761,000	\$0	\$0
	1.0	\$135,000	\$6,661,000	\$0	\$6,796,000	\$0
	1.0	\$128,000	\$7,206,000	\$0	\$0	\$7,334,000
<b>Total, over 3 years</b>	<b>3.0</b>	<b>\$391,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**Detailed Funding By Fiscal Year:**

	Proposed Total 2018-2019	Proposed Total 2019-2020	Proposed Total 2020-2021
Ongoing	\$3,312,000	\$3,978,000	\$5,557,000
One-Time	\$4,449,000	\$2,818,000	\$1,777,000
<b>Total</b>	<b>\$7,761,000</b>	<b>\$6,796,000</b>	<b>\$7,334,000</b>

**Proposal Summary:** Proposed augmentation of \$7.8 million General Fund in 2018-2019, \$6.8 million in 2019-2020, and \$7.3 million in 2020-2021 and ongoing cost to maintain the Phoenix enterprise resources management system, deploy the requisite upgrade of the Phoenix system’s software and infrastructure, and add critical day-to-day business functional improvements. This request also includes funding for 3.0 positions in the Phoenix Program Center of Excellence to support compulsory functional improvements to the system. The request would shift the funding currently from the State Trial Court Improvement and Modernization Fund (IMF) to the General Fund for standard maintenance of the statewide system. As a result of the proposed upgrade, the Judicial Council is expected to save approximately \$265,000 annually for hosting costs.

**Background Information:** The Phoenix Program manages the financial and procurement system and processes for the 58 trial courts, and the payroll system and processes for 12 trial courts. Eighty-nine (89) total program staff include operational, system, and administrative positions in Branch Accounting and Procurement and Judicial Council Information Technology services offices. Phoenix is an SAP system hosted at the California Courts and JC Technology centers. Included in the 89 total program staff is the Center of Excellence (COE) consisting of twenty-seven (27) Phoenix system support staff which are tasked with maintaining and enhancing the system according to the needs of the trial courts. The three positions included in this request will join the COE, which directly support the Phoenix system. The Phoenix system’s last major upgrade was completed in 2008-2009, and at present is approaching the

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product's end-of-support. Existing available resources are not sufficient to upgrade and modify the system to the required state.

**Justification:** This request will provide funding to maintain the administrative infrastructure for the trial courts provided by the Phoenix Program. If approved, the funding will allow the Judicial Council to:

- Maintain investment in Phoenix Financial and HR Payroll system and stay ahead of the end-of-life of the current on-premise version of SAP;
- Meet the functional requirements of the Trial Courts not completely fulfilled by efforts to date, and;
- Provide more stable funding for a judicial branch administrative infrastructure enterprise solution by shifting the funding for the Phoenix Program from the IMF to the General Fund.

The current Phoenix user interface is based on 1997 technology which is not considered efficient nor does it provide a satisfactory user experience by today's standards. The planned upgrade will implement design and development capabilities using more current universally standard and supportable technology, and introduce an optimized database that will improve processing speed for transactional processes and reporting. This request also addresses functional needs that the Trial Courts have long requested, such as, robust budget planning tools, a document management repository, enhanced contract solicitation and monitoring, talent management, and analytics allowing for more efficient data handling and presentation. These tools will better inform court management, and increase staff's effectiveness.

As stated above, the last major Phoenix Project occurred in fiscal year 2008-2009. This successful implementation included the following accomplishments:

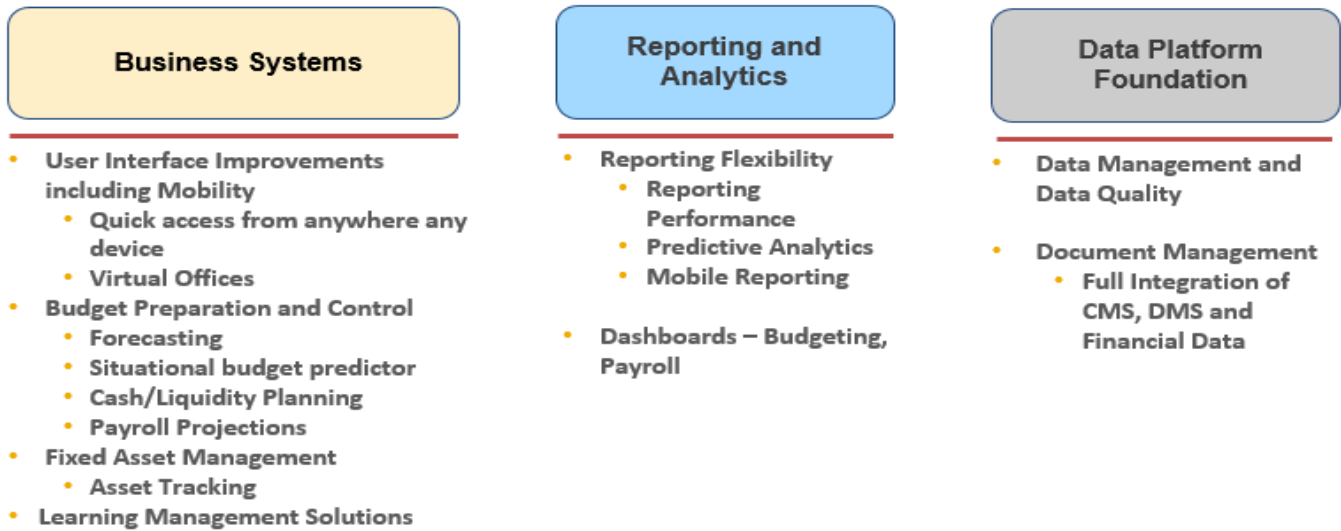
- Upgrade of the Phoenix SAP system
- Complete the deployment of Finance modules to all courts, including Los Angeles Superior Court;
- Implementation of Employee- and Manager-Self Service for courts participating in Phoenix Payroll, and;
- Stabilization of the Phoenix HR Payroll functions and creation of a toolkit to continue deployments statewide.

Due to budget constraints, the Phoenix Program has operated in "lights-on" maintenance mode since then, with only incremental improvements and additional payroll deployments to small courts as baseline resources would allow.

In fiscal year 2015-2016, the Program began a Phoenix Roadmap campaign to identify the Trial Courts' needs and build a plan to support them. Input to the roadmap was gathered from the original Phoenix Program Requirements Traceability Matrix, a survey of the Trial Courts, and a facilitated workshop with financial, procurement, and payroll representatives from the Trial Courts. The stakeholder survey was issued in the fall of 2016. We received a total of 76 responses from 46 courts. In the winter of 2016, The Phoenix Program conducted a "Design to Value" workshop with 39 stakeholders from 19 trial courts and the Judicial Council.

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Eight final use cases were identified as priority items in three major categories, as follows:



Certain pre-requisites must be addressed to keep the Phoenix Program current with the SAP and the Judicial Council’s Enterprise roadmaps. These include a migration to a modern Cloud-based environment, and additional software licenses to support use of the new platform.

**Fiscal Impact:** Phoenix is a statewide program that benefits all Trial Courts, with the exception of two optional support programs that have specific participation and are funded by reimbursement from the Trial Court Trust Fund (Phoenix Payroll and Virtual Buyer services). As such, this request is for General Fund resources to implement new functionality and to shift IMF funds that are currently used for hosting and consulting services to support and maintain the system to the General Fund.

Quotes for hosting and software were provided by current vendors SAP and Epi-Use, based on the use cases presented above, and current and expected utilization of Phoenix System resources. The requested amount of \$7,761,000 in 2018-2019 will provide funding to upgrade the system, migrate to a cloud environment, and provide a flexible analytics solution required by the trial courts. To upgrade the system, migrate to a cloud environment, implement and support all recommended new functionality, one time license and migration costs over three years are estimated to be \$9,044,000. Ongoing additional annual costs of the upgraded and improved system at the end of the three-year period, including an approximately \$3 million transfer of costs currently paid out of the IMF, are estimated at \$5,557,000, which includes 3.0 new staff. This amount also reflects an expected \$265,000 annual savings from current hosting cost of \$3,265,000.

**Outcomes and Accountability:** The Phoenix Program’s project management includes certification by SAP and follows SAP’s proprietary Accelerated SAP methodology when implementing any new functionality to remain compliant with maintenance agreements, and to effectively optimize time, people, quality and other resources. The Phoenix Program practices a strict Change Control process monitored by a seasoned Project Management Office under the direction of the Director of Branch Accounting and Procurement. Trial courts will be involved in all phases of the implementation projects. The Phoenix Program will continue to partner with trial court stakeholders, including conducting user groups, follow-up surveys and workshops to ensure that requirements are met.



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**Projected Outcomes:** An estimated \$265,000 ongoing cost savings are expected from migration to the Cloud. Part of this migration is an upgrade to SAP's Business Suite on High-performance Analytical Appliance (HANA), which will improve performance of the system. Statistics provided by SAP on the HANA platform include the following:

- Reports that currently take hours to render will render within seconds
- Transactions will process approximately 50% more quickly
- Database size will be compressed by 1/5
- There will be the ability to model report in an ad hoc fashion saving time in the design phase and increasing speed to implementation.

With implementation of the recommended functional improvements, the trial courts will experience administrative efficiencies that they have long requested. Automation of the following process areas is expected to improve accountability and transparency, and free up resources to perform less tedious manual work and instead more valuable professional and analytical work:

### Reporting/Analytics

- Improve decision making processes through flexible self-service reporting solutions; real-time business intelligence; simple information consumption, and personalized dynamic reporting

### Budget Preparation

- Automated tools to build budgets based on prior year data or zero-based; replace manual processes and non-integrated workbooks; make better decisions based on what-if analysis and scenario planning; shrink cycle times, close the books faster and align budget plans with strategic goals

### Document Management

- Organized/indexed repository of scanned or emailed supporting documents; promotes more efficient digital/paperless culture desired by the branch; significantly reduces cost for paper and reduces paper handling inefficiencies; provides workflow of current manual document sharing and approval processes and leverages branch-wide solution for (enterprise) content management

### Talent Management

- Performance Management – Improve employee performance by providing capability to track and ensure timely evaluations; align employee performance with goals and objectives and allows the capability to engage in the innovative Continuous Performance Management model
- Learning Management – Improve employee performance and meet training requirements with the ability to easily develop, deploy and manage a comprehensive learning program
- Recruiting Enhanced ability to source, engage and hire the best talent by providing comprehensive job posting, marketing and management across the hiring lifecycle. Address various talent acquisition needs including filling talent gaps for immediate hiring needs and building a talent pipeline for strategic growth
- Onboarding – Develop new hires quickly, turning them into productive employees and enabling them to begin contributing faster

### Enhanced Procurement

- Improve contract compliance and realize savings by integrating with backend systems; integrated solution from Sourcing and Solicitation through Contract Management; includes

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Document Builder to incorporate custom and standards Terms and Conditions on-line; and simplify maintenance of configuration to comply with Judicial Branch Contract Law.

**Other Alternatives Considered:** (All alternatives include funding for hosting and system integrator contracts that are currently paid from the IMF. Current costs are \$3,265,000. A savings of \$265,000 per year is expected if Upgrade/Cloud Migration is approved.)

**Alternative #1:** Provide \$7.8 million General Fund in 2018-2019, \$4.6 million in 2019-2020, and \$3.8 million in 2020-2021 and ongoing to support the required upgrade/cloud migration and platform improvements (Flexible Analytics and Enterprise Content Management).

**PROS:**

- This alternative address the truly mandatory portion of the request and required platform improvements for reporting and document management.
- The branch is expected to experience \$265,000 in annual savings from the current hosting agreement.

**CON:**

- This alternative does not address all of the functional improvements the courts require.

**Alternative #2:** Provide \$6.3 million 2018-2019 and \$3.0 million in 2019-2020 and ongoing to support the required upgrade/cloud migration only.

**PROS:**

- This alternative address the truly mandatory portion of the request.
- The branch is expected to experience \$265,000 in annual savings from the current hosting agreement.

**CON:**

- This alternative does not address the functional improvements the courts require.

**Alternative #3:** Provide \$3.3 million in 2018-2019 and ongoing to shift funding from IMF to General Fund for hosting and system integration support of the Phoenix System.

**PRO:** Funding source is corrected for support of steady-state statewide program.

**CONS:**

- Court users will not experience required functional improvements.
- The current hosting agreement expires in 2019, and needs to be replaced.
- Support for the current version of SAP is set to expire in 2025. To meet this target, the JCC will require planning for a more complex and higher risk upgrade by fiscal year 2021.

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**Requesting Entity:** Real Estate and Facilities Management  
**Contact:** Edward Ellestad  
**Concept No.:** 18-05

**Proposal Title:** Statewide Security Systems and Equipment - Maintenance and Replacement

**Fiscal Summary:**

Fund Source	Proposed JCC Positions	Total Personal Services	Operating Expenses & Equipment	Proposed Total 2018-2019	Proposed Total 2019-2020	Proposed Total 2020-2021
General Fund	0.0	\$0	\$3,000,000	\$3,000,000	\$3,000,000	\$3,000,000

**Detailed Funding By Fiscal Year:**

	Proposed Total 2018-2019	Proposed Total 2019-2020	Proposed Total 2020-2021
Ongoing	\$3,000,000	\$3,000,000	\$3,000,000
One-Time	\$0	\$0	\$0
Total	\$3,000,000	\$3,000,000	\$3,000,000

**Proposal Summary:** Proposed augmentation of \$3 million General Fund beginning in 2018-2019 and ongoing to refresh, maintain and replace security equipment consisting of aging camera, access control and duress alarm systems. This augmentation will also provide for maintenance and training for the web based Continuity of Operations Planning (COOP) planning tool used by the Judicial Council and the courts.

**Background Information:** Security systems, consisting of security cameras, electronic access control and duress alarms, are vital components in ensuring the safety and security of the public, judicial officers, and court personnel. Many trial court facilities have aging or inadequate security systems that were in place when the facilities transferred from county oversight. Due to lack of specifically directed funding to address the cost of repair and replacement of these systems, many are falling into disrepair.

**Justification:** Many of the security systems in trial court facilities are well past the end of their lifecycle and are failing. The funds requested will allow security systems to be maintained and replaced in a cost effective, efficient and timely manner, improving the safety and security of the public, judicial officers, and court personnel. This will allow the Judicial Council to assist courts, which lack the resources to adequately maintain the systems, with the repair, maintenance and replacement of those systems. Existing competitively bid master agreements will be utilized, resulting in consistent quality, pricing and response times.

If this proposal is not approved, security systems will continue to fall into disrepair, fail, and become obsolete. This will have an adverse effect on court security, including the safety of all users. Technological advances in recent years have resulted in analog video components of currently installed systems no longer being supported or available, making piecemeal repairs more difficult, costly, or impossible to perform.

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No dedicated funds are available for the replacement or improvement of security equipment. In 2015-2016 and 2016-2017, a one-time allocation of \$300,000 and \$293,000 was made, respectively, for emergency repairs on a portion of the security systems, with the understanding that these funds would not be available on an ongoing basis.

**Fiscal Impact:** This request will provide \$3 million from the General Fund to support the maintenance and replacement of statewide security systems in court facilities. In 2014, Judicial Council staff completed a comprehensive inventory of security systems in court facilities to identify the age, size, make and condition of the systems. No such inventory of security equipment had previously been conducted. The inventory project identified over 550 camera, access control and duress alarm systems. The majority of these systems are 8-15 years old. The cost estimates provided in this request were determined using previous system installation costs for various sized systems, maintenance costs based on actual expenditures, and pricing identified in current master agreements with equipment and service vendors.

**Outcomes and Accountability:** Security improvement projects can be measured by the effect security systems have on the overall security profile of the courts. Security systems address threats, and reduce vulnerability and associated risks. The majority of the existing security systems are 8-15 years old, and are at or near the end of expected serviceable life. Measuring the improvements or changes by effectively managing the maintenance and repair of the systems can be accomplished by satisfaction surveys, and providing consistent, quality service and equipment. Security systems purchased and or maintained with these funds will be overseen and approved by the Trial Court Security Advisory Committee. The systems will be monitored and accounted for using appropriate inventory and accounting principles and tracking methods.

### Projected Outcomes:

Workload Measure	2015-2016 Past Year	2016-2017 Past Year	2017-2018 Current Year	2018-2019 Budget Year
Security Systems (including COOP maintenance and training)	0	0	0	50
Security System Maintenance	0	0	0	375
Emergency Repairs	413	330	0	0

### Other Alternatives Considered:

**Alternative #1:** Provide \$2 million General Fund beginning in 2018-2019 and ongoing for the maintenance, repair, and replacement of failed existing security systems.

**PRO:** Provides support for the maintenance, repair, and replacement of failed existing security systems only.

**CONS:**

- Only existing security systems will be addressed, with no identified funding for new systems or assuming maintenance responsibilities for new court construction projects.
- Results in additional General Fund resources.

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**Alternative #2:** Provide a General Fund augmentation of \$1 million for the maintenance of existing security systems.

**PRO:** Provides support for the maintenance of existing security systems.

**CONS:**

- Does not sufficiently provide replacement or refreshing of security systems.
- Results in additional General Fund resources.

**Alternative #3:** Do not provide additional funding for maintenance, replacement or improvements of security systems.

**PRO:** No impact to the General Fund.

**CON:** Results in the continued deterioration of security systems throughout the courts, creating additional security vulnerabilities, risk and liability.

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**Requesting Entity:** Center for Families, Children & the Courts  
**Contact:** Bonnie Hough  
**Concept:** 18-06

**Proposal Title:** Self-Help Centers in Trial Courts

**Fiscal Summary:**

Fund Source	Proposed JCC Positions	Total Personal Services	Operating Expenses & Equipment	Proposed Total 2018-2019	Proposed Total 2019-2020	Proposed Total 2020-2021
General Fund	0.0	\$0	\$22,000,000	\$22,000,000	\$22,000,000	\$22,000,000

**Detailed Funding By Fiscal Year:**

	Proposed Total 2018-2019	Proposed Total 2019-2020	Proposed Total 2020-2021
Ongoing	\$22,000,000	\$22,000,000	\$22,000,000
One-Time	\$0	\$0	\$0
Total	\$22,000,000	\$22,000,000	\$22,000,000

**Proposal Summary:** Proposed augmentation of \$22 million General Fund beginning in 2018-2019 and ongoing to support self-help centers in trial courts. Self-help centers enable courts to more effectively meet the needs of the 4.3 million Californians who come to court each year without an attorney. Self-help centers are a valuable method for providing services to people who need access to legal education and information and for improving the quality of justice for litigants. They facilitate a litigant’s ability to participate effectively in the legal process, improve court efficiency and help the court design systems to better serve self-represented litigants, promote public trust and confidence in the court system, meet a great need for service in their community, and have the capacity to meet the needs of many non-English speakers. By providing needed assistance outside the courtroom, including additional assistance for litigants in settling cases, it would significantly increase court efficiency while expanding access to justice for the public. Fully-functioning self-help centers provide real cost savings to courts by reducing the number of court hearings and staff time at the public counter.

**Background Information:** The 2001 Budget Act included \$832,000 annually to support pilot projects in five courts that were designed to develop and test best practices in providing services to comprehensive self-help services in small rural courts, services to a Spanish-speaking population, services to a population speaking a range of languages, use of technology to assist self-represented litigants; and coordination and support for services in a large urban community.

In 2004, the Judicial Council approved the Statewide Action Plan for Serving Self-Represented Litigants. Based upon the explosive growth in the number of self-represented litigants coming to California’s courts, the plan recommended that court-based, staffed, self-help centers should be developed throughout the state. This was based on evaluations of the family law facilitator program and individual projects as well as a

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legislatively mandated evaluation of three Family Law Information Centers. In reviewing these reports and other program based evaluations, the Council’s Task Force on Self-Represented Litigants found that “Court-based, staffed, self-help centers, supervised by attorneys, are the optimum way for courts to facilitate the timely and cost-effective processing of cases involving self-represented litigants, to increase access to the courts and improve delivery of justice to the public.”<sup>1</sup>

In 2005, an independent report evaluated the five pilot self-help centers that were designed to develop and test best practices in five specific areas of concern. These included coordinating self-help services in small rural courts, services to a Spanish-speaking population, services to a population speaking a range of languages, use of technology to assist self-represented litigants, and coordination and support for services in a large urban community. The evaluation concluded that self-help centers are a valuable method for providing services to people who need access to legal education and information and for improving the quality of justice for litigants. They facilitate a litigant’s ability to participate effectively in the legal process. They improve court efficiency and help the court design systems to serve self-represented litigants more effectively. They promote public trust and confidence in the court system; litigants were highly satisfied with the services they received from the self-help centers. They meet a great need for service in their community and have the capacity to meet the needs of many non-English speakers.<sup>2</sup>

As a result of the 2005 evaluation of those pilots, the Legislature added a provision in the State Budget regarding the State Trial Court Improvement and Modernization Fund (IMF) fund that directed \$5 million be used for Self-Help funds and an additional \$6.2 million allocation to the Judicial Council’s Self-Help funding in 2007. Each court is provided a baseline of \$34,000 per year and the remainder is distributed based on population in the county. These funds often are used in conjunction with the funding for family law facilitators under Title IV-D, funding for small claims advisors from filing fees and, when possible, the court budget itself. This allows courts to address issues faced by the public as efficiently and effectively as possible by having a one-stop shop for people without attorneys.

In 2006, statewide funding for all 58 courts in the state received 25% of the amount needed at that time as way to start self-help centers. The self-help centers provide a wide range of legal assistance.

- 57 self-help centers provide extended family law assistance including assistance with child support, child custody, spousal/partner support, parentage and divorce.
- 55 self-help centers provide assistance with guardianship cases.
- 53 self-help centers provide assistance with domestic violence cases.
- 41 self-help centers offer assistance with elder abuse cases.
- 44 self-help centers provide assistance with small claims matters.

The Great Recession hit thereafter and court budgets were cut dramatically. Despite significant budget cuts, the courts maintained self-help centers because they are helpful for individuals seeking services and cost-effective for the courts. In 2015-2016, self-help centers served over 650,000 individuals.

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<sup>1</sup> *Statewide Action Plan for Serving Self-Represented Litigants*, page 1, found at <http://www.courts.ca.gov/partners/documents/selfreplitsrept.pdf>.

<sup>2</sup> Model Self-Help Pilot Program, A Report to the Legislature, March 2005, Judicial Council of California, found at: [www.courts.ca.gov/partners/211.htm](http://www.courts.ca.gov/partners/211.htm).

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Courts report that self-help services are invaluable and that they have helped both the court and the public. This is exemplified by a judicial officer who noted in a program evaluation: “The assistance that the self-represented litigants receive in our self-help center greatly reduces our workload in the courtroom and also in our business office. In the courtroom, our continuances have been reduced because litigants far more frequently have correct and complete paperwork the first time. And, because of the help they get at the self-help center, the default and uncontested judgments submitted by the self-represented litigants is far more frequently correct the first time it is submitted. This spares the court staff from having to return the paperwork and then review it again and again as it is refiled – until it is finally correct.”<sup>3</sup>

A cost benefit study of self-help programs indicates that self-help services provide real cost savings to courts. Courts that provide services through a workshop reduce the number of court hearings and the time of staff at the public counter and that the costs of the workshops amount to \$.23 for every \$1.00 saved. Courts that provide one-on-one support and information services to litigants are saving: at least one hearing per case, 5 to 15 minutes of hearing time for every hearing held in the case, and 1 to 1.5 hours of court staff time related to providing assistance to self-represented litigants at the front counter and to reviewing and rejecting proposed judgments. The services required to produce these court savings range from a high of \$.55 to a low of \$.36 for every \$1.00 saved. Courts that provide assistance to self-represented litigants to resolve cases at the first court appearance save future court hearings. The cost of the self-help services are roughly \$.45 for every \$1.00 saved. The study further noted that there were significant savings to the public as well.<sup>4</sup>

While these services have been extremely well-received by both the courts and the public, court funding cutbacks starting shortly after the program extended statewide have impacted the current programs and caused major gaps in the services that have been identified as being critical for self-represented litigants.

**Justification:** This proposal will enable courts to increase access to justice as well as improve the efficiency of other aspects of the court including the clerk’s office, courtrooms, and in enforcement efforts. By providing assistance in preparing the paperwork necessary to present or respond to a case, by explaining the court process and what is legally relevant and irrelevant, by helping parties settle their cases, and by explaining how to enforce and comply with court orders, self-help centers allow people to get access to justice in as cost-effective a manner as possible.

Self-help centers were a new concept in 2006 when statewide funding was first provided. They have proven to be an extremely helpful and cost-effective way of enabling people to access the courts. The centers were funded at 25% of the amount needed at that time as a way to start the program and continue to test concepts. The Great Recession hit shortly thereafter and court budgets were cut dramatically. However, self-help center funding remained stable through the years because the courts found that they were so helpful.

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<sup>3</sup> As reported in *Task Force on Self-Represented Litigants – Implementation Task Force: Final Report*, October 2014 at page 19, found at [http://www.courts.ca.gov/partners/documents/EA-SRLTaskForce\\_FinalReport.pdf](http://www.courts.ca.gov/partners/documents/EA-SRLTaskForce_FinalReport.pdf).

<sup>4</sup> *The Benefits and Costs of Programs to Assist Self-Represented Litigants: Results from Limited Data Gathering Conducted by Six Trial Courts in California’s San Joaquin Valley*, prepared by John Greacen, May 3, 2009, found at: [http://www.courts.ca.gov/partners/documents/Greacen\\_benefit\\_cost\\_final\\_report.pdf](http://www.courts.ca.gov/partners/documents/Greacen_benefit_cost_final_report.pdf)



## 2018-2019 FY Budget Change Proposal Concept

Stable funding however, did not address the need for cost of living increases and other unavoidable increased costs. It also did not reflect the increased demand due to cutbacks in legal services funding—cutbacks which could be devastating to many communities, sending more and more people to court without attorneys and without the basic information and explanation of process, forms assistance and other services provided by self-help centers.

In the last ten years, the courts and the Judicial Council have worked closely to develop software programs that help complete court forms quickly and completely. Rural courts are working to develop a coordinated system for using new inexpensive videoconferencing technology such as Skype to share resources and serve people who live in remote areas more effectively. Courts are developing new systems to allow people to do more of their court forms and get information at home, school or work. More of the people who have legal issues of concern are comfortable using technology. The California courts self-help website usage has increased from approximately 2 million per year to 6 million per year since 2007.

However, many legal issues that come to the courts are too complex to be addressed effectively through remote services and we still have a large population of people who are not comfortable using technology—particularly when they are under stress and in difficult situations. Using a combination of technology and increased staffing will increase the amount and effectiveness of services.

**Fiscal Impact:** Currently, \$11.2 million is allocated for self-help centers. A study of trial courts reported that the full need for funding was \$44 million. This request will allocate \$22 million for attorney and qualified paralegal staff at each court and will encourage cooperative projects across county lines such as increased technology, sharing of bilingual resources to provide services as cost-effectively as possible.

The Judicial Council's Advisory Committee on Providing Access and Fairness in the Courts is charged with continuing implementation of the Judicial Council's Statewide Action Plan on Serving Self-Represented Litigants<sup>5</sup> and is currently identifying new models of best practices in self-help services being utilized within and outside of California.

Upon approval of the funds, information will be provided to the courts regarding those identified best practices through a statewide conference as well as on-line webinars. A formula for distribution between the courts will be presented to the Judicial Council for approval upon enactment of the state budget and courts will be asked to submit a proposal for expansion based upon that budget. The application will strongly encourage courts to implement cost-effective solutions to provide self-help services.

**Outcomes and Accountability:** Courts will provide quarterly reports on the use of these funds and expansion of services. This report will be designed to measure the impact of the increased funding including its use for innovative services such as e-filing for self-represented litigants.

The existing database for collecting information on services will be updated and streamlined in order to better identify the numbers of litigants served, and to capture all service types as well as expanded services in assisting litigants with settlement, using electronic resources and other services designed to assist litigants achieve outcomes that better address their needs.

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<sup>5</sup> [http://www.courts.ca.gov/partners/documents/EA-SRLTaskForce\\_FinalReport.pdf](http://www.courts.ca.gov/partners/documents/EA-SRLTaskForce_FinalReport.pdf)

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An evaluation plan of time studies on the impact on court clerks and processing time will be developed. Court calendars will be reviewed to assess the impact on number of hearings held and the time between filing and hearing. Using methodology developed in other evaluations, reviews of the numbers of completed cases and timeliness of outcomes will be reviewed.

### Projected Outcomes:

Workload Measure	2015-2016	2016-2017	2017-2018	2018-2019
Number of services provided	650,000	650,000	650,000	1,500,000
Number of electronic filings by self-represented litigants	0	0	300	100,000
Number of settlement services	1,000	1,000	1,000	25,000
Number of courts with traffic help	10	10	10	58
Number of courts with expungement	25	25	25	58
Number of courts with civil help	37	37	37	58
Number of courts with small claims	44	44	44	58

### Other Alternatives Considered:

**Alternative #1:** Do not approve additional funding for self-help centers in trial courts.

**PRO:** No impact to the General Fund.

**CONS:**

- Services will continue to be cut since the cost of living has increased by 19.6% since 2006 and courts' overall budgets have decreased. More people will be forced to go to court without any assistance.
- Pressures will increase on court clerks and judges who are faced with litigants who have had no assistance.

**Alternative #2:** Provide \$33 million General Fund beginning in 2018-2019 and ongoing to support self-help centers in trial courts, which represents 100 percent of the total funding need.

**PRO:** This will provide a tremendous amount of service for a relatively low investment, and will help address other funding shortfalls that the courts face including clerk staff and judicial officers since self-help centers can help resolve many issues that would otherwise have to be decided by judges.

**CONS:**

- Results in additional General Fund resources.
- Courts may lose some incentive to continue their creative responses to addressing the growing number of self-represented litigants.

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**Alternative #3:** Provide \$22 million General Fund beginning in 2018-2019 and ongoing to support self-help centers in trial courts.

### **PROS:**

- This will enable all courts in the state to provide significantly improved self-help centers and more coordinated services leading to the ability to serve significantly more people throughout the state, increasing access to justice as well as court efficiency.
- It will provide an incentive to innovate services and expand locations and hours of operation.

### **CONS:**

- Results in additional General Fund resources.
- This will still result in many court users without any kind of legal assistance with their court matter.

**2018-2019 FY Budget Change Proposal Concept**

**Requesting Entity:** Center for Judicial Education and Research

**Contact:** Gavin Lane

**Concept No.:** 18-07

**Proposal Title:** Judicial Officer Orientation Programs

**Fiscal Summary:**

Fund Source	Proposed JCC Positions	Total Personal Services	Operating Expenses & Equipment	Proposed Total 2018-2019	Proposed Total 2019-2020	Proposed Total 2020-2021
General Fund	0.0	\$0	\$787,000	\$787,000	\$787,000	\$787,000

**Detailed Funding By Fiscal Year:**

	Proposed Total 2018-2019	Proposed Total 2019-2020	Proposed Total 2020-2021
Ongoing	\$787,000	\$787,000	\$787,000
One-Time	\$0	\$0	\$0
<b>Total</b>	\$787,000	\$787,000	\$787,000

**Proposal Summary:** Proposed augmentation of \$787,000 General Fund beginning in 2018-2019 and ongoing to support the direct costs of faculty and trial court participants at required education courses (identified in Rules of Court 10.451 – 10.462) for newly appointed or elected judges, newly hired subordinate judicial officers (SJOs), and judges and SJOs assigned to adjudicate a substantive law assignment in which they have not worked before (e.g. reassigned from a Criminal Law Court to a Family Law Court). Additionally, this request proposes provisional language to provide additional augmentation authority during the fiscal year (upon approval of the Department of Finance) to the extent that existing resources are insufficient to support the number of judges/SJOs requiring orientation education and training. This request will shift a portion of the funding currently provided from the State Trial Court Improvement and Modernization Fund (IMF) to the General Fund.

**Background Information:** By rule of court, newly appointed, elected, or hired judges and subordinate judicial officers (SJO) must complete Center for Judicial Education and Research’s (CJER) New Judge Orientation and the B.E. Witkin Judicial College, as well as an orientation course from CJER in their primary assignment area<sup>1</sup>. These three programs enable the new judge and SJO to transition from their former role of an attorney to that of a judicial officer. These programs also provide foundational education in their role as a judicial officer, as well as essential education specific to their initial bench assignment. The courses are planned and provided to judicial officers by trained expert faculty drawn from among their peers on the bench. The general public benefits directly and profoundly from the improved judicial decision-making of judicial officers informed by these courses.<sup>2</sup>

<sup>1</sup> Cal.Rule of Court 10.462(c)

<sup>2</sup> Additionally, experienced Judges are expected to and experienced SJOs are required to complete an orientation course when they are beginning a new assignment.

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Currently, \$1.202 million is allocated from the IMF to CJER to support not only these required statewide orientation courses for trial court judicial officers, but also to provide continuing statewide education to experienced trial court judges, court executives, managers and court staff. This proposal will reduce the amount needed annually from the IMF to \$599,000 to support these other types of training/CJER activities, and will bring the total statewide training budget to \$1.386 million (\$599,000 IMF/\$787,000 GF).

The CJER IMF allocation, intended to enable consistent statewide education, was originally associated with state trial court funding and provided via several BCPs in the late 1990s and early 2000s. Once encompassing \$3.6 Million, and reduced and redirected by more than 60% to a current level of \$1.2 Million, CJER's IMF budget is no longer sufficient to meet the education needs identified by the CJER Governing Committee, the Judicial Council Advisory Committee charged with implementing the Council's Strategic Plan (Education is Goal 5 of the Judicial Council's Strategic Plan). The largest portion of this budget by far funds orientation for judicial officers new to the bench and new to their substantive law assignment. More than 50% of live education for experienced judges has been eliminated in recent years as a result of severe funding reductions.

**Justification:** This proposal addresses two primary problems. The first is that the reduced solvency of the IMF is causing ongoing reductions to CJER's overall allocation and impacting the ability of the Council to provide its recommended curriculum of education to all judicial officers, court managers and personnel. The second is that the fluctuating cost of the judicial orientation programs from year to year due primarily to the variable number of judicial appointments by the State Executive impacts CJER's ability to effectively plan for and implement all other judicial branch education programming in any given fiscal year.

A review of attendance at the Judicial College over the past 25 years demonstrates a spike in judicial appointments when a Governor leaves office (see **Attachment A**). Because of this, a large unfunded increase in costs is anticipated in 2018-2019 and 2019-2020 when the current Governor leaves office. The current CJER IMF allocation could not absorb those anticipated costs without eliminating most, if not all of the remaining live education for experienced judges.

When the current Governor leaves office, CJER expects, 2018-2019, and 2019-2020 to have a much higher-than-average attendance by new judges, consistent with the past levels of appointments by outgoing governors. Attendance at the Judicial College has ranged between 54 and 142 judges over the past 26 years (please see **Attachment A** showing Judicial College attendance from 1990-2017). This will increase the number of judicial orientation participants and therefore the costs. Further, accelerating and variable costs for lodging when the economy is strong compound this fluctuating cost problem, particularly in the Bay Area and Sacramento where the majority of judicial orientation education is provided.

CJER has invested in a variety of distance, local and regional education approaches over the past fifteen years to maximize the delivery of educational resources for all judicial branch members, and live education for experienced judges has been reduced by more than 50% in recent years. The remaining live face-to-face educational opportunities are needed to provide the types of continuing education that have been consistently identified as essential for the state's experienced judicial officers. Stable funding is

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required for judicial orientation education in order to avoid severe ad hoc reductions in the funding for CJER’s remaining live continuing education for experienced judges in order to pay for the fluctuating cost increases in the orientation programs.

This request enables CJER to anticipate and address this expected cost increase by proposing provisional language to provide additional augmentation authority during the fiscal year (upon approval of the Department of Finance) to the extent that existing resources are insufficient to support the variable number of judges/SJOs requiring orientation education and training. It further proposes that in order to balance out these as needed augmentations, the use of the funding be limited to the specific purpose of judicial orientation and the funds returned to the General Fund in years when costs are less than standard.

**Fiscal Impact:** The \$787,000 General Fund allocation will support the direct costs of participants (consisting of trial court judicial officers) and faculty (consisting primarily of subject matter expert judges trained as faculty and a small number of paid subject matter experts). Estimated costs are based on the long term average number of 104 participants annually for the New Judge Orientation and B.E. Witkin Judicial College (see **Attachment A**) and 347 participants annually for the various Primary Assignment Orientation Courses (based both on standard participant maximums for each course and actual past attendance at those courses in FY14-15). The cost estimate for this proposal is primarily based on the constant of 104 new judicial officers being appointed, elected, or hired on an annual basis, which is derived from the average attendance of new judicial officers at the B.E. Witkin Judicial College over the past 25 years. For judges new to a judicial assignment area, the cost estimate is based on actual attendance numbers from FY 14-15 and the aggregate of standard course participation numbers (totaling 347 annually) for the nine Primary Assignment Orientation (PAO) courses.

The cost breakdown between the three Orientation areas is shown in the table below.

	Participants	Faculty	Total
New Judge Orientation (9 Sessions)	\$104,000	\$45,000	\$149,000
B.E. Witkin Judicial College	\$260,000	\$65,000	\$325,000
Primary Assignment Orientation Courses	\$260,000	\$53,000	\$313,000
<b>Total</b>	<b>\$624,000</b>	<b>\$163,000</b>	<b>\$787,000</b>

This request is consistent with a previously approved 2016-2017 Budget Change Proposal which shifted costs for the Phoenix Program from the IMF to the General Fund, which is better able than the IMF to both accommodate the scope of these costs and provide for the variable funding amount required from year to year. Orientation of judicial officers to their new role on the bench and to their substantive law assignments is a critical function of the judicial branch. It is required to ensure the fair administration of justice, to meet the diverse needs of the public and to enhance the trust and confidence of the people of California in their courts.

**Outcomes and Accountability:** The requested resources will be to each of the three programs with which they can be tracked independently. A detailed annual account will be provided showing the cost elements of the programs (including the number of new judges, number of faculty, number of lodging nights, lodging rates secured through the use of appropriate contracting procedures, and ancillary costs such as those for materials, business meals or transportation). This detailed cost analysis will be used to determine

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whether additional resources are needed or whether unused funding should be returned to the General Fund. The potential use of the funds would be limited and any unused funding would not be available for reallocation to other GF projects.

**Projected Outcomes:** The most important outcome of this proposal is stability and the ability to adjust the budget to meet the varying number and cost of new judicial officers requiring orientation as well as fluctuations in the market costs for lodging. This is essential for CJER to be able to meet rule and statutory requirements in years when a large number of new judicial officers require orientation while still being able to provide the continuing education that has been identified as essential for experienced judicial officers.

<b>Workload Measure</b>	<b>2014-2015 Past Year</b>	<b>2015-2016 Past Year</b>	<b>2016-2017 Current Year</b>	<b>2017-2018 Budget Year</b>
Average of 104 NJO Participants	94	88	Not yet available	Unknown
Average of 104 College Participants	72	96	88	84
Standard of 347 PAO Participants	327	316	Not yet available	Unknown

**Other Alternatives Considered:**

**Alternative #1:** Do not approve additional funding to support the judicial officer orientation programs.

**PRO:** No impact to the General Fund.

**CONS:**

- This will result in insufficient IMF funding for judicial orientation programs in future years.
- Could result in elimination of funding for most or all other live judicial education programs unless supplemental funding is arranged.

**Alternative #2:** Provide \$1.4 million General Fund beginning in 2018-2019 to support the judicial officer orientation programs and the proposed provisional language to provide additional augmentation authority during the fiscal year.

**PRO:** Will ensure that any judicial officers and SJOs have access to all judicial officer orientation programs.

**CON:** Results in additional General Fund resources.

**Alternative #3:** Provide \$787,000 General Fund beginning in 2018-2019 and ongoing to support the judicial officer orientation programs and the proposed provisional language to provide additional augmentation authority during the fiscal year.

**PRO:** Would partially mitigate the problem of unstable funding.

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### CONS:

- Would not be sufficient to avoid periodic reductions in the live continuing judicial education that has been identified as essential for experienced judges.
- Results in additional General Fund resources.



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Attachment A

B.E. Witkin Judicial College – Attendance History of New Judicial Officers 1990-2017

<b>Year</b>	<b>Attendance</b>
2017	Est 84
2016	88
2015	96
2014	72
2013	72
2012	54
2011	115
2010	106
2009	130
2008	100
2007	119
2006	105
2005	62
2004	112
2003	130
2002	95
2001	104
2000	78
1999	98
1998	142
1997	112
1996	112
1995	110
1994	98
1993	86
1992	Not Available
1991	132
1990	148
<b>Average</b>	<b>104</b>

**2018-2019 FY Budget Change Proposal Concept**

**Requesting Entity:** Judicial Council  
**Requesting Entity Contact:** Lucy Fogarty  
**Concept No.:** 18-08

**Proposal Title:** Programs supporting trial courts statewide.

**Fiscal Summary:**

Fund Source	Proposed JCC Positions	Total Personal Services	Operating Expenses & Equipment	Proposed Total 2018-2019	Proposed Total 2019-2020	Proposed Total 2020-2021
General Fund	14.0	\$7,382,000	\$444,000	\$7,826,000	\$7,675,000	\$7,675,000

**Detailed Funding By Fiscal Year:**

	Proposed Total 2018-2019	Proposed Total 2019-2020	Proposed Total 2020-2021
Ongoing	\$7,675,000	\$7,675,000	\$7,675,000
One-Time	\$151,000	\$0	\$0
Total	\$7,826,000	\$7,675,000	\$7,675,000

**Proposal Summary:** Proposed augmentation of \$7.8 million General Fund in 2018-2019 and \$7.7 million in 2019-2020 and ongoing to shift personal services costs for current Judicial Council positions supporting programs that provide services to trial courts statewide currently funded from the State Trial Court Improvement and Modernization Fund (IMF) to the General Fund. This request will also convert 14.0 consultants to permanent Judicial Council employees within the Information Technology unit. This will allow costs related to statewide operations of the Judicial Branch be funded from a stable funding source to serve the branch’s needs and ensure sufficient funding is provided to support these programs. The 2016 Budget Act included an ongoing augmentation of \$8.7 million General Fund to support the Judicial Council’s IMF-related state operations costs of the Phoenix Financial System.

**Background Information:** Judicial Council staff currently funded from the IMF support the following programs:

1. Treasury Services Cash Management - Used for the compensation, operating expenses and equipment costs for two accounting staff for all trial courts.
2. Trial Court Procurement - Pays for phone services and rent allocation for one position in Business Services that provide procurement and contract related services at a statewide level.
3. Audit Services - Conducts comprehensive audits (financial, operational, and compliance) at each of the 58 trial courts.

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4. California Courts Technology Center (CCTC) - Provides ongoing technology center hosting or shared services to the trial courts, as well as a full disaster recovery program.
5. Civil, Small Claims, Probate and Mental Health (V3) CMS - CMS V3 processes 25 percent of all civil, small claims, probate, and mental health cases statewide. V3 functionality enables the courts to process and administer their civil caseloads, automating activities in case initiation and maintenance, courtroom proceedings, calendaring, work queues, payment, and financial processing.
6. Uniform Civil Fees - Provides ongoing application support and maintenance; server hardware upgrades; and application software upgrades of the Uniform Civil Fees System.
7. Regional Office Assistance Group - Pays for attorneys, an administrative coordinator and a secretary to establish and maintain effective working relationships with the trial courts.

In addition to the currently authorized, permanent Judicial Council positions that support the above listed programs, the Information Technology unit has 14.0 consultants that support CCTC (6.0 consultants), CMS V3 (1.0 consultant), and the following programs:

1. Telecom (3.0 consultants) - Develops and supports a standardized level of network infrastructure for the California superior courts. This infrastructure provides a foundation for local systems (email, jury, CMS, VOIP, etc.) and enterprise system applications such as Phoenix, via shared services at the CCTC provides operational efficiencies, and secures valuable court information resources.
2. Data Integration (3.0 consultants) - Provides services that enable the secure and efficient exchange of information between the courts and their justice and integration partners.
3. Enterprise Policy and Planning (EPP) (1.0 consultant) – The EPP includes the Oracle Branch-wide License Agreement (BWLA) which provides support to the entire branch with the identified Oracle products and unlimited use of these licenses, the Enterprise Architecture program which identifies interdependencies between branch-wide data and systems to improve investments in technology, and the Innotas project portfolio management tool which supports the organization's project management discipline by providing a centralized, web-based project information repository

**Justification:** The IMF has experienced significant declines in revenue over the past several years (see table below). These revenues, which consist of 50-50 excess revenue split from collections of certain fees, fines, and forfeitures; 2 percent of all fines, penalties, and forfeitures collected in criminal cases; and royalties received from publication of uniform jury instructions, are intended to ensure equal access to trial courts by the public and to improve trial court operations and should be used for those purposes.

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<b>Historical Revenue for the State Trial Court Improvement and Modernization Fund</b>			
	50-50 Excess Revenue	2% of Fines/Penalties/Forfeitures	Total
2005-2006 (high year)	\$73,157,065	\$15,894,733	\$89,051,798
2013-2014	\$26,873,351	\$15,242,700	\$42,116,051
2014-2015	\$23,702,658	\$14,730,023	\$38,432,681
2015-2016	\$20,055,519	\$11,915,523	\$31,971,042
2016-2017 (est.)	\$18,469,929	\$10,915,373	\$29,385,302

This proposal will provide a General Fund augmentation to support Judicial Council staff funded from the IMF and convert 14.0 consultants to permanent Judicial Council staff, recognizing that costs related to statewide operations of the Judicial Branch are properly funded from the General Fund rather than from other special funds designated for specific purposes. The adverse impacts to the IMF, if this proposal is not approved, would likely result in further reductions and possible elimination of programs funded from the IMF. While the stability of the IMF in the short-term is positive, given the continued decline of revenues to all branch funds, long term support of these programs is not sustainable.

**Fiscal Impact:** \$7.8 million General Fund. The ongoing fiscal impact to the IMF, if the proposal is approved, is fund solvency and the preservation of its resources necessary to fund and serve the branch’s needs. The request reflects the change in funding support for statewide programs that benefit all trial courts.

<b>Program/Project</b>	<b>Office</b>	<b>Authorized FTE</b>	<b>2017-2018 Council Approved Allocation</b>
Treasury Services Cash Management	Budget Services	2	\$242,100
Trial Court Procurement	BAP	1	\$122,000
Audit Services	Audits	14	\$660,000
California Courts Technology Center	IT	11	\$1,969,189
Civil, Small Claims, Probate and Mental Health (V3) CMS	IT	9	\$843,233
Uniform Civil Fees	IT	2	\$392,438
Regional Office Assistance Group	LSO	6	\$750,000
<b>Totals</b>		<b>45</b>	<b>\$4,978,960</b>
<b>Program/Project</b>	<b>Office</b>	<b>Number of Consultants</b>	<b>Cost to convert consultants to permanent positions</b>
Telecom	IT	3	\$660,00
California Courts Technology Center	IT	6	\$1,148,000
Civil, Small Claims, Probate and Mental Health (V3) CMS	IT	1	\$220,000
Data Integration	IT	3	\$599,000
Enterprise Planning	IT	1	\$220,000
<b>Totals</b>		<b>14</b>	<b>\$2,847,000</b>

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**Outcomes and Accountability:** Providing a General Fund augmentation to support Judicial Council staff funded from the IMF will mitigate the need for program reductions and/or eliminations, and preserve limited resources within the IMF.

### **Other Alternatives Considered:**

**Alternative #1:** Provide \$7.8 million General Fund beginning in 2018-2019 and ongoing to support Judicial Council staff funded from the IMF.

**PRO:** No reduction of services provided to the courts by the IMF. Continues to build on the branch's efforts to realign expenditures within the IMF to ensure fund solvency and supports the Judicial Council's role in supporting strong central administrative functions for the branch.

**CON:** Results in additional General Fund resources.

**Alternative #2:** Provide an ongoing augmentation of \$5.0 million General Fund to support Judicial Council Staff funded from the IMF.

**PRO:** Limits the reductions to programs currently funded from the State Trial Court Improvement and Modernization Fund. Continues to build on the branch's efforts to realign expenditures within the IMF to ensure fund solvency.

### **CONS:**

- Results in additional General Fund resources.
- Will likely result in further reductions/elimination of programs funded from the IMF.

**Alternative #3:** Do not provide additional funding to support Judicial Council Staff funded from the IMF.

**PRO:** No impact to the General Fund.

**CON:** Will result in further reductions/elimination of programs funded from the IMF.

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**Requesting Entity:** Court Operations Services  
**Contact:** Olivia Lawrence  
**Concept No.:** 18-09

**Proposal Title:** Advancing the Implementation of the *Strategic Plan for Language Access in the California Courts*

**Fiscal Summary:**

Fund Source	Proposed JCC Positions	Total Personal Services	Operating Expenses & Equipment	Proposed Total 2018-2019	Proposed Total 2019-2020	Proposed Total 2020-2021
General Fund	2.0	\$308,000	\$7,844,000	\$8,152,000	\$7,435,000	\$7,435,000

**Detailed Funding By Fiscal Year:**

	Proposed Total 2018-2019	Proposed Total 2019-2020	Proposed Total 2020-2021
Ongoing	\$7,435,000	\$7,435,000	\$7,435,000
One-Time	\$717,000	\$0	\$0
Total	\$8,152,000	\$7,435,000	\$7,435,000

**Proposal Summary:** Proposed augmentation of \$8.2 million General Fund and 2.0 positions in 2018-2019, and \$7.4 million in 2019-2020 and ongoing to advance the implementation of the *Strategic Plan for Language Access in the California Courts* adopted in January 2015. The funding will implement the following provisions of the Judicial Branch Language Access Plan (LAP) to 1) expand interpreter services into all civil proceedings; 2) establish a grant program for signage in courthouses in multiple languages; 3) establish a grant program for infrastructure support and non-video remote interpreting equipment in support of courts’ language access expansion efforts; 4) maintain the branch’s online Language Access Toolkit and develop multilingual videos; and 5) provide staff to administer the grant programs and maintain the online Language Access Toolkit.

**Background Information:** On January 22, 2015, the Judicial Council approved a comprehensive *Strategic Plan for Language Access in the California Courts* (LAP), which includes eight strategic goals and 75 detailed recommendations to be completed in three distinct phases. The Judicial Council's Language Access Plan Implementation Task Force, chaired by Supreme Court Justice Mariano Florentino-Cuellar, advises the Chief Justice and Judicial Council on implementation of the recommendations. The Task Force's charge is to turn the LAP into a practical roadmap for courts by creating an implementation plan for full implementation in all 58 trial courts, seeking funding for that implementation, and establishing the necessary systems for monitoring compliance with the new program.

Fundamental to California's LAP is the principle of adequate funding so the expansion of language access services will take place without impairing other court services. Approximately \$103 million is allocated annually to support services of court interpreters and cannot be used for other language access

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services. Beyond this, no new funding was secured with the adoption of the LAP, which encompasses a much broader scope of services.

Language access is a broad service area for courts that includes many components, such as bilingual staff assistance at clerk's counters and self-help centers, provision of qualified court interpreters in the courtroom, court websites and forms, other printed informational materials, videos explaining court processes, and signage throughout the courthouse. Court interpreting, an important subset of language access, has been a substantial area of responsibility in the California trial courts for over forty years.

### **Federal Compliance**

On August 16, 2010, the United States Department of Justice (DOJ) issued a letter to all state chief justices and court administrators clarifying the requirement that state courts receiving federal financial assistance must provide meaningful access to Limited English Proficiency (LEP) persons in order to comply with federal law. According to the 2010 DOJ letter, courts that receive federal funding must provide interpreters, free of charge, in all court proceedings to avoid violating civil rights laws. While recognizing budget concerns and constraints on the part of state and local courts, the August 2010 memorandum to state court administrators bluntly stated that "fiscal pressures, however, do not provide an exemption from civil rights requirements."

In February 2011, the DOJ initiated an investigation of the Superior Court of California, County of Los Angeles and the Judicial Council of California, prompted by a December 2010 complaint filed by the Legal Aid Foundation of Los Angeles on behalf of two litigants who were not provided with Korean interpreters for their court hearings. The complaint alleges that in failing to provide the interpreters, the courts violated Title VI of the federal Civil Rights Act of 1964, which prohibits national origin discrimination. In a letter dated May 22, 2013, the DOJ summarized the observations they had made during the course of their investigation, identified four major areas of concern, and issued eight recommendations for steps toward compliance with Title VI and DOJ's Title VI implementing regulations. Key among their findings and recommendations were the following:

1. Title VI requires interpreter services in court proceedings be provided free of charge and requires interpreters in all court proceedings, not merely criminal and juvenile matters.
2. LEP litigants must be provided interpreting services from competent interpreters and not family or friends.
3. The Judicial Council should consider efficiencies and practices that can improve and increase language services in proceedings and operations, including appropriately utilizing technology such as video remote interpreting.
4. The Judicial Council should arrange for translation of fee waiver forms into the most common languages.

The Judicial Council and Superior Court of California, County of Los Angeles have both been working collaboratively with the DOJ toward voluntary compliance, without the need for legal action to be taken. DOJ monitored the drafting of the LAP with great interest, and continues to monitor implementation closely. Failure to take meaningful steps to implement the plan will likely lead to action by the DOJ which might result in a less measured implementation strategy.

### **Constitutional and Statutory Direction**

Effective January 1, 2015, Evidence Code section 756 and Government Code section 68092.1 were added, setting forth the joint commitment of the legislative and judicial branches of government to carry

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out the goal of providing interpreters to all parties who require one, regardless of case type and level of income. The Evidence Code section provides that "[t]o the extent required by other state or federal laws, the Judicial Council shall reimburse courts for court interpreter services provided in civil actions and proceedings to any party who is present in court and who does not proficiently speak or understand the English language for the purpose of interpreting the proceedings in a language the party understands, and assisting communications between the party, his or her attorney, and the court." The code then sets forth a case type priority order for the provision of interpreters "if sufficient funds are not appropriated to provide an interpreter to every party that meets the standard of eligibility."

Additionally, Article 1, §14 of the California Constitution provides for the right to an interpreter in criminal matters; Code of Civil Procedure §116.550(a) and (d) discuss the right to an interpreter in small claims; and Evidence Code §§ 752, 730, 731(a) and (c) speak to the right of witnesses to have interpreters.

### **Program Resources**

The launch, implementation, and expansion of the Language Access Plan at the state level is supported by the Judicial Council's Court Operations Services (COS) office with only 3.0 FTEs: one regular Senior Analyst, one regular Analyst, and one limited-term Senior Analyst. Approximately \$500,000 for salary and wages was allocated to COS for the 2016-2017 fiscal year, and includes funding for the department's Principal Manager. Current workload and funding constraints will impede the program's ability to proceed with any new initiatives related to the full expansion of the LAP.

**Justification:** The efforts of the Judicial Branch to provide enhanced language access services have taken on new urgency in light of the proposed policy changes at the national level that will impact the needs of Californians. In the past, when federal funding for essential services — including changes in welfare and Medicaid eligibility that could affect California — have been made, vulnerable populations have faced increased needs to access the courts to challenge improper termination or cuts in services. In California, many of those likely to be affected will be populations that include large numbers of persons needing language services to effectively access the courts. If this need is magnified by cuts in funding for legal services, as has been proposed, greater numbers of these individuals will come to court without counsel, further increasing their needs for language services both inside and outside the courtroom.

In addition, new federal immigration enforcement efforts may discourage vulnerable persons from seeking court assistance to enforce their rights, and to obtain protection against crime. To combat this, effective outreach efforts to ensure that acts of violence are reported, and laws enforced, will require services to immigrant communities in their native languages.

Without meaningful language access, Californians who speak limited English are denied access to the very laws created to protect them. California is home to the most diverse population in the country. There are approximately 7 million LEP residents and potential court users, speaking more than 200 languages, dispersed across a vast geographic area. These Californians continue to face significant obstacles to meaningful access to our justice system. The California courts also face unique challenges each day, particularly in courtrooms with high volume calendars in which the vast majority of litigants are self-represented (such as traffic, family law, and small claims). Courts must confront these challenges with limited resources, and although some funding has been increased for the courts, which had been



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substantially decreased in the past, the branch is not funded to the level required to provide all the services Californians need and expect in the resolution of their legal disputes.

To better meet the needs of the state's LEP court users and the courts that serve them, the Judicial Council approved a comprehensive *Strategic Plan for Language Access in the California Courts* in January 2015. This plan includes eight strategic goals and 75 detailed recommendations to be completed in three distinct phases. The goal of the Judicial Council and the Language Access Plan Implementation Task Force, which was established to seek funding to implement the plan and monitor the implementation of the recommendations, is to complete all phases of the plan over a 5-year period from 2015-2020. Several milestones were reached in the plan's first year including the launch of a web-based Language Access Toolkit and securing \$7 million in additional, ongoing funds the 2016 Budget Act for trial courts to continue expanding access to interpreters in civil cases. Beyond interpreter costs, however, implementation of the next set of LAP recommendations will require funding and permanent positions to complete.

Unlike other states around the nation who have long since fully implemented language access plans in their courts, California's language access plan was only launched in March 2015. While much improvement has resulted from the initial launch, California is a long way from proving its compliance with federal guidelines and mandates. There are four initiatives that would advance the goals of the judicial branch's Language Access Plan to the next phase:

1. **Court Interpreter Services** [\$4.0 million ongoing]

Approximately \$103.5 million is appropriated to support court interpreter services. This funding has historically been used solely to provide interpreter services in criminal and juvenile matters (referred to as "mandatory cases"), but changes in state law and policy now also require the provision of interpreters in civil case types. Expansion into civil cases had been gradual since FY 2013-2014, but courts have made extensive progress since 2015. A recent survey was conducted to gather information regarding each court's ability to provide interpreters as of December 31, 2016 in each of the eight priority levels under Evidence Code 756. Results indicate that courts' coverage level has reached 81 percent, with 47 of 58 courts providing services in all eight priorities, and these increases in the provision of services necessitate additional funding, including coverage for standard cost-of-living allowances for existing interpreters statewide.

2. **Establishment of a *Signage Grant Program for the Trial Courts*** [\$1,087,500 ongoing, \$5,500 one-time, and 0.5 FTE]

Easy-to-understand signage is essential to help LEP court users navigate the courthouse and ensure they receive appropriate services. Access starts with wayfinding, which requires the use of clear and intuitive visual cues to minimize confusion and assist all persons who enter a building. It is accomplished through the strategic and immediate visual information indicating the location of common important public spaces: information desks, elevators, stairs, and restrooms. Wayfinding is then supplemented by appropriate signage. These important navigational tools can help to remove confusion and language access barriers, and reduce the apprehension that many court users may have about going to an unfamiliar courthouse.

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The Signage Grant Program for the courts will prescribe guidance, consideration, and funding to courts that seek reimbursement for costs incurred for easy-to-understand signage that is essential to help LEP court users navigate the courthouses and ensure they receive appropriate services. A brief grant fund application (and associated procedures) will be developed outlining the grant fund process. The Judicial Council proposes the establishment of a 0.5 FTE Senior Analyst for the Language Access Services unit who will work collaboratively with the council's Budget Services office, to manage and coordinate this grant program. This position will perform a variety of general analytical work in support of language access initiatives, and will also assume the responsibilities of managing the proposed *Language Access Infrastructure Reimbursement Fund* below. Specifically, the Senior Analyst duties for the Signage Grant Program will include: establishing and monitoring the reimbursement program; communicating with courts regarding the goals and guidelines of the program; preparation and review of reimbursement applications and reporting templates; coordinating reimbursement procedures with the Judicial Council's Budget Services office; and evaluating data and compiling regular reports regarding the 58 courts' signage expenditures. Reimbursement requests would be processed on a quarterly basis.

### 3. Infrastructure Support and Non-VRI Equipment to Help Support Courts' Language Access Expansion: Establishment of a *Language Access Infrastructure Reimbursement Fund* [\$2,087,500 ongoing, \$701,200 one-time, and 0.5 FTE]

Funding is requested to support courts' added infrastructure and oversight costs. With the courts' expansion of interpreter services into civil proceedings, under the Language Access Plan (including the management and oversight of approximately \$103 million in court interpreter services anticipated for FY 2016-17), the courts are now faced with increased volume of interpreter services to oversee and additional infrastructure expenses. As a general rule, courts do not receive reimbursements for administrative costs of interpreter services. In order for the courts to fully expand language access services and fully implement the Language Access Plan, additional funding is paramount for infrastructure support to pay for associated additional non-reimbursable services related to the language access expansion, such as court interpreter supervision, coordination or scheduling of staff, translation of key local documents for LEP court users, bilingual pay-differentials to hire and retain qualified bilingual staff, multi-lingual signage needs, and language access-related equipment. In addition, the current language access expansion effort taking place in the courts requires courts to have updated/upgraded quality interpreter wireless communication equipment and headsets, which enable court interpreters to work more efficiently with LEP parties and witnesses. In addition to the request for ongoing funding to implement this program, the Judicial Council requests a one-time funding augmentation of \$696,000 specifically to assist the courts with the purchase of upgraded communication equipment and headsets statewide.

Administration of the *Language Access Infrastructure Reimbursement Fund* to reimburse courts for (non-court interpreter) language access expenses will be overseen and managed by the Judicial Council's Language Access Plan Implementation and Strategy unit. This initiative seeks the establishment of a 0.5 FTE Senior Analyst to develop and administer this reimbursement fund. This position will perform a variety of general analytical work in support of language access initiatives, and will also assume the responsibilities of managing the proposed *Signage Grant Program* above. Specifically, the Senior Analyst duties for the Language Access Infrastructure

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Reimbursement Fund will include: establishing and monitoring the reimbursement program; communicating with courts regarding the goals and guidelines of the program; preparation and review of reimbursement applications and reporting templates; coordinating reimbursement procedures with the Judicial Council's Budget Services office; and evaluating data and compiling regular reports regarding the 58 court's administrative (non-court interpreter) language access costs. The Senior Analyst will assist and support the branch to expand language access efforts, and will help to monitor and update language access cost allocations as appropriate.

#### 4. Continued Development and Maintenance of the Web-based Language Access Toolkit

[\$260,000 ongoing, \$10,500 one-time, and 1.0 FTE]

Funding is being requested for the further development, expansion, and maintenance of an online presence for disseminating the work of the Implementation Task Force and supporting local courts in their efforts to provide language access to LEP court users. The Implementation Task Force has generated a number of important tools for courts and has developed an initial framework for a centralized access point and repository for all language access resources and materials. The additional funding would be used to (1) build out the site for full functionality for courts and add sections for LEP court users who speak one of the top eight languages in California to be connected with information available on the statewide and local levels in their language, including information sheets, videos and other resources, and (2) to support the production of multilingual outreach videos on urgent topics including access to justice to be included in the toolkit and other venues. A 1.0 FTE Business Systems Analyst is requested to continually manage the site's content, serve as subject matter expert for translated documents, and provide technical maintenance on the site.

**Fiscal Impact:** This request will provide \$8.2 million to assist the courts with language access expansion expenditures, including higher court interpreter costs due to ongoing civil expansion efforts as detailed below.

Court Interpreter Costs: \$4 million to support court interpreter services and cannot be utilized for other language access expenditures incurred by the courts. The amount requested was derived using a combination of information collected by the program through the Court Interpreter Data Collection System, actual expenditure data from the third and fourth quarters of fiscal year 2015-16, and recent survey responses from the courts detailing court interpreter coverage percentages statewide. These factors allowed the Judicial Council to determine an average cost per interpretation of \$131. Using data provided by the courts to Language Access Services staff, Budget Services calculated the average statewide interpreter coverage, for courts not at one hundred percent coverage, to be 70 percent. Based on the information provided, it is estimated that \$4.0 million in additional funding will be needed for civil expansion.

The Judicial Council's policy is that any remaining funding for court interpreter services is solely to be used to reimburse trial courts for the cost of interpreter services. As expansion into civil case types continues, this surplus is anticipated to soon be exhausted.

Separately, as part of the effort to achieve full language access expansion for LEP court users in all 58 courts on or before 2020, the Judicial Council is requesting \$4.1 million to implement:

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- 1) **A Signage Grant Program for the Trial Courts** – funding will be used to offset costs courts are incurring for signage statewide. Research was recently conducted by the Language Access Plan Implementation Task Force to determine best practices regarding public signage. The study confirmed the need to work to develop uniform wayfinding strategies and standardize signage across all courthouses.
- 2) **Establishment of a Language Access Infrastructure Reimbursement Fund** – funding will be used to offset costs courts are incurring for non-reimbursable expenditures related to language access expansion. Court were surveyed about their expenditures outside of direct court interpreter services and all reported considerable costs attributed to civil expansion efforts. A recent modification was made to the branch’s financial system to more accurately capture these non-reimbursable expenditures. Additionally, staffing will be needed to manage the reimbursement fund.
- 3) **Continued Development and Maintenance of the Web-based Language Access Toolkit** – funding will be used to build out the website for full functionality for courts and to add sections for LEP court users who speak one of the top eight languages in California with information on the statewide and local levels in their language, including information sheets, videos, video development, and other resources. The proposed position would be responsible for managing the site and language access resources.

**Outcomes and Accountability:** The four LAP initiatives contained in this proposal all have measurable and tangible results for the courts and LEP court users. The Language Access Plan Implementation Task Force (LAPITF) continues to issue regular reports regarding LAP implementation progress to court leadership and public audiences for the purpose of accountability and to demonstrate what concrete and active steps courts are taking to expand language access services, including projects and outcomes related to successful implementation of the various recommendations contained in the LAP.

- **Court Interpreter Services.** Funding will allow more courts to provide interpreters in multiple languages in growing numbers of civil cases and case types. Expansion of court interpreter services in civil matters is consistent with the direction of the US DOJ and the findings set forth in Government Code section 68092.1 that it is imperative that courts provide interpreters to all parties who require one, and that both the legislative and judicial branches of government continue their joint commitment to carry out this shared goal. Courts will continue to report on interpreter usage, by case type, and the Judicial Council will be able to more effectively calculate the continuing unmet need.
- **Signage Grant Program for Trial Courts.** The provision of signage and materials in appropriate languages will promote and enhance effective communication with LEP persons when they are navigating courthouses or require assistance to understand and complete court processes. LAP staff will track court signage expenditures using the Phoenix Financial System. A database will be developed to capture expenditure data and manage reimbursement requests.
- **Establishment of a Language Access Infrastructure Reimbursement Fund.** With the exception of direct interpreter services provided to LEP court users, the expansion of language

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access services is not reimbursable or funded for the courts. Each court currently absorbs the vast majority of the infrastructure and oversight expenses associated with the provision of interpreter services. Providing a dedicated funding stream specifically for the offset of these expenditures will free existing resources initially allocated for other court costs, and ensure that courts continue their efforts to successfully expand language access as mandated. Resources and expenditures can be monitored using the Judicial Council's Phoenix Financial System on a regular basis. A database will be developed to track expenditure data and manage reimbursement requests.

- **Continued development and maintenance of the web-based *Language Access Toolkit*.** The existing Language Access Toolkit was established as a centralized access point and repository for all language access resources and materials. To ensure the site's optimal effectiveness, it must be expanded and continually maintained, rather than remaining static. In its preliminary state, the site is already proving to be an indispensable resource for the courts. Expanding the site to full functionality would be of even greater use and benefit to the courts, and would eventually include access for LEP court users as well. The success of this initiative can easily be measured by the anticipated increased number of users accessing the site registered as "hits". These statistics are measurable and include the access to specific documents and forms and other resources.

**Projected Outcomes:** The four LAP initiatives will serve to greatly advance the Judicial Council's overarching goal of statewide expansion of language access efforts for LEP court users. A survey of court progress in providing interpreters in civil cases completed in March 2017 showed that 81 percent of courts were making progress. Nonetheless, the ability of courts to provide interpreters in civil case types varied according to size, demand, and availability of interpreters, and a variety of other challenges involving signage, translation, technology and outreach remain.

A major Language Access Plan goal is that "by 2017, and beginning immediately where resources permit, qualified interpreters will be provided in the California courts to LEP court users in all courtroom proceedings." Due to limited resources in most courts, in addition to criminal and juvenile delinquency cases, interpreters are provided in order of priority as follows:

- Priority 1: DV, civil harassment where fees are waived (Code Civ. Proc., § 527.6(w)), elder abuse (physical abuse or neglect)
- Priority 2: Unlawful detainer
- Priority 3: Termination of parental rights
- Priority 4: Conservatorship, guardianship
- Priority 5: Sole legal or physical custody, visitation
- Priority 6: Other elder abuse, other civil harassment
- Priority 7: Other family law
- Priority 8: Other civil

A survey of all 58 courts was conducted in January 2017 to determine court progress in providing interpreters in civil cases through December 31, 2016. A total of 47 of 56 responding courts indicated that they were able to provide interpreters under all 8 priorities (Priorities 1-8). The languages provided, and the estimated interpreter coverage for each priority, varied by court.

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Each of the four LAP initiatives would contribute to the projected outcome of achieving full language access expansion for LEP court users in all 58 courts on multiple fronts. The Judicial Council is striving to meet this goal on or before the year 2020.

### Other Alternatives Considered:

**Alternative #1:** Do not approve additional funding to advance the implementation of the *Strategic Plan for Language Access in the California Courts* adopted in January 2015.

**PRO:** No impact to the General Fund.

#### CONS:

- Courts will be unable to expand language access services into additional civil case types beyond their current levels.
- Courts and the Judicial Council will be limited in their ability to expand language access services for LEP court users due to lack of funding for other essential language access services to increase access for LEP users.
- Failure to establish a mechanism to help offset language access expansion expenditures not already a part of their annual budgeted allocations places an undue burden on courts. Courts may be unable to implement wayfinding strategies and signage without reducing other parts of their budgets, limiting resources for other designated areas of service.
- The web-based Toolkit would stagnate without maintenance and support, and expansion of language access would be restrained if courts are left with no alternative other than to absorb the vast majority of the infrastructure and oversight expenses associated with the provision of interpreter services.

**Alternative #2:** Provide \$6.8 million General Fund in 2018-2019 and \$6.1 million in 2019-2020 and ongoing and 0.5 position to support civil expansion for court interpreters and provide infrastructure support and non-VRI equipment to help support courts' language access expansion.

#### PROS:

- Courts will be able to continue to provide interpreters in civil matters at the current level, and will be able to begin further expanding the case types in which they provide court interpreters for limited-English proficient (LEP) court users in civil.
- The establishment of a Language Access Infrastructure Reimbursement Fund would offset court expenditures without the need to reduce other services due to budget constraints.

#### CONS:

- Courts and the Judicial Council will be limited in their ability to expand language access services for LEP court users due to lack of funding for other essential language access services to increase access for LEP users.
- Failure to establish a mechanism to help offset language access expansion expenditures not already a part of their annual budgeted allocations places an undue burden on courts.

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- The expansion of language access would be restrained if courts are left with no alternative other than to absorb the vast majority of the infrastructure and oversight expenses associated with the provision of interpreter services.
- Results in additional General Fund resources.

**Alternative #3:** Provide \$4.0 million General Fund to support civil expansion for court interpreters.

**PRO:** Courts will be able to continue to provide interpreters in civil matters at the current level, and will be able to begin further expanding the case types in which they provide court interpreters for limited-English proficient (LEP) court users in civil.

**CONS:**

- Courts and the Judicial Council will be limited in their ability to expand language access services for LEP court users due to lack of funding for other essential language access services to increase access for LEP users.
- Failure to establish a mechanism to help offset language access expansion expenditures not already a part of their annual budgeted allocations places an undue burden on courts. Courts may be unable to implement wayfinding strategies and signage without reducing other parts of their budgets, limiting resources for other designated areas of service.
- The web-based Toolkit would stagnate without maintenance and support, and expansion of language access would be restrained if courts are left with no alternative other than to absorb the vast majority of the infrastructure and oversight expenses associated with the provision of interpreter services.
- Results in additional General Fund resources.

**Alternative #4:** Provide \$4.1 million General Fund in 2018-2019, \$3.7 million in 2019-2020 and ongoing, and 1.0 position to support 50 percent of the requested amount for each of the elements contained in this proposal.

Element:	2018-2019	2019-2020	Positions
Court Interpreter Services	\$2.0 million	\$2.0 million	0.0
Signage Grant Program for Trial Courts	\$546,000	\$544,000	0.25
Establish Language Access Infrastructure Reimbursement Fund	\$1.4 million	\$1.0 million	0.25
Continued development and maintenance of the web-based <i>Language Access Toolkit</i>	\$135,000	\$130,000	0.5
Total	\$4,081,000	\$3,674,000	1.0

**PROS:**

- Courts will be able to continue to provide interpreters in civil matters in at least a slightly expanded level, potentially into more case types.
- Each of the proposed reimbursement grant programs would provide the courts at least a minimal amount of relief with expenditures related to the expansion of language access and signage.
- The Toolkit would be marginally supported within the constraints of a reduced allocation.

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### CONS:

- Courts and the Judicial Council will be limited in their ability to expand language access services for LEP court users due to lack of funding for other essential language access services to increase access for LEP users.
- Results in additional General Fund resources.

**Alternative #5:** Provide \$8.1 million General Fund and 2.0 positions in 2018-2019, and \$7.4 million in 2019-2020 and ongoing to advance the implementation of the *Strategic Plan for Language Access in the California Courts* adopted in January 2015.

### PROS:

- This will allow the courts to continue to provide court interpreter services in civil matters, and assure all 58 trial court that increased funding for provision of expanded court interpreter services for LEP court users in civil will be made available beginning July 2018, thereby providing confidence that they can proceed with expansion and not risk having to roll back expansion efforts.
- Provide easy-to-understand signage to help LEP court users navigate the courthouse and ensure they receive appropriate services.
- Provide courts reimbursement for their language expansion expenditures, ensuring other programs are not reduced.

**CON:** Results in additional General Fund resources.



**2018-2019 FY Budget Change Proposal Concept**

**Requesting Entity:** Trial Courts  
**Contact:** Lucy Fogarty and Angela Guzman  
**Concept No.:** 18-10

**Proposal Title:** Stabilization of Civil Assessment Revenue

**Fiscal Summary:**

Fund Source	Proposed JCC Positions	Total Personal Services	Revenue Backfill	Proposed Total 2018-2019	Proposed Total 2019-2020	Proposed Total 2020-2021
General Fund	0.0	\$0	\$147,000,000	\$147,000,000	\$147,000,000	\$147,000,000

**Detailed Funding By Fiscal Year:**

	Proposed Total 2018-2019	Proposed Total 2019-2020	Proposed Total 2020-2021
Ongoing	\$147,000,000	\$147,000,000	\$147,000,000
One-Time	\$0	\$0	\$0
Total	\$147,000,000	\$147,000,000	\$147,000,000

**Proposal Summary:** Proposed augmentation of \$147 million General Fund to transition the deposit of civil assessment revenue, including the \$48.3 million in Maintenance of Effort (MOE buyout), into the General Fund instead of the Trial Court Trust Fund (TCTF) to support the base court operations and provide a stable revenue source for the courts.

**Background Information:** With the passage of the Lockyer-Isenberg Trial Court Funding Act of 1997, responsibility for trial court funding transitioned from the counties to the state. The Act provides that counties make a maintenance of effort (MOE) payment to the state each year to support court operations, as specified in statute. This amount was originally outlined in AB 233 (Stats. 1997, Ch. 850) to be \$1.181 billion. Over the next several years, counties MOE obligations were adjusted further through AB 1590 (Stats. 1998, Ch. 406), AB 2788 (Stats. 1998, Ch. 1017), SB 815 (Stats. 2007, Ch. 383), and finally in 2006-2007, AB 227 (Stats. 2007, Ch. 383). This final adjustment reduced the amount contributed by the counties to \$659 million; which resulted in an ongoing reduction of \$48.3 to support court operations.

In order ensure that court operations would not be harmed by this action, the Judicial Council enacted a policy to amend the distribution of civil assessment revenue to replace the \$48.3 million lost from the MOE payments. Previously, all collected civil assessment revenue was returned back to each court on a dollar-for-dollar basis. To recover the \$48.3 million shortfall from MOE payments, the Judicial Council withholds \$48.3 million from civil assessments revenue collected by the courts before distributing the remainder back to the courts based on dollar for dollar basis. The \$48.3 million retained from civil assessments to make up the MOE shortfall is then allocated back to the trial courts based on the authorized allocation methodology to support court operations.

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Civil assessment revenues are imposed pursuant to Penal Code (PC) 1214.1 which assess up to a three hundred dollars (\$300) penalty against a defendant who fails to appear in court for a proceeding or fails to pay all or any portion of a fine ordered by the court. This assessment is deposited in the TCTF as provided in Section 68085.1 of the Government Code. The average amount of civil assessment revenue collected over the last three fiscal years is estimated at \$147 million, including the \$48.3 million shifted to cover the MOE shortfall.

**Justification:** Advocacy groups, the Federal Department of Justice, the state’s legislature and the Judicial Council have been highlighting how the imposition of increased fines and fees impact the people served by the judicial branch.

Chief Justice Cantil-Sakauye, in her March 2016 state of the judiciary address to the legislature, stated that California’s fines and fees structure “has morphed from a system of accountability to a system that raises revenue for essential government services.” The Chief Justice questioned whether this system effectively serves its purpose of accountability or instead causes an inequity that penalizes the poor.

Under the current civil assessment statute, there is a perceived conflict of interest between the imposition of the civil assessment by a court and the funding a court receives. The proposed funding swap helps remove that conflict of interest by breaking the direct link between the imposition of the assessment and the court’s funding source. Removing this perceived conflict of interest will help the Judicial Council better pursue its policy goals of achieving a more equitable fines and fees system, without the perception that courts are imposing fines and fees that help support their court specifically, the overall need for access to justice for all Californian’s can be the focus.

In addition, this request will help meet the Judicial Council’s goals to provide more stability in revenues supporting the base court operations funded by the TCTF. Removing the fluctuations in civil assessment revenues will assist the courts in maintaining current services without the concern of declining future revenues.

Further, the Legislative Analyst Office (LAO) recommended in their January 2016 report that most criminal fine and fee revenues should be deposited into the General Fund for subsequent appropriation by the Legislature in the annual state budget. This was reiterated in the 2017-2018 LAO report Governor’s Criminal Fine and Fee Proposals.

**Fiscal Impact:** This request will provide \$147 million General Fund to support a stable revenue source to support court operations. Over the last three fiscal years, the average civil assessment revenue collected is estimated at \$147 million, including the \$48.3 million MOE buyout. This request will shift the deposit of civil assessment revenues from the TCTF to General Fund. Statutory changes to Penal Code (PC) 1214.1 will be required to implement this change.

The General Fund augmentation would remain static to ensure funding stability; while the civil assessment revenue deposited into the General Fund may vary. Any excess remitted over the fixed General Fund augmentation would benefit the General Fund, while any fluctuations in the civil

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assessment revenue below the fixed augmentation may result in a deficit. The table below reflects the civil assessment revenue collected in the past three (3) fiscal years.

	FY 2013-2014	FY 2014-2015	FY 2015-2016
Civil Assessment Revenue	\$154,800,000	\$160,000,000	\$126,000,000

### Outcomes and Accountability:

#### Access to Justice

Trial courts should be open and accessible. Location, physical structure, procedures, and the responsiveness of personnel affect accessibility. Access to trial courts is required by not only litigants, jurors, victims, and witnesses; but also, beneficiaries of decedents in probate matters, parents and guardians in juvenile cases, persons seeking information held by the court, employees of agencies that regularly do business with the courts (e.g., investigators, mental health professionals, sheriff's deputies, and marshals), and the public. The ongoing instability of funding means that hearings are in jeopardy of being rescheduled, leaving individuals in limbo.

#### Equality, Fairness and Timeliness

Stabilized funding can be measured by the prompt and efficient resolution of disputes. Equality and fairness require that trial courts provide due process and individual justice in each case, treat similar litigants equally and ensure that their actions and consequences thereof are consistent with established law. The repercussions from untimely court actions have serious consequences for the persons directly concerned, the court, allied agencies, and the community at large. The lack of consistent, stable funding for the trial courts make it impossible to provide fair, equitable and timely justice to all litigants.

The need for all trial courts must be met; and a predictable fiscal environment is necessary to promote equal access to justice for the people of California. The requested funding will assist in enabling all Californians access to their courthouses, access that is essential to the preservation of the rule of law and civil society.

### Projected Outcomes:

If funding is provided, it will assist in the stabilization of trial court funding which will assist the courts in maintaining services to California citizens.

### Other Alternatives Considered:

**Alternative #1:** Do not transition the deposits of civil assessment revenue to the General Fund in return for \$147 million in ongoing General Fund monies to support the trial courts.

**PRO:** No impact to the General Fund.

#### **CONS:**

- Courts would continue to operate without stabilized funding potentially impacting every Californian's right to access to Justice.

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- The perceived conflict of interest between the imposition of civil assessment by the court and the funding received by a court would continue.

**Alternative #2:** Phase in the deposit of civil assessment revenue to the General Fund; for example, in 2018-2019 the General Fund would transfer \$60 million to TCTF, if civil assessment revenue was more than \$87 million (\$60 million plus \$87 million = \$147 million) the TCTF would deposit the difference back to the General Fund. 2019-2020 the General Fund would transfer \$100 million; 2020-2021 the full \$147 million. However, in any fiscal year the TCTF would not receive less than \$147M.

**PROS:**

- Impact to the General Fund would phase in over three fiscal years.
- The courts would receive a stable source of revenue.

**CON:** The perceived conflict of interest between the imposition of civil assessment by the court and the funding received by a court would continue until the transition was complete.

**Alternative #3:** Provide \$147 million General Fund and transition the deposits of civil assessment revenues into the General Fund to support trial courts.

**PROS:**

- Provide a stable source of funding to the trial courts in an effort to maintain current services.
- Addresses the conflict of interest between courts and the imposition of the civil assessment and the funding a court receives.

**CON:** The General Fund could be negatively impacted if revenues are less than the appropriation.

## 2018-2019 FY Budget Change Proposal Concept

**Requesting Entity:** Trial Courts

**Contact:** Charlie Depner and Don Will

**Concept No.:** 18-11

**Proposal Title:** Court Appointed Counsel in Juvenile Dependency Proceedings

**Fiscal Summary:**

Fund Source	Proposed JCC Positions	Total Personal Services	Operating Expenses & Equipment	Proposed Total 2018-2019	Proposed Total 2019-2020	Proposed Total 2020-2021	Proposed Total 2021-2022
General Fund	0.0	\$0	\$22,000,000	\$22,000,000	\$44,100,000	\$66,100,000	\$88,200,000

**Detailed Funding By Fiscal Year:**

	Proposed Total 2018-2019	Proposed Total 2019-2020	Proposed Total 2020-2021	Proposed Total 2021-2022
Ongoing	\$22,000,000	\$44,100,000	\$66,100,000	\$88,200,000
One-Time	\$0	\$0	\$0	\$0
Total	\$22,000,000	\$44,100,000	\$66,100,000	\$88,200,000

**Proposal Summary:** Proposed augmentation of \$22 million General Fund in 2018-2019, \$44.1 million General Fund in 2019-2020, \$66.1 million General Fund in 2020-2021, and \$88.2 million in 2021-2022 and ongoing to support court-appointed dependency counsel workload. The total need, based on the current workload model to achieve the Judicial Council’s statewide caseload standard of 141 clients per attorney, is \$202.9 million; however, existing funding of \$114.7 million is provided in the annual Budget Act specifically for this purpose. This request represents 100 percent of the remaining outstanding need of \$88.2 million, spread out over four years, to fully fund the adequate and competent representation for parents and children required by Welfare and Institutions Code section 317. Inadequate funding and subsequent high caseloads lead to high attorney turnover and lack of retention of qualified advocates for children. Effective counsel will ensure that the complex requirements in juvenile law for case planning, notice, and timeliness are adhered to, thereby reducing case delays, improving court case processing and the quality of information provided to the judge, and ultimately shortening the time children spend in foster care.

**Background Information:** Court-Appointed Dependency Counsel became a state fiscal responsibility through the Brown-Presley Trial Court Funding Act (SB 612/AB 1197; Stats. 1988, ch. 945) which added section 77003 to the Government Code and made an appropriation to fund trial court operations. Welfare and Institutions Code section 317(c) requires the juvenile court to appoint counsel to represent all children in dependency proceedings<sup>1</sup> absent a finding that the particular child will not benefit from the appointment. The court must also appoint counsel for all indigent parents whose children have been

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<sup>1</sup> Under section 317.5, each child “who is the subject of a dependency proceeding is a party to that proceeding.” (§ 317.5(b).)

## 2018-2019 FY Budget Change Proposal Concept

placed out of the home or for whom out-of-home placement is recommended, and may appoint counsel for all other indigent parents.

Dependency counsel is charged with representing parent and child clients at every stage of the dependency proceeding, from the initial detention hearing until the court terminates its jurisdiction. Section 317.5 expressly entitles each party to a dependency proceeding with the services of competent counsel. Section 317 further requires that appointed counsel for a child or youth have a caseload and training that ensure adequate representation of the client. Dependency attorneys have a unique relationship with their clients and in some cases represent the same child for more than 18 years. The dependency attorney plays a vital role in family reunification and, for those families where reunification is not an option, adoption or relative guardianship.

In fiscal year 2014-2015 the Judicial Council addressed the growing discrepancies between the dependency counsel funding allocated to individual trial courts and the child welfare caseload in each court. The Council adopted a reallocation plan which ensured that available funding was allocated to courts based on the numbers of children in care in each court. Recognizing that the caseload funding model in use was based on data dating back to 2002, the Council directed the Trial Court Budget Advisory Committee and the Family and Juvenile Law Advisory Committee to review and update the model.

The committees conducted an extensive review of dependency counsel workload and practice in California which included analysis of national research and standards for dependency counsel, time-study data, statewide surveys and focus groups, and a series of public meetings. In April 2016, the committees recommended and the Council approved significant changes to the caseload funding model for dependency counsel (details on the methodology are included below in *Fiscal Impact*).

Employing the model to achieve a statewide caseload standard of 141 clients per attorney requires annual funding of \$202.9 million. Including the 2015 Budget Act ongoing augmentation of \$11 million, the total funding available for dependency counsel is \$114.7 million, which represents 56 percent of the funding need. The caseload funding model and the Council's reallocation plan ensure that all of the \$11 million in augmented funding is budgeted to courts with the highest caseload and funding needs, in proportion to each court's percentage of unmet need. Adequate funding for dependency counsel is a high priority of the Judicial Branch.

**Justification:** The current annual budget allocation for Court-Appointed Dependency Counsel is \$114.7 million. Under this funding, the statewide average attorney caseload is sufficient to provide representation at a rate of only one attorney per 250 clients. This average caseload is 2 ½ times greater than the dependency attorney caseload of 100 clients per attorney recommended by the American Bar Association, and almost two times greater than the Judicial Council's target caseload of 141 clients per attorney. The Council has taken measures to address the problem within existing resources including implementing a reallocation methodology that allocates all existing funding to courts based upon their caseload needs, but total funding available only addresses 56 percent of the funding need.

The 2015-2016 process of revising the caseload funding model for dependency counsel was based on extensive research including analysis of national research and standards for dependency counsel, time-

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study data, statewide surveys and focus groups, and extensive public comment. The process addressed questions raised by the executive branch and the legislature while reviewing budget proposals for dependency counsel funding including verifying the integrity of the caseload data being used and accounting for variations in local costs for salary and overhead.

This research and public comment verified what the Judicial Council has reported in prior budget change proposals. Inadequate funding and subsequent high caseloads lead to high attorney turnover and lack of retention of qualified advocates for children. High caseloads impact the quality of attorney practice. Attorneys report that they are unable to meet with clients except immediately before hearings, unable to carry out key duties including consulting with experts, assisting clients in complying with case plans, and effectively advocating for decisions that support family reunification and family connections, meeting the mental health and educational needs of children in foster care, and reducing the numbers of children in congregate care. These are some of the most important priorities of the California Department of Social Services and local child welfare agencies.

Inadequate funding and high caseloads also impact the efficiency of both the courts and the county agencies. Attorneys and judges report numerous delays in dependency hearings caused by inadequate courtroom attorney staffing and inadequate preparation time. Delays in dependency hearings risk keeping children in foster care longer than necessary.

The \$11 million budget augmentation for dependency counsel in the 2015 Budget Act has a positive impact and demonstrates that new funding directly lowers attorney caseloads. The revised caseload funding methodology distributes funding augmentations to those courts with the greatest funding needs and highest attorney caseloads. Applying the funding in this targeted method enabled courts to substantially lower attorney caseloads including: Los Angeles lowering caseloads from an average of 270 clients per attorney to 220 clients per attorney, Riverside from an average of 380 to 210, and smaller courts including Ventura, Merced, and Yolo lowering caseloads by an average of 48 percent. Note that all of the caseloads lowered with the \$11 million augmentation are still far in excess of the 141 clients per attorney standard.

**Fiscal Impact:** The methodology for calculating funding required for dependency court-appointed counsel was approved by the Judicial Council after an extensive process of data collection, stakeholder input, development and review in April 2016. The methodology has the following components:

- A method for counting caseload that reflects court workload by incorporating court dependency petition data and county child welfare caseload data;
- Sets dependency attorney salaries to the median county counsel salary in the state, giving the courts more ability to recruit and retain competent attorneys;
- Employs the Bureau of Labor Statistics governmental salary index for California to adjust for county-level economic variation; and
- Sets the caseload standard for attorneys from 188 to 141 parent or child clients per attorney

With current child welfare caseloads reported by the California Department of Social Services, \$202.9 million is required for dependency court-appointed counsel. The general fund allocation for dependency

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counsel is \$114.7 million. This proposal requests \$88.2 million or 100 percent of the unmet need. No actions or approvals from other governmental entities are required to implement this proposal.

**Outcomes and Accountability:** Principal outcomes are lowered attorney caseloads and increased attorney time available for key stages in the dependency case. Time study analysis on current attorney workload conducted for the methodology revision showed that attorneys with high caseloads are required to spend the greatest proportion of the time available to them on cases in the early stages of dependency, including removal and placement in foster care. Attorneys are not able to spend substantial time on the permanency and post-permanency phases of the case. These are the phases, however, where the attorney’s involvement is a key factor in the family’s successful completion of their case plan, in the decision to reunify the family or move to termination of parental rights and adoption, in establishing long term family connections for children in care, and in the on-going review hearings which can examine recommendations to place children in congregate care. A comparison of California foster care caseloads and permanency data in large counties to court-appointed dependency counsel funding in those counties, conducted by the Judicial Council, demonstrates that courts that are relatively well-funded for dependency counsel show better outcomes in early exits of children to permanency and in lower rates of increase in the foster care population.

Attorney caseloads will be monitored through on-going surveys of the attorney providers in California. The time on case phases will be monitored through the use of a case management system that is required for all attorneys in the Dependency Representation, Administration, Funding and Training program, representing 20 counties and 70 percent of all cases.

The linkage of additional funding to court efficiency and long term child welfare outcomes, including kin placement, reunification rates and time to reunification or adoption, will be measured through the Judicial Council’s on-going collaboration with the CDSS and analysis of Child Welfare Services/Case Management System data. In addition, researchers from the American Bar Association Center for Children and the Law are conducting an evaluation of the impact of dependency counsel funding changes in California, both in the courts receiving augmented funding and the courts who are reducing funding through the reallocation process.

**Projected Outcomes:**

**Workload Measures:**

Workload Measure	2015-2016 Past Year	2016-2017 Past Year	2017-2018 Current Year	2018-2019 Budget Year	2019-2020 Budget Year	2020-2021 Budget Year	2021-2022 Budget Year
Clients per attorney	250	250	250	225	200	170	141
Funding per case	\$750	\$895	\$895	\$1,010	\$1,125	\$1,240	\$1,350

**Other Alternatives Considered:**

**Alternative #1:** Do not provide any additional funding to support court-appointed dependency counsel.



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**PRO:** No impact to the General Fund.

**CON:** Maintaining court-appointed dependency counsel funding at the current level of \$114.7 million annually will mean that the state continues to fail to fulfill the legislative mandate, initiated by SB 2160 and continued by the Judicial Council through its establishment of caseload standards. With the development of the new caseload funding methodology, all but one of the 10 largest courts and 46 of all 58 courts have an allocation below their funding need. Maintaining the present funding level will lead to increasing caseloads, a resulting increase in the number and length of hearing delays, the time children spend in foster care, and the cost to the state in judicial, legal, and child welfare services.

**Alternative #2:** Provide \$44.1 million General Fund to partially fund the caseload standard.

**PRO:** Partial implementation of the Judicial Council caseload standard would reduce attorney caseloads to 200 clients per attorney and more closely fulfill the legislative mandate, as well as increase the efficiency of the court and reduce the time children spend in foster care and the resources devoted to the case by the state. However, most of these legal services are provided by contracts with local courts. One year may be too short a period to expect courts to implement full funding.

**CON:** Results in additional General Fund resources.

**Alternative #3:** Seek efficiencies/additional funding sources.

**PRO:** No impact to the General Fund.

**CON:** Courts have already implemented a range of efficiencies, including the DRAFT program's use of competitive solicitations and annual contracts with legal services providers. The Judicial Council has also implemented Assembly Bill 131 (Stats. 2009, ch. 414) which established a program to collect reimbursements from parents and other responsible persons, to the extent they are able to pay, for the court cost of providing legal services to parents and children in dependency. This program contributes only about \$750,000 to the dependency counsel budget.

**2018-2019 FY Budget Change Proposal Concept**

**Requesting Entity:** Trial Courts  
**Contact:** Patrick Ballard and Leah Rose-Goodwin  
**Concept No.:** 18-12

**Proposal Title:** Funding for 10 of the 50 Judgeships Authorized by AB 159

**Fiscal Summary:**

Fund Source	Program	Proposed Total 2018-2019	Proposed Total 2019-2020	Proposed Total 2020-2021
General Fund	Support for Operation of Trial Courts	\$3,781,000	\$3,656,000	\$3,656,000
General Fund	Compensation of Superior Court Judges	\$2,082,000	\$2,082,000	\$2,082,000
General Fund	Court Interpreters	\$602,000	\$602,000	\$602,000
General Fund	SCO-Trial Court Security Sub Account	\$1,961,000	\$1,961,000	\$1,961,000
<b>Total</b>		<b>\$8,426,000</b>	<b>\$8,301,000</b>	<b>\$8,301,000</b>

**Detailed Funding By Fiscal Year:**

	Proposed Total 2018-2019	Proposed Total 2019-2020	Proposed Total 2020-2021
Ongoing	\$8,301,000	\$8,301,000	\$8,301,000
One-Time	\$125,000	\$0	\$0
<b>Total</b>	<b>\$8,426,000</b>	<b>\$8,301,000</b>	<b>\$8,301,000</b>

**Proposal Summary:** Proposed augmentation of \$8.4 million in 2018-2019 and \$8.3 million in 2019-2020 and ongoing to support 10 of the 50 trial court judgeships authorized by Assembly Bill 159 (Ch. 722, Stats. 2007), accompanying support staff, and county-provided sheriff security. While the latest Judicial Needs Assessment (2016) shows that the branch needs just over 188 judgeships based on workload metrics, efforts to secure funding for the 50 previously-authorized judgeships have been unsuccessful. This request for a more modest number of judgeships is to address the most critical judicial shortage in the trial courts with the greatest need. The allocation of the 10 judgeships would be based on the methodology outlined in Government Code section 69614 (b), which states that judges shall be allocated, in accordance with the uniform standards for factually determining additional judicial need in each county, as updated and approved by the Judicial Council, pursuant to the Update of Judicial Needs Study, based on the following criteria: (1) Court filings data averaged over a period of three years; (2) Workload

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standards that represent the average amount of time of bench and non-bench work required to resolve each case type; (3) A ranking methodology that provides consideration for courts that have the greatest need relative to their current complement of judicial officers.

County	Judgeships
Riverside	3
San Bernardino	3
Kern	1
Fresno	1
San Joaquin	1
Stanislaus	1
<b>Total</b>	<b>10</b>

**Background Information:** Securing adequate judicial resources for the courts is a top priority for the judicial branch and is critical to ensuring public access to justice. Reports on the critical shortage of judicial officers have been submitted to the Judicial Council since 2001 and have formed the basis of council requests to the Legislature to create and fund new judgeships.

The Judicial Council approved a Judicial Workload Assessment methodology in August 2001 for determining the need for judgeships in each court. In October 2001, a ranking methodology was adopted by the council to prioritize allocation of judgeships to the courts with the greatest need. In August 2004, the council refined the model to calculate judicial need on the basis of a three-year average of filings, rather than a single year of data, as had previously been the case.

Changes in the law, technology, and case processing practices necessitate that the workload models that are used to measure resource need be updated periodically. The judicial workload methodology was updated in 2009-2010 and updated case weights used to measure judicial workload were approved by the Judicial Council in late 2011. Updating the parameters that are used to measure judicial workload ensures that the workload needs of the courts are represented as accurately as possible.

The council began efforts to seek the most critically needed 150 judgeships—although the total need was considerably greater—with Senate Bill 56 (Ch. 390, Stats. 2006). This legislation authorized the first fifty most critically-needed judgeships and the associated funding. In February 2007, the council updated the formula with more recent filings data, and AB 159 was enacted authorizing the second set of 50 judgeships, to be allocated as determined by the council. Initially, funding for these 50 judgeships would have allowed appointments to begin in June 2008. Because of budget constraints, funding was delayed until July 2009 to shift the fiscal impact from 2007–2008 to 2009–2010; however, no funding was included in the 2009 Budget Act to support the 50 judgeships. To date, no funding has been provided for these 50 judgeships.

AB 159 also authorized the conversion of 162 vacant subordinate judicial officer (SJO) positions to judgeships, identified according to the council-approved methodology, at a rate of no more than 16 per year. Through 2016-17, 132 SJO positions have been converted to judgeships.

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### *Judicial Need Reporting*

In 2006, Government Code section 69614 was enacted, requiring the Judicial Council to report to the Legislature and the Governor on the need for new judgeships in each superior court using the uniform criteria for the allocation of judgeships described in subdivision (b). The latest report, *The Need for New Judgeships in the Superior Courts: 2016 Update of the Judicial Needs Assessment, (2016 Update)* is consistent with previous reports to the Judicial Council and the Legislature in that it shows a significant, critical need for new judgeships in the superior courts. The shortfall is considerably higher in some counties because: 1) prior to statutory adoption of the council’s methodology for allocating judgeships, judgeships were sometimes allocated without using a common workload metric; 2) some counties have experienced higher filings growth than others; and 3) resource allocation has not kept pace with workload levels. The 2016 Update showed that fourteen courts have a need at least 20 percent higher than authorized resources, with two courts showing a need 50 percent higher. Due to lower case filings in the current period, the overall statewide need for judges is lower than identified in the previous Judicial Needs Assessment; however, the results show that the branch still needs 188 judicial officers.

	PY – 4	PY – 3	PY – 2	PY – 1	PY	CY
Authorized Judgeships*	1,673	1,682	1,695	1,715	1,726	1,730
Filled Judgeships Positions*	1,581	1,560	1,579	1,597	1,618	1,601
Vacant and Unfunded AB 159 Judgeships	50	50	50	50	50	50
<b>Judicial Need (according to Judicial Needs Assessment)**</b>	<b>263.9</b>	<b>263.9</b>	<b>269.8</b>	<b>269.8</b>	<b>269.8</b>	<b>188.5</b>

\* As of July 1st of each fiscal year; year to year changes are due to Subordinate Judicial Officer conversions.

\*\*Excludes Unfunded AB 159 Judgeships

**Justification:** The judicial branch is constitutionally required to take all cases that come to the courts. However, trial court judgeships have not kept pace with workload growth, and, though not directly correlated, with population growth. For example, the Inland Empire and Central Valley have experienced some of the greatest population and workload increases, but judgeships have not kept pace. The lack of judicial resources continues to significantly impair access to justice to vulnerable citizens throughout the state. The ramifications are serious and far-reaching and include a significant decrease in Californians’ access to the courts, compromised public safety, an unstable business climate, and, in some courts, enormous backlogs that inhibit fair, timely, and equitable justice.

As a result of a continued lack of investment in new judgeships, some counties show a workload need that is considerably higher than the number of authorized resources; the 2016 Update shows that fourteen counties have a need 20 percent higher than authorized resources with two counties showing a need 50 percent higher (the Superior Courts of the counties of Riverside and San Bernardino.)

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This request would provide additional judgeships in the following counties:

County	Judgeships
Riverside	3
San Bernardino	3
Kern	1
Fresno	1
San Joaquin	1
Stanislaus	1
<b>Total</b>	<b>10</b>

*[TBD: Over the next few weeks, JCC Office Court Research (OCR) will work with each of the 6 courts that would gain one or more of the 10 judgeships to provide specific arguments in each case. Courts will be asked to identify the adverse consequences stemming from the lack of judicial resources, as per prior Budget Change Proposals. Furthermore, courts will be asked how they would intend to allocate one or more additional judgeships (e.g. casetype assignments), the anticipated positive consequences of this action (e.g. on timeliness, quality, access to justice), and the anticipated costs of inaction.]*

**Fiscal Impact:** This request will provide a General Fund augmentation of \$8.4 million in 2018-2019 and \$8.3 million in 2019-2020 and ongoing to support the 10 additional judgeships, accompanying staff, and the necessary court security complement. Along with the judges' salary and benefits, the proposal includes funding for a complement of 4.77 full-time equivalent (FTE) staff to support the work of the new judge. This includes 3.0 FTE in courtroom support staff, 0.42 court interpreter FTE and 1.35 FTE bailiff. The courtroom staff complement requested in this BCP is a subset of the full staff complement that is required to support a new judgeship, as identified in the Resource Assessment Study model (RAS). The RAS model methodology was approved by the Judicial Council as the basis for the Workload-based Allocation Funding Methodology (WAFM) that the Judicial Council approved for trial court funding allocations in April 2013. Because of the urgent need for new judicial officers, this BCP requests a smaller staff complement in the interest of focusing the funding request on the judicial resources needed. The courts that are slated to receive the new judgeships under this BCP have also agreed to accept this smaller complement for the purposes of this BCP request. This smaller complement will not meet the long term workload needs of the courts, and future BCPs will seek the full complement of staff needed as identified in the RAS/WAFM model.

**Outcomes and Accountability:** The judicial and staff positions will provide the following outcomes:

### *Access to Justice*

Access to the courts is fundamentally compromised by judicial shortages. Every Californian is constitutionally entitled to impartial and timely dispute resolution through the courts. The current shortage in resources means that civil proceedings and family law hearings are routinely rescheduled, with some courts reporting extraordinary delays from the time of filing to the time of trial. This keeps parents, children, victims, and defendants in limbo. In the face of these delays, individuals may simply turn away from the courts as a means of resolving their disputes.

The 10 judgeships provide a valuable first step in meeting the judicial needs of the branch. Nevertheless, because the statewide need is relatively high, these additional resources would only fill about 5 percent of

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the overall need (188 FTE). If the 10 judgeships are allocated according to the 2016 Judicial Needs Assessment, the number of counties with a judicial need greater than 20 percent would remain the same at fourteen, though the percentage need in those courts would drop slightly. The two courts (Riverside and San Bernardino) whose judicial need is over 50 percent higher than the number of authorized positions would receive 6 of the 10 judgeships. While still not adequate, this judgeship allocation would have an impact on increasing access to justice, and begin filling the gap between authorized and needed positions for these two courts.

### *Public Safety*

Public safety is compromised when there is a judicial shortage. Matters such as protective orders, search warrants and other time sensitive matters must be heard immediately, which affects the timeliness with which other matters can be heard. Backlogs in criminal cases have serious repercussions, including that heavy caseloads put pressure to plea bargain because criminal cases must be dismissed if they are not heard within specified time frames. And because criminal matters take constitutional and statutory priority over all other legal matters, civil justice suffers as well.

### *Equality, Fairness*

Significant backlogs in some courts inhibit fair, timely, and equitable justice. The ability to get to trial and have a critical criminal, family law, domestic violence, or civil matter addressed should not be based on the judicial resources in the county in which one happens to reside.

### *Timeliness*

The judicial branch is responsible for providing a court system that resolves disputes in a just and timely manner and operates efficiently and effectively. Expanding workloads, greater number of cases and resulting backlogs, and increased case complexity negatively impacts the branch's ability to do so. The judicial branch is obligated to provide timely access to the courts to those seeking its services

*[TBD: Over the next couple of months, OCR will work with each of the 6 courts to explore how they might measure improvements or changes resulting from allocation of new judgeships. We would expect that measures may cover topics such as access to justice, timeliness, quality and case- or community-level outcomes.]*

### **Projected Outcomes:**

**TBD per above.**

### **Other Alternatives Considered:**

**Alternative #1:** Do not approve additional funding for the 10 New Judgeships.

**PRO:** No impact to the General Fund.

#### **CONS:**

- Those courts that had previously been determined to have the most critical need for new judgeships will have to continue to try and manage their larger than optimal caseload with an insufficient number of judicial and support staff. Specifically, the Superior Courts of

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Riverside and San Bernardino Counties will have to continue to operate with a judge deficit exceeding 50 percent over authorized positions.

- Public safety may be impacted, as under-resourced courts struggle to prioritize time-sensitive matters such as protective orders.

**Alternative #2:** Provide \$4.2 million General Fund in 2018-2019 and \$4.1 million in 2019-2020 and ongoing to support funding for 5 judgeships, accompanying support staff, and court security compliment) authorized by AB 159.

### PROS:

- Those courts that had previously been determined to have a critical need for new judgeships will be able to better address caseload backlog providing better access to justice to the public.
- There would be less fiscal impact to the General Fund than the other alternative of funding all 10 judgeships.

### CONS:

- While any number of new judicial resources would help address the critical shortfall, the modest size of this request will mean that those courts that had previously been determined to have a critical need for new judgeships will have to continue to try to process their caseloads with an insufficient number of judicial and support staff. Five judgeships, out of a total need of 188, represents under 3 percent of the state's judicial need.
- According to the ranking methodology, the five most-critically needed judgeships would be allocated to three courts (2 Riverside, 2 San Bernardino, and 1 Kern). This means that only three courts would obtain modest relief in their judicial need, whereas twenty courts show a need for judgeships.

**Alternative #3:** Phase in the 10 judgeships (5 each year), accompanying staff, and court security compliment over two fiscal years which results in an augmentation of \$4.1 million General Fund in 2018-2019, \$4.3 million in 2019-2020, and \$8.3 million in 2020-2021 and ongoing.

### PROS:

- Three of the six courts that had previously been determined to have a critical need would be allocated judgeships in the budget year to better address caseload backlog and provide better access to justice to the public.
- Reduces the fiscal impact to the General Fund in 2018-19, while maintaining the branch's goal of increasing judicial resources to meet workload need.

### CONS:

- Three of the six courts that had previously been determined to have a critical need for new judgeships will have to continue to manage their caseloads with an insufficient number of judicial and support staff for another year.
- When fully implemented, only six courts would obtain modest relief in their judicial need, whereas twenty courts show a need for new judgeships.

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**Alternative #4:** Provide \$8.4 million General Fund in 2018-2019 and \$8.3 million in 2019-2020 and ongoing to fund 10 of the 50 judgeships authorized in by AB 159.

**PROS:**

- The six courts that have been determined to have the most critical need for new judgeships will be able to better address caseload backlog providing better access to justice to the public.
- The funding of the 10 judgeships would begin to address the critical resource shortfalls in trial courts with the greatest need.

**CON:** Results in additional General Fund resources.



**2018-2019 FY Budget Change Proposal Concept**

**Requesting Entity:** Trial Courts  
**Contact:** Lucy Fogarty and Angela Guzman  
**Concept No.:** 18-13a

**Proposal Title:** Support for Trial Court Operations

**Fiscal Summary:**

Fund Source	Proposed JCC Positions	Total Personal Services	Operating Expenses & Equipment	Proposed Total 2018-2019	Proposed Total 2019-2020	Proposed Total 2020-2021
General Fund	0.0	\$0	\$178,000,000	\$178,000,000	\$178,000,000	\$178,000,000

**Detailed Funding By Fiscal Year:**

	Proposed Total 2018-2019	Proposed Total 2019-2020	Proposed Total 2020-2021
Ongoing	\$178,000,000	\$178,000,000	\$178,000,000
One-Time	\$0	\$0	\$0
<b>Total</b>	\$178,000,000	\$178,000,000	\$178,000,000

**Proposal Summary:** Proposed augmentation of \$178.0 million General Fund beginning in 2018-2019 and ongoing to support trial court operations, which will allow the courts to hire additional staff to address backlogs, retain existing staff, and improve the public’s access to justice.

The request consists of the following components:

- 1) \$117.2 million to partially backfill the funding gap identified by the Workload-Based Allocation and Funding Methodology (WAFM) model.
- 2) \$8.5 million for discretionary funding not allocated via WAFM for inflationary increases.
- 3) \$41.0 million for trial court employee compensation/personal services increases.
- 4) \$11.3 million to address the structural imbalance in the Trial Court Trust Fund (TCTF)

The following information details the need by component of funding:

**1. Funding needed by the trial courts to partially backfill the funding gap identified by the WAFM model: \$117.2 million ongoing**

As a way to distribute existing resources more equitably to courts based on workload, the Judicial Council adopted the WAFM in 2013. The WAFM uses Resource Assessment Study data to determine the total dollars needed to fund certain court operations. To fund an additional 5% of the total WAFM need requires an additional \$117.2 million.

**2. Discretionary funding not allocated via WAFM to for inflationary increases: \$8.5 million ongoing**

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To fund inflationary increases to discretionary court funding, it is estimated that \$8.5 million will be required, based on an estimated 2.4% increase in the consumer price index from 2017-2018 to 2018-2019.

### 3. Funding for trial court employee compensation/personal services increases: \$41 million ongoing

The Administration has provided general salary increases to executive branch employees in order to maintain salaries at a level that keeps pace with the rate of inflation. This proposal requests the same consideration related to employee compensation be provided to trial court employees, with the goal of achieving competitive salaries or benefits with which the trial courts can retain and attract a quality work force to serve the members of the public.

Since 2009, funding for the trial courts has been insufficient and many employees have endured mandatory furloughs, reduced health benefit contributions, increased employee retirement contributions, reduced work weeks, and layoffs.

As the economy improves and superior compensation opportunities rise in both private and competing public sector markets, trial courts have had increasing difficulty in finding and retaining qualified candidates for job recruitments. This request will allow trial courts the additional funding needed to be more competitive in recruiting by filling historical compensation shortfalls.

Compensation calculations will be constructed from 2018-2019 Salaries and Wages schedules submitted by each court. Typically this data is available in August and refined over the course of a few weeks.

For the purposes of this concept, the 2017-2018 compensation need of approximately \$41 million will serve as a placeholder until 2018-2019 figures are available. The 2017-2018 compensation assumption funded the equivalent of a 2.5% growth in salary expenditures, but this percentage is subject to change and is intended to be used for any personal services based expense as deemed appropriate by each trial court in its negotiations with related employee representatives.

### 4. Funding to address the structural imbalance in the Trial Court Trust Fund (TCTF): \$11.3 million ongoing

This proposal seeks to fund a long standing TCTF structural imbalance that has resulted from expenditure needs exceeding revenue collections. From 2009-2010 through 2014-2015 this structural imbalance was mitigated by a \$20+ million annual transfer from the State Trial Court Improvement and Modernization Fund (IMF) to the TCTF. However, beginning in 2015-2016, \$20 million worth of the annual IMF transfer has been redirected back to the IMF. At the time of this redirection, \$8.7 million worth of TCTF expenditures were also moved to the IMF. This leaves an ongoing TCTF structural imbalance of approximately \$11.3 million.

**Background Information:** With the passage of the Lockyer-Isenberg Trial Court Funding Act of 1997 (AB 233; Chapter 850, Statutes of 1997), the state assumed sole responsibility for funding of court operations. As part of this change, the counties were required to make quarterly maintenance of effort payments (MOE) and remit specified revenues to the state. Subsequent legislation reduced the MOE payment and other revenues that support trial court operations.

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Prior to 2008–09, funding was regularly provided to the trial courts to address the increased costs of doing business through budget change proposals or State Appropriations Limit (SAL) augmentations. During the fiscal crisis, the trial courts shared in the burden of reduced funding and consequently utilized several cost saving measures with the goal of maintaining access to justice for all members of the public. Trial courts significantly reduced expenses to accommodate the reductions in funding.

An ongoing lack of resources continues to impair the ability of trial courts to provide timely resolutions to both civil and criminal cases, as well as family, probate, mental health, juvenile, and traffic cases throughout the state’s 58 counties. This funding gap continues to cause significant backlogs which inhibit public access to fair, timely, and effective justice.

**Justification:** California’s state court system serves a population of more than 39 million people and securing adequate funding for all courts is the top priority for the Judicial Council and is necessary to ensure public access to justice.

Approximately 98 percent of trial court operations in 2017-2018 are dependent on the General Fund, the State Trial Court Improvement and Modernization Fund (IMF), the Trial Court Trust Fund (TCTF), and the Immediate and Critical Needs Account (ICNA) per Table 1, below. The most critical funding sources for trial court operations, however, are the General Fund and TCTF which support 95.6 percent of the 2017-18 trial court budget.

**Table 1: Trial Court Funding**

Fund	FY 2017-2018 Proposed Governor's Budget Expenditures	Percentage
General Fund	\$1,288,971	46.2%
State Trial Court Improvement and Modernization Fund	\$10,478	0.4%
Trial Court Trust Fund	\$1,380,133	49.4%
Immediate and Critical Needs Account	\$50,000	1.8%
Other (Federal Trust Fund and Reimbursements)	\$62,782	2.2%
Total	\$2,792,364	100.0%

TCTF allocations for trial court programs including judge’s compensation, court interpreters, court appointed advocates, the Model-Self Help program, the Equal Access Fund, Family Law Information Centers, civil case coordination, and assigned judge’s functions are 100 percent supported by an annual General Fund transfer to the TCTF. General trial court operations, however, are funded from various revenue streams, including filing fees and assessments, county MOE payments, and General Fund transfers.

General Fund support for trial court operations has been reduced from 56 percent of the total support for trial court operations expenditures in 2007-2008, to a projected 46 percent in 2017-2018. Additionally, other revenues supporting general trial court operations have been declining since 2008-09. It is not certain to what degree specific factors have caused this decline, but major factors include the economic recession, increases in civil fees, non-payment of criminal (mainly traffic) fines, fewer traffic tickets being issued, and revenue losses due to the latest amnesty program.

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To address reduced General Fund support and prevent debilitating impacts on public access to justice, user fees and fines have been increased, local court fund balances have been utilized, and statewide funds committed to court projects (including approximately \$818 million for courthouse construction) have been diverted to court operations. However, many of these one-time solutions are no longer available to help keep the courts operational.

The current lack of resources has impacted access to justice in many ways. Significant backlogs in the courts caused by a shortage of funded judgeships, staff vacancies, and furloughs inhibit timely responses to outstanding case work. Backlogs are exacerbated by increasing case complexity and, as a result, civil proceedings and family law hearings are routinely rescheduled. Some courts report extraordinary delays from the time of filing to the time of trial, keeping parents, children, and victims in limbo.

According to the 2016 Court Statistics Report, 2014-2015 trial court case filings across all case categories totaled 6,832,710 cases, while dispositions (cases disposed of or otherwise resolved) numbered 6,342,662. This indicates that trial courts are getting more cases statewide in than they are able to resolve, which has resulted in case backlogs and delays.

A common measurement of court performance around this area can be determined by calculating “case clearance rates.” A case clearance rate is the number of disposed cases as a percentage of the number of filed cases in a given time period. Data from 2014-2015 shows shortcomings in nine of the measured case clearance rates in Table 2 below.

**Table 2: Case Clearance Rates**

Case Type		Filings	Dispositions	Case Clearance Rates
Civil	Unlimited	192,761	179,509	93%
	Limited	375,178	409,944	109%
	Small Claims	150,382	157,900	105%
Criminal	Felonies	214,088	223,339	104%
	Misdemeanors	922,730	757,286	82%
	Infractions	4,424,870	4,138,886	94%
Family Law	Marital	138,121	135,812	98%
	Petitions	242,039	204,965	85%
Juvenile Law	Delinquency	40,726	38,376	94%
	Dependency	44,679	32,190	72%
Misc.	Probate	44,456	27,701	62%
	Mental Health	29,718	24,557	83%

Notes: Data can be found at: <http://www.courts.ca.gov/documents/2016-Court-Statistics-Report.pdf>

Although filings have been trending down recently, it is important to note that trial courts have seen filings increases in several of the most complex case types. Higher numbers of complex cases over previous years has further exacerbated the case backlog problem. Complex case types, such as unlimited civil, juvenile dependency, and mental health cases take more staff resources to resolve. For example, the workload for a juvenile dependency matter takes approximately 13 times longer than that of a misdemeanor traffic case.

While the duration of delays can be difficult to tell from case clearance rates, disposition measures assesses the numbers of cases that can be resolved within case processing standards codified in the Standards of Judicial Administration. For example, the Standards for unlimited civil case processing state

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that 75% of cases should reach disposition within 12 months. Based on 2014-2015 trial court data, there is a clear trend of trial court efforts falling short of disposition standards in both civil and criminal cases (Table 3).

**Table 3: Disposition Measurements**

Case Type		Time to Disposition: Percentage of Cases Completed in															
		30 Days		45 Days		70 Days		90 Days		120 Days		12 Months		18 Months		24 Months	
Civil	Unlimited											64%	75%	76%	85%	83%	100%
	Limited											83%	90%	91%	98%	94%	100%
	Small Claims					58%	90%	71%	100%								
Criminal	Felonies	45%	90%	55%	98%			71%	100%			88%	100%				
	Misdemeanors	61%	90%					77%	98%	83%	100%						

Notes: Data can be found at: <http://www.courts.ca.gov/documents/2016-Court-Statistics-Report.pdf>  
 Black Font represents JCC Actuals; Red font represents JCC Goals

Outside of general operations, trial courts suffer in other areas as well. Insufficient building maintenance funding has led to closed courthouses and courtrooms and capital construction funds have been diverted away from building to help maintain general trial court operations. The branch is only able to operate building systems to failure and not move forward with the construction of approved projects. If the public cannot rely on the court to resolve cases in a just and timely manner, the public’s trust in the courts will erode.

The ability to get to trial and have critical criminal, family law, domestic violence, or civil matters addressed are essential rights of California’s citizens and should not be clouded in uncertainty each year during the state’s annual budget process. Without General Fund assistance, access to justice, equality and fairness, and the timeliness of trial court actions are all at risk.

**Fiscal Impact:** This request will provide a \$178.0 million General Fund augmentation to support trial court operations. Funding includes:

- 1) \$117.2 million to partially backfill the funding gap identified by the WAFM model.
- 2) \$8.5 million for discretionary funding not allocated via WAFM for inflationary increases.
- 3) \$41.0 million for trial court employee compensation/personal services increases.
- 4) \$11.3 million to address the structural imbalance in the TCTF.

Upon approval of the funds, a formula for distribution between the courts will be presented to the Judicial Council for approval upon enactment of the state budget.

**Outcomes and Accountability:** If this budget request is granted, the proposal will:

- Stabilize funding for a sufficiently sized trial court workforce
- Stabilize service hours that courts are open/available to public
- Improve service delivery by reducing long lines, as well as case processing delays
- Provide resources for unfunded mandated workload
- Improve employee retention rates
- Improve future applicant job pools

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### **Projected Outcomes:**

If funding is provided, it will assist the courts in maintaining services to California citizens.

### **Other Alternatives Considered:**

**Alternative #1:** Do not approve additional funding to support trial court operations, which will allow the courts to hire additional staff to address backlogs, retain existing staff, and improve the public's access to justice.

**PRO:** No impact to the General Fund.

**CON:** Without funding to support trial court operations, access to justice, equality and fairness, and the timeliness of trial court actions are all at risk.

**Alternative #2:** Provide a partial augmentation to support one or more of the requested items to support trial court operations, which will allow the courts to hire additional staff to address backlogs, retain existing staff, and improve the public's access to justice.

- 1) \$117.2 million to partially backfill the funding gap identified by the WAFM model.
- 2) \$8.5 million for discretionary funding not allocated via WAFM for inflationary increases.
- 3) \$41.0 million for trial court employee compensation/personal services increases.
- 4) \$11.3 million to address the structural imbalance in the TCTF.

**PRO:** Some areas of trial court operations would receive support.

#### **CON:**

- Results in additional General Fund resources.
- Access to justice, equality and fairness, and the timeliness of trial court actions continue to be at risk.

**Alternative #3:** Provide \$89 million General Fund (50 percent of the request) to support trial court operations, which will allow the courts to hire additional staff to address backlogs, retain existing staff, and improve the public's access to justice.

**PRO:** Some areas of trial court operations would receive support.

#### **CON:**

- Results in additional General Fund resources.
- Access to justice, equality and fairness, and the timeliness of trial court actions continue to be at risk.

**2018-2019 FY Budget Change Proposal Concept**

**Requesting Entity:** Trial Courts  
**Contact:** Lucy Fogarty and Angela Guzman  
**Concept No.:** 18-13b

**Proposal Title:** Trial Court Workload from Propositions and Chaptered Legislation

**Fiscal Summary:**

Fund Source	Proposed JCC Positions	Total Personal Services	Operating Expenses & Equipment	Proposed Total 2018-2019	Proposed Total 2019-2020	Proposed Total 2020-2021
General Fund	0.0	\$0	TBD	TBD	TBD	TBD

**Detailed Funding By Fiscal Year:**

	Proposed Total 2018-2019	Proposed Total 2019-2020	Proposed Total 2020-2021
Ongoing	TBD	TBD	TBD
One-Time	TBD	TBD	TBD
<b>Total</b>	TBD	TBD	TBD

**Proposal Summary:** Proposed General Fund augmentation (amount \$TBD) to support trial court operations resulting from mandated, but unfunded, workload tied to propositions and recently chaptered legislation.

**Background Information:** California’s state court system serves a population of more than 39 million people and securing adequate funding for all courts is the top priority for the Judicial Council and is necessary to ensure public access to justice.

With the passage of the Lockyer-Isenberg Trial Court Funding Act of 1997 (AB 233; Chapter 850, Statutes of 1997), the state assumed sole responsibility for funding of court operations. As part of this change, the counties were required to make quarterly maintenance of effort payments (MOE) and remit specified revenues to the state. Subsequent legislation reduced the MOE payment and other revenues that support trial court operations.

Prior to 2008–2009, funding was regularly provided to the trial courts to address the increased costs of doing business through budget change proposals or State Appropriations Limit (SAL) augmentations. During the fiscal crisis, the trial courts shared in the burden of reduced funding and consequently utilized several cost saving measures with the goal of maintaining access to justice for all members of the public. Trial courts significantly reduced expenses to accommodate the reductions in funding.

An ongoing lack of resources continues to impair the ability of trial courts to provide timely resolutions to both civil and criminal cases, as well as family, probate, mental health, juvenile, and traffic cases throughout the state’s 58 counties. This funding gap continues to cause significant backlogs which inhibit public access to fair, timely, and effective justice.

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**Justification:** In November 2016, several ballot initiatives passed increasing Judicial Branch responsibilities carried out through trial court operations. These propositions, however, did not provide the trial courts funding to manage any additional workload. Similarly, several pieces of legislation were chaptered in 2016 increasing trial court operational responsibilities. These bills also did not get funded in the annual budget process, widening the gap of unfunded new trial court workload. As a remedy, this request seeks to fund workload related to the following measures:

- **Proposition 57: Juvenile tried in adult court.**  
States that youth can only be tried in adult court after a hearing in which the juvenile court judge orders the transfer of the youth to adult court.
- **Proposition 63: Firearms and ammunition sales.**  
Requires a new court process to ensure that individuals convicted of offenses that prohibit their owning firearms do not continue to have them. The proposition requires:
  - Informing offenders upon conviction turnover firearms to local law enforcement, sell firearm or give firearm for storage to a licensed firearm dealer.
  - Assigning a probation officer to report the manner of dispensation of the firearm per the above.
  - Ordering firearms be removed if court finds probable cause that the offender still has the firearm.
- **Proposition 64: Marijuana legalization.**  
Reduces the penalty for selling nonmedical marijuana without a license to 6-months in county jail and/or up to \$500 fine; requires the destruction, w/in 2 years, of criminal records for individuals arrested or convicted for certain marijuana related offenses within two years; makes individuals serving sentences for activities that are made legal (or subject to lesser penalties under the measure) eligible for resentencing; makes individuals who have completed sentences that are reduced by the measure able to apply to the courts to have their criminal records changed.
- **Proposition 66: Death Penalty Procedures.**  
Seeks to shorten the time that the legal challenges to death sentences take. Specifically, it requires that habeas corpus petitions first be heard in the trial courts, places time limits on legal challenges to death sentences, and changes the process for appointing attorneys to represent condemned inmates.
- **AB 2013 (Ch 689, Statutes 2016).**  
Establishes a three-year pilot project for the three selected courts (one each: small, medium, large) to promptly determine whether there is probable cause that a crime has been committed when the defendant is out of custody and facing a misdemeanor charge.
- **AB 813 (Ch 739, Statutes 2016).**  
Extends the rights to a person no longer imprisoned or restrained to seek post-conviction relief to vacate a conviction if: (1) the convicted person did not understand the immigration consequences of a guilty plea, or (2) newly discovered evidence of actual innocence exists. AB 813 requires the court to hold a hearing in all motions – excluding judicial discretion to deny a motion for hearing due to lack of evidence to warrant a hearing.



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- **AB 2765 (Ch 767, Statutes 2016).**  
Extends the time period for convicted individuals to submit an application to have a sentence reduced from a felony to a misdemeanor, pursuant to the restrictions of Proposition 47.
- **AB2839 (Ch 769, Statutes 2016).**  
Changes the method by which custody credits are applied for time served against penalties and assessments.
- **SB 1134 (Ch 785, Statutes 2016).**  
Establishes a lower standard of review of new evidence alleging innocence in habeas corpus petitions, increasing the number of petitions eligible for review and a subsequent increase in the issuance in orders to show cause.

This request funding to support new court operations workload resulting from unfunded legislation and initiatives.

### Unfunded 2016 Propositions and Chaptered Legislation (Estimated Need in Millions)

Item	FY 2018-2019	FY 2019-2020	FY 2020-2021	FY 2021-2022+
Proposition 57	\$1.5	\$1.5	\$1.5	\$1.5
Proposition 63	\$11.4	\$11.4	\$11.4	\$11.4
Proposition 64	\$9.7	\$6.0	\$7.0	\$0
Proposition 66	TBD	TBD	TBD	TBD
AB 2013	\$26.0	\$13.0	\$0	\$0
AB 813	\$26.2	\$26.2	\$26.2	\$26.2
AB 2765	\$13.8	\$0	\$0	\$0
AB 2839	\$16.4	\$16.4	\$16.4	\$16.4
SB 1134	\$4.6	\$4.6	\$4.6	\$4.6
<b>Total Need</b>	<b>TBD</b>	<b>TBD</b>	<b>TBD</b>	<b>TBD</b>

The ability to get to trial and have critical criminal, family law, domestic violence, or civil matters addressed are essential rights of California’s citizens and should not be clouded in uncertainty each year during the state’s annual budget process. Without General Fund assistance, access to justice, equality and fairness, and the timeliness of trial court actions are all at risk.

**Fiscal Impact:** This request will provide funding to support mandated, but unfunded, workload tied to propositions and recently chaptered legislation.

Upon approval of the funds, a formula for distribution between the courts will be presented to the Judicial Council for approval upon enactment of the state budget.

**Outcomes and Accountability:** If this budget request is granted, the proposal will:

- Provide funding for a sufficiently sized trial court workforce
- Stabilize service hours that courts are open/available to public

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- Improve service delivery by reducing long lines, as well as case processing delays
- Provide resources for unfunded mandated workload

### **Projected Outcomes:**

If funding is provided, it will assist the courts in maintaining services to California citizens.

### **Other Alternatives Considered:**

**Alternative #1:** Do not approve additional funding to support trial court operations resulting from mandated, but unfunded, workload tied to propositions and recently chaptered legislation.

**PRO:** No impact to the General Fund.

**CON:** Without funding to support trial court operations, access to justice, equality and fairness, and the timeliness of trial court actions are all at risk.

**Alternative #2:** Provide a partial General Fund augmentation to support trial court operations resulting from mandated, but unfunded, workload tied to propositions and recently chaptered legislation.

**PRO:** Trial court operations would receive partial support.

#### **CON:**

- Results in additional General Fund resources.
- Access to justice, equality and fairness, and the timeliness of trial court actions continue to be at risk.

**2018-2019 FY Budget Change Proposal Concept**

**Requesting Entity:** Administrative Presiding Justices Advisory Committee  
**Contact:** Bob Lowney and Deborah Collier-Tucker  
**Concept No.:** 18-14

**Proposal Title:** Appellate Court Judicial Workload

**Fiscal Summary:**

Fund Source	Proposed JCC Positions	Total Personal Services	Operating Expenses & Equipment	Proposed Total 2018-2019	Proposed Total 2019-2020	Proposed Total 2020-2021
General Fund	0.0	\$2,080,000	\$364,000	\$2,400,000	\$2,300,000	\$2,300,000

**Detailed Funding By Fiscal Year:**

	Proposed Total 2018-2019	Proposed Total 2019-2020	Proposed Total 2020-2021
Ongoing	\$2,300,000	\$2,300,000	\$2,300,000
One-Time	\$125,000	\$0	\$0
Total	\$2,400,000	\$2,300,000	\$2,300,000

**Proposal Summary:** Proposed augmentation of \$2.4 million General Fund in 2018-2019 and \$2.3 million beginning in 2019-2020 and ongoing to meet substantial and growing workload demands in Division 2 of the Fourth Appellate District Court of Appeal. This request supports funding for the two new justices and their necessary chambers staff, including 3 research attorneys and 1 judicial assistant.

**Background Information:** There are currently 105 court of appeal justices in California, divided among the six appellate districts. In more than 25 years, only 17 new appellate justice positions have been created: 12 in 2001 and 5 in 1996. Prior to that, 11 were authorized in 1987, with funding provided in 1989.

Appellate courts have mandatory review of any appealable order or judgment from a superior court as well as writ review of non-appealable superior court decisions and discretionary review of decisions of the appellate division of a superior court. The principal function of the courts of appeal is to decide the merits of the issues presented by the appealing and responding parties to ensure the correct and uniform interpretation of the law throughout the state. Second only to adjudication is the function of construing statutes and guiding the development of the common law of California through written opinions in a fashion that provides guidance for trial courts when applying the law in future cases.

In addition to the responsibilities each court of appeal justice has for writing opinions to which he or she is assigned as the lead author, justices must read the briefs and conduct research as appropriate in each of the cases in which he or she is a member of the panel. Since appeals are decided by three-judge panels, each justice is a panel member for twice as many cases as he or she is assigned as lead author. Whether

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or not assigned to author an opinion, each justice on a panel is equally responsible for the decision and reasoning of the appellate decision. A dissenting justice may also issue a written opinion in a case.

The justices also review briefs and draft memoranda prepared for routine disposition of criminal and criminally-related cases (referred to as RDAs, routine disposition appeals), and for Wende appeals (People v. Wende (1979) 25 Cal.3d 436) in which assigned counsel formally advise the court that he or she can find no argument of any merit to present on appeal. In Wende appeals (which occur in criminal and juvenile delinquency matters), the court must conduct an independent review of the record to ascertain whether or not there are any appealable issues and, if so, ask counsel to brief them. Furthermore, during the course of the year, each justice reviews hundreds of writ petitions, including habeas writs, voting whether to request opposition or further information, and whether to grant review of the petition.

In 1994, the Appellate Resources Working Group was appointed by then-Chief Justice Malcolm M. Lucas to assess the resource needs for the courts of appeal. The working group developed a methodology to determine the relative workload of the courts of appeal and determine the optimal workload per justice. This methodology uses a three-year average of appeals becoming fully briefed to reduce the effect of annual fluctuations.

The working group determined that the most appropriate method for assessing additional judicial need was to establish a weighting of the cases. In this weighting, Wende and RDAs (estimated to be 64 percent of criminal appeals and juvenile delinquency appeals) were given a weight of .33 because these matters typically take less time to prepare than other matters. Remaining appeals are given a weight of 1.0. These case weights were then used to assess the relative judicial workload in each of the six court of appeal districts. At the time, the working group determined that 98 case weights per justice, using this formula, would be optimal. That workload study, adopted by the Judicial Council in January 1995, was the basis for the new positions approved by the Legislature in 1996. As a result of changes in criminal and civil law over the intervening years that increased the complexity of the court's caseload, when the council sought and the Legislature and Governor authorized 12 new justices in 2000, the optimal number of case weights per justice was revised to 89.

**Justification:** The workload in Division Two of the Fourth Appellate District is continuing to increase, and the justices cannot continue to handle this volume of cases. Based on information from the last three years for which data is available (2013-2014, 2014-2015, and 2015-2016), Division Two has an annual average of 1,190 appeals becoming fully briefed. Applying the weighted formula that results in 117 cases per justice far exceeding all of the other divisions and far in excess of the optimal number of weighted cases per justice, which is 89. A review of data back to 1991 shows that the three-year average of appeals becoming fully briefed is at an all-time high. Assuming a steady number of fully briefed appeals, two additional justices would reduce the weighted workload to 95, still the highest in the state and above the optimal number of 89 cases per justice.

The Fourth District has sought to alleviate this increased workload by transferring cases from division two to both divisions one and three. For a 30-month period from February 2009 to August 2011, 500 cases were transferred from Division Two to Divisions One and Three in the Fourth District Court of Appeal. This helped to address the delays, but began to create delays in the other divisions. In October 2013, the transfers resumed, with eight cases per month transferred to Division Three. In January 2014, an

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additional 10 cases per month began to be transferred to Division One, for a total of 18 cases per month transferred out of Division Two to help meet the workload demands. For five months, from March 2014 to July 2014, the number of cases transferred to Division Three increased from 8 to 24. In January 2015, a high of 47 cases were transferred. Overall, from October 2013 through July 2016, 761 cases were transferred, with 274 transferred in fiscal year 2014-2015 alone. Further, the workload in Division Three has dramatically increased due to the Prop 47 appeals.

Transfers of cases to another division or another district are neither a long-term nor effective alternative. Transfers of cases from one district to another have long been disfavored because they pose a hardship to litigants who bear the expense and burden of traveling to a distant district to have their matter heard. There is also a strong argument that local issues should be decided in the geographic area in which the dispute arose and was decided at the trial court level. Additionally, there is a burden to the courts involved, including the increased workload in the receiving division and to the Chief Justice in having to consider and approve each transfer individually. Furthermore, the work of transferring cases is labor-intensive for both the clerk’s office in division 2 as well as the clerk’s office in the receiving division, to the extent that additional staff resources would be needed if the numbers of transfers were to increase.

The addition of two new justices will enable Division Two to process its workload more effectively and efficiently, benefiting the division, the courts of appeal as a whole, and the individuals and lawyers seeking to have their cases addressed in a timely manner.

Statutory change would need to accompany this increased funding, as the number of appellate justices is expressly set forth in statute.

**Fiscal Impact:** This proposal would increase staffing levels in the 4<sup>th</sup> DCA by 2.0 Justice positions and 4.0 positions for supporting staff. Positions have been calculated at mid-step with a standard compliment of Operating Expenses and Equipment.

**Outcomes and Accountability:** Assuming the three-year average number of cases becoming fully briefed remains stable, the weighted cases per justice in Division 2 of the Fourth District Court of Appeal will be reduced to 95, still in excess of the optimal number of cases, but within a more acceptable range. Funding this request will allow the case transfers to halt or decrease significantly, eliminating delays that have resulted in other divisions in the Fourth District Court of Appeal.

**Projected Outcomes:**

**Workload Measure:**

Workload Measure	2017-2018 Current Year	2018-2019 Budget Year	2019-2020 Budget Year	2020-2021 Budget Year	2021-2022 Budget Year	2022-2023 Budget Year
Number of cases becoming fully briefed in Division 2 of 4DCA	1,199	1,199	1,199	1,199	1,199	1,199
Weighted caseload per justice in Division 2 of 4DCA	122	95	95	95	95	95

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### Other Alternatives Considered:

**Alternative #1:** Do not approve additional funding to support Appellate Court Judicial workload.

**PRO:** No impact to the General Fund.

**CON:** Without full funding of two new appellate judgeships, cases will continue to need to be shifted to other districts, and will continue to experience delays and litigants will receive disparate treatment vis-à-vis litigants across the state.

As noted above, 274 cases were transferred in fiscal year 2014-2015 alone. The Presiding Justices of the Fourth District Court of Appeals have discussed whether to transfer greater numbers of cases, but the workload added to justices, attorneys, and clerk staff in the receiving court is significant, causing delays in their cases, and the work of preparing cases for transfer is also significant. The Presiding Justices determined that additional transfers are not feasible at this time.

While the Chief Justice has the authority to provide for temporary workload adjustments among the courts of appeal (see Section 6, Article VI of the California Constitution), this would provide only temporary relief for a permanent and ongoing problem. Transfers of cases from one district to another have long been disfavored because they pose a hardship to litigants who bear the expense and burden of traveling to a distant district to have their matter heard. There is also a strong argument that local issues should be decided in the geographic area in which the dispute arose and was decided at the trial court level. Finally, there is a burden to the courts involved, including the increased workload in the receiving division and to the Chief Justice in having to consider and approve each transfer individually.

**Alternative #2:** Provide \$1.2 million General Fund in 2018-2019 and ongoing support one (1) New Justice and supporting staff.

**PRO:** This option would provide additional support to Division Two.

**CONS:**

- Results in additional General Fund resources.
- The case weight per justice would still be 104, far in excess of the optimal case weight of 89. The case weight of 104 even exceeds the optimal case weight initially established in 1995, before the increased case complexity required a lowering of the optimal case weight numbers to reflect the amount of time now required of appellate justices to properly consider, weigh and issue opinions on the cases presented to them.
- Still requires the transfers of cases, with the concomitant downsides described above.

**Alternative #3:** Provide \$2.4 million General Fund in 2018-2019 and \$2.3 million beginning in 2019-2020 and ongoing for the two new appellate judgeships and supporting staff.

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**PRO:** Two new justices and associated staff will enable Division Two to process its workload more effectively and efficiently, benefiting the division, the courts of appeal as a whole, and the individuals and lawyers seeking to have their cases addressed in a timely manner. We see the population of the Inland Empire, which Division Two exclusively covers, continuing to grow and the workload associated with that population expansion also requires new judicial resources to adequately address the need.

**CON:** Results in additional General Fund resources.

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**Requesting Entity:** Administrative Presiding Justices Advisory Committee  
**Contact:** Bob Lowney and Deborah Collier-Tucker  
**Concept No.:** 18-15

**Proposal Title:** Appellate Court Security – California Highway Patrol

**Fiscal Summary:**

Fund Source	Proposed JCC Positions	Total Personal Services	Operating Expenses & Equipment	Proposed Total 2018-2019	Proposed Total 2019-2020	Proposed Total 2020-2021
General Fund	0.0	\$0	\$1,421,000	\$1,421,000	\$1,400,000	\$1,400,000

**Detailed Funding By Fiscal Year:**

	Proposed Total 2018-2019	Proposed Total 2019-2020	Proposed Total 2020-2021
Ongoing	\$1,400,000	\$1,400,000	\$1,400,000
One-Time	\$21,000	\$0	\$0
<b>Total</b>	\$1,421,000	\$1,400,000	\$1,400,000

**Proposal Summary:** Proposed augmentation of \$1.4 million General Fund beginning in 2018-2019 and ongoing a one-time augmentation of \$21,000 General Fund in 2018-19 to ensure all appellate court locations have the necessary security coverage. The California Highway Patrol Judicial Protection Section (CHP-JPS) provides security to each of the nine physical appellate court locations during normal business hours. This request will provide funding to support 7.0 new CHP-JPS officers to enhance the current security compliment and provide the necessary security coverage at all appellate court locations statewide.

**Background Information:** CHP-JPS’s primary mission is to provide the highest level of security and protection for the California Supreme Court, the California Courts of Appeal, its personnel and facilities (112 justices and approximately 900 staff) throughout the State. The contractual services provided include but are not limited to: bailiff duties during oral argument; security advances, screening, and bailiff duties during outreach oral argument away from an appellate court’s location; training conferences; and Supreme Court’s rotational oral argument in San Francisco, Sacramento, and Los Angeles.

Currently the CHP-JPS is staffed by one Lieutenant Commander, two Sergeants, one administrative staff member, and 22 officers, which have remained unchanged since 2005. Approximately \$4.8 million General Fund is allocated annually to support CHP-JPS services. The Judicial Council contracts with CHP on behalf of the Supreme Court and Courts of Appeal for these services; therefore, funding for these costs are included in the Program 0140-Judicial Council.



## 2018-2019 FY Budget Change Proposal Concept

CHP-JPS has policies and procedures in place for the management of their personnel and workload. These include departmental written policy, departmental and unit-specific standard operating procedures, and scheduled reviews with the Judicial Council of California contract program manager.

Each officer within the Unit is required to maintain individual logs and records of activity and assignments, which are used to examine unit performance as well as determine staffing and deployment needs. CHP-JPS is able to discuss workload measurements and documentation in person as needed, but cannot universally disseminate specific deployment and statistical details, as doing so may compromise statewide court security.

CHP-JPS has two main bases of operation, which are located in the San Francisco and Los Angeles appellate court locations. In addition to these two locations, CHP-JPS is also responsible for another seven separate physical appellate court locations. These seven locations are geographically separate court facilities located throughout the state, and are currently staffed with one permanently-assigned CHP-JPS officer.

When a CHP-JPS officer at a location with only one officer must leave for any approved reason, the CHP-JPS must backfill to ensure consistent security coverage by doing any of the following: transfer CHP-JPS Officers from other locations, employ CHP personnel from local field commands that are not JPS trained and are unfamiliar with court operations, or simply leave the court without CHP coverage which leaves the court location with no law enforcement deterrent or on-site armed response. The Courts of Appeal are primarily funded from the General Fund and approximately \$209.9 million is included in the 2016 Budget Act. Additionally, approximately \$5.5 million is provided from the Appellate Court Trust Fund. Excluding non-discretionary spending (rent and Court-Appointed Counsel costs), approximately \$8.3 million is available annually to support all operating expenses and equipment costs for all six districts. Budget reductions and the increased cost of goods and services have further constrained the flexibility of the Courts of Appeal budget. In order to maintain the appellate court facilities, critical positions have been left vacant to support these unfunded costs. As workload at the appellate courts continues to increase, keeping these positions vacant is no longer an option and the appellate courts are unable to absorb the additional funds included in this request.

**Justification:** CHP-JPS works with each appellate court location to develop and implement Emergency Action Plans and Continuity of Operations Plans as well as operating the Judicial Officer Privacy Program. CHP-JPS is also responsible for security advances and providing security/protection for Judicial Council meetings.

After taking into consideration each court's unique security requirements and based upon the National Center for State Courts (NCSC) best practices on court security, additional CHP-JPS officers are critical to providing the necessary security levels that appellate court locations warrant. This is a high priority/long-term need as the safety and security of the appellate courts is, and always should be, an absolute priority in the appellate court's service to the public. Detailed deployment, workload and cost analysis measures are available to be presented in a modified format; however, due to security concerns, exact statistics and details cannot be universally released, as they may compromise court security.

## 2018-2019 FY Budget Change Proposal Concept

In appellate facilities with only one CHP-JPS officer assigned, certain circumstances often occur resulting in insufficient CHP-JPS personnel available for deployment, such as concurrent oral argument calendars in multiple locations, Protective Service Details (advance work and security details), conferences, outreach events, traveling appellate courts, mandatory training for CHP officers, and personnel related-matters (vacation/sick leave). In these situations, the only line of defense and/or security is an unarmed contracted security guard, which poses a security risk. In order to combat the most significant security challenges, the CHP-JPS must utilize more cost-effective and/or resource-efficient measures in order to ensure full coverage at the seven outlying court of appeal locations during business hours, such as transferring CHP-JPS Officers from other locations, which results in a failure to meet required personnel priorities and diminished coverage at other court locations and increased travel and overtime; employ CHP personnel from local field commands that are not JPS trained and are unfamiliar with court operations, which results in limited services they can provide and additional mandatory overtime costs; or simply leave the court without CHP coverage which leaves the court location with no law enforcement deterrent or on-site armed response.

The average number of instances of potential security lapses per month due to current staffing deficiencies for the seven one officer courts of appeal combined are 175 instances per month in 2013-2014; 158 instances per month in 2014-2015; and 145 instances per month in 2015-2016. Instances are defined as:

- In attendance at oral argument.
- Required to attend mandatory Department or POST training.
- On a scheduled vacation/leave.
- Appearing at another court (subpoena).
- On a security detail with one or more of the justices of that court.
- On a lunch break off-site.
- Conducting security related services and/or training to appellate court staff.
- Engaged in an ongoing/potential threat or crime in progress (possible diversionary attack).
- Conducting a security advance for an upcoming court event.
- Engaged in any other activity which requires an officer to be out of public view, negating the benefits of in-view uniformed and armed patrol.

The number of actual officer backfill requests in the seven one officer courts of appeal for two recent quarters were 198 and 206 respectively. If CHP-JPS had had seven additional officers on staff at that time, those backfill request counts would have been 42 and 29 respectively.

**Fiscal Impact:** The estimated costs and the number of needed CHP officers will depend on the final scope of the proposal. If the overall concept of seeking funding for additional CHP coverage is approved, a detailed estimate of costs will be prepared. Salary and benefits for one CHP officer are approximately \$192,000 annually.

**Outcomes and Accountability:** There isn't a method of statistical collection which would quantify the success or failure of this proposal; however, the provision of a more robust security infrastructure will assist CHP-JPS with assuming a more effective posture of deterrence relative to those who would seek to direct violent/criminal acts toward the appellate courts, its judicial officers, and /or the public conducting

## 2018-2019 FY Budget Change Proposal Concept

business with these courts. CHP-JPS has policies and procedures in place for the management of their personnel and workload. These include departmental written policy, departmental and unit-specific standard operating procedures, and scheduled review with the Judicial Council project manager, who also monitors contract costs. CHP-JPS meets regularly with the management in each appellate court as well as with the Chair of the Appellate Court Security Committee to address security related issues. Furthermore, in the event that deterrence is not effective and a violent/criminal act is waged upon the appellate courts, CHP-JPS will be in a better position to rapidly respond with more efficiency to mitigate the event.

If the funding is not provided to support this proposal, the Judicial Council notes that (1) judicial protection, site security, and public safety in the appellate courts will not keep pace with increasing demand, (2) CHP-JPS will not be able to provide for requisite security/protection levels at all locations and for all requested security services, (3) CHP-JPS may not have sufficient staff to appropriately secure events, conferences, outreaches, traveling courts, and a multitude of other Protective Service Detail (PSD) operations, (3) CHP-JPS officer safety will be jeopardized at court of appeal locations staffed with only one officer CHP-JPS, and (4) CHP-JPS will have to continue to rely upon non-JPS trained CHP personnel (backfill officer from a local CHP field office) on overtime status to meet minimum staffing needs.

Further, denial of this proposal may result in increased civil liability against the State and the appellate courts for not taking proper security measures to prevent CTAV incidents from occurring, increased chances of harm to justices, court employees, and the public as a result of inadequate security measures, decreased public confidence in the ability to safely conduct business at appellate court facilities (effect on the court's ability to ensure public access to justice), and decreased ability to mitigate injury to justices, court employees, and the public as well as damage to court property.

### Other Alternatives Considered:

**Alternative #1:** Do not approve additional funding to support Appellate Court Security.

**PRO:** No impact to the General Fund.

#### CONS:

- The appellate courts will continue to be at significant risk for CTAV incidents, the CHP-JPS will have insufficient staffing levels to support required events outside of the courtroom, and the CHP-JPS will have to continue to use inefficient, less cost efficient solutions to mitigate security needs statewide. The Judicial Council and appellate courts are unable to support significant cost increases related to security coverage.
- May result in increased civil liability against the State, decreased public confidence in the ability to safely conduct business at appellate court facilities (effect on the court's ability to ensure public access to justice), and decreased ability to mitigate injury to justices, court employees, and the public as well as damage to court property.

**Alternative #2:** Provide partial funding to support a reduced number of CHP-JPS officers.

**PRO:** Partial increase in security coverage for the appellate courts.

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### CONS:

- The appellate courts will continue to be at risk for CTAV incidents, the CHP-JPS may have insufficient staffing levels to support required events outside of the courtroom, and the CHP-JPS will have to continue to use inefficient, less cost efficient solutions to mitigate security needs statewide. The appellate courts are unable to support significant cost increases related to security coverage. Further, denial of this proposal may result in increased civil liability against the State, decreased public confidence in the ability to safely conduct business at appellate court facilities (effect on the court's ability to ensure public access to justice), and decreased ability to mitigate injury to justices, court employees, and the public as well as damage to court property.

If this alternative is selected, the CHP-JPS will need to prepare mock schedules to reflect deployment strategies for the selected number of additional personnel. This request assumes 7.0 additional positions will be provided. If less than 7.0 positions are approved, deployment of a modified number of positions would create a scenario where the variables would make it difficult to provide an accurate strategy. Variables could include the following, location (and the selection process of) deployments, duration of deployment, costs of variable deployment versus fixed assignments, and threat/security assessment/quantification in one location versus another.

- Results in additional General Fund resources.

**Alternative #3:** Provide an augmentation of \$1.4 million General Fund beginning in 2018-2019 and ongoing a one-time augmentation of \$21,000 General Fund in 2018-2019 to ensure all appellate court locations have the necessary security coverage.

**PRO:** Will provide the Appellate courts with a sufficient level of security, reducing potential civil liability against the State while increasing public confidence in the ability to safely conduct business at appellate court facilities.

### CON:

- Results in additional General Fund resources.

**2018-2019 FY Budget Change Proposal Concept**

**Requesting Entity:** Administrative Presiding Justice Advisory Committee  
**Contact:** Bob Lowney and Deborah Collier-Tucker  
**Concept No.:** 18-16

**Proposal Title:** Appellate Courts – Court Appointed Counsel Projects

**Fiscal Summary:**

Fund Source	Proposed JCC Positions	Total Personal Services	Operating Expenses & Equipment	Proposed Total 2018-2019	Proposed Total 2019-2020	Proposed Total 2020-2021
General Fund	0.0	\$0	\$1,410,000	\$1,410,000	\$1,410,000	\$1,410,000

**Detailed Funding By Fiscal Year:**

	Proposed Total 2018-2019	Proposed Total 2019-2020	Proposed Total 2020-2021
Ongoing	\$1,410,000	\$1,410,000	\$1,410,000
One-Time	\$0	\$0	\$0
Total	\$1,410,000	\$1,410,000	\$1,410,000

**Proposal Summary:** Proposed augmentation of \$1.4 million General Fund beginning in 2018-2019 and ongoing to support increased costs for contractual services in the Supreme Court’s Court-Appointed Counsel Project (\$315,000) and the Courts of Appeal Court Appointed Counsel Project Offices (\$1,095,000).

**Background Information:** In 1963, *Douglas v. California* (372 U.S. 353) held that the federal Constitution guarantees an indigent defendant convicted of a felony the right to a court-appointed attorney for the initial appeal. Twenty-two years later, in 1985, the Court clarified in *Evitts v. Lucey* (469 U.S. 387), that the guarantee of court-appointed counsel requires that counsel be competent. As indicated in *Evitts v. Lucey*, “[W]e have held that the Fourteenth Amendment guarantees a criminal appellant pursuing a first appeal as of right certain minimum safeguards necessary to make that appeal “adequate and effective,” see *Griffin v. Illinois*, 351 U.S. 12, 20 (1956); among those safeguards is the right to counsel, see *Douglas v. California*, 372 U.S. 353 (1963).”.. “[T]he promise of Douglas that a criminal defendant has a right to counsel on appeal -- like the promise of *Gideon* that a criminal defendant has a right to counsel at trial -- would be a futile gesture unless it comprehended the right to the effective assistance of counsel.” This authority can be found in two Rules of Court: Rule 8.300 (Courts of Appeal) and Rule 8.605 (Supreme Court, death penalty cases). Rule 8.300 states in applicable part: “Each Court of Appeal must adopt procedures for appointing appellate counsel for indigents not represented by the State Public Defender in all cases in which indigents are entitled to appointed counsel.... The court may contract with an administrator [project] having substantial experience in handling appellate court appointments to perform any of the duties prescribed by this rule.” (Cal. Rules of Court, rule 8.300(a) and (e)(1).) For death penalty cases, Rule 8.605 states in applicable part: “‘Appointed counsel’ or ‘appointed

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attorney’ means an attorney appointed to represent a person in a death penalty appeal or death penalty-related habeas corpus proceedings in the Supreme Court...” And, “‘Assisting counsel or entity’ means an attorney or entity designed by the Supreme Court to provide appointed counsel with consultation and resource assistance. Entities that may be designated include the Office of the State Public Defender, the Habeas Corpus Resource Center, and the California Appellate Project of San Francisco.” (Cal. Rules of Court, Rule 8.605(c)(1) and (c)(5).) Both the California Appellate Project-San Francisco and the various Court-Appointed Counsel projects for the Courts of Appeal fulfill these rights for indigent defendants.

### **California Appellate Project-San Francisco (CAP-SF)**

Current law requires the appointment of defense counsel in all capital cases for indigent individuals in California. CAP-SF is a non-profit project established in 1983 which provides case-related services and attorney assistance on post-conviction capital cases. CAP-SF serves as a legal resource center for private counsel appointed in capital appeals, habeas corpus, and clemency proceedings as well as providing direct representation in some of these matters. CAP-SF provides individual case services to appointed attorneys, provides training, and litigation resource material. In addition, CAP-SF assists unrepresented death row inmates by collecting and preserving records and evidence for later post-conviction use and by providing advocacy needed before counsel is appointed.

Appointment of counsel for indigent persons in capital cases occurs from three sources: (1) the Office of the State Public Defender (OSPD); (2) the Habeas Corpus Resource Center (HCRC); and (3) private counsel. The OSPD may be appointed to represent a defendant on the direct appeal, the HCRC may be appointed to represent a defendant on the habeas petition, and private counsel may be appointed for either direct appeal, habeas corpus, or both (if both defendant and counsel agree). There are two types of appointments for counsel on a capital appeal; 1) direct appeals that are limited to the facts in the appellate record and 2) habeas proceedings that are a collateral attack on a judgment of conviction or sentence when the facts supporting the claim do not appear in the record. As of August 2015, of the 751 defendants on death row, there are 366 defendants who need an appointment for either their direct appeal and/or habeas corpus proceedings (68 are without counsel for either the direct appeal or the habeas corpus proceedings and only 298 have counsel for the direct appeal, but not for the habeas corpus proceedings). While these three entities provide services to indigent individuals, OSPD and HCRC are unable to address the entire existing backlog of appointments given current resources.

Every death judgment in California results in an automatic appeal, which is mandated by the California Constitution. There is an average of 18 death judgments per year for the last seven years and appointments of counsel has not kept pace with the number of death judgments. Appointing and training qualified counsel, along with ensuring that qualified staff is hired for CAP-SF, continues to be the challenge for the Judiciary. The OSPD and HCRC together cannot provide the representation to meet the current number of death penalty judgments. The costs of providing these services also continue to increase yearly. The Supreme Court has procedures for attracting and appointing qualified counsel to handle capital cases. Accordingly, the services provided by CAP-SF and private counsel appointed in capital cases are both needed and essential to ensure “adequate and competent” representation guaranteed by the U.S. Constitution to indigent appellants for the foreseeable future.

As a non-profit entity, CAP-SF faces the challenges that may not occur for a state entity such as HCRC and OSPD especially as it relates to the hiring, retaining and training qualified attorneys to direct, assist,

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monitor, and train private counsel appointed to capital cases. To fulfill their duties of directing, training, assisting and monitoring appointed counsel CAP-SF needs to have a level of knowledge and experience that equals or exceeds that of the attorneys they assist. Due to the requirement to have qualified and experienced attorneys for its core business function, it took more than a year for CAP-SF to fill its most recent attorney vacancy.

The costs of providing the contracted services to the Supreme Court by CAP-SF continue to escalate. The 2007 Budget Act provided an additional \$600,000, to support increased workload and associated cost increases. However, since 2007-08, the Supreme Court has not received any additional funding to support this critical workload that is driven by a constitutional right to a court-appointed legal representation.

The increased cost of the contracted services from CAP-SF, as well as private counsel services on capital cases, must be addressed. It has been difficult for CAP-SF, to meet the cost of hiring and retaining experienced and qualified attorneys when competing with the salaries of both private law firms and government agencies. Furthermore, CAP-SF has absorbed increases in the cost of doing business and increases in caseload; it can no longer afford to do so without being a detriment to the indigent appellant and attorneys it is contractually obligated to serve. It can no longer continue to meet the level of service required by the Supreme Court to meet the constitutional guarantee of competent counsel.

Over the last nine years, CAP-SF has absorbed its rent increases and other increased costs by taking several measures, including the following: (1) consolidating two litigation teams to eliminate an attorney supervisor position and 0.7 attorney FTEs; (2) eliminating six non-attorney staff positions, leaving only one secretarial and three caseworker positions; (3) eliminating the associate director (attorney) position in exchange for a lower cost assistant director (non-attorney) position; (4) eliminating the in-house mitigation specialist position in favor of outside contractors and progressively reducing the number of hours allotted to contractors; (5) vastly curtailing attendance at training programs; and (6) drawing down the operating reserves.

### Resource History:

(Dollars in thousands)

<b>Program Contract Budget</b>	<b>2011-2012 Past Year</b>	<b>2012-2013 Past Year</b>	<b>2013-2014 Past Year</b>	<b>2014-2015 Past Year</b>	<b>2015-2016 Past Year</b>
Authorized Expenditures	5,585,218	5,585,218	5,585,218	5,585,218	5,585,218
Actual Expenditures	5,585,218	5,585,218	5,585,218	5,585,218	5,585,218

### Workload Measures:

<b>Workload Measure</b>	<b>2010-2011 Past Year</b>	<b>2011-2012 Past Year</b>	<b>2012-2013 Past Year</b>	<b>2013-2014 Past Year</b>	<b>2014-2015 Past Year</b>	<b>2015-2016 Past Year</b>	<b>2016-2017 Current Year Est. Avg</b>
New Death Judgments Received	23	18	16	20	19	8	17

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Ongoing Death Judgments without Counsel	315	324	330	346	366	374	370
New Appointments in Capital Cases Processed	39	29	32	36	41	35	35

During the period from FY 2007-2008 to FY 2015-2016, there were 178 judgments of death which qualified for an automatic appeal to the Supreme Court. These 178 judgments would have resulted in maximum of 356 capital appeal appointments; \*one judgment would have an appellate appointment for direct appeals and one for habeas corpus, unless there was a dual appointment of both. However, during the same period, the Court only made 338 total appointments for direct, habeas or dual. The lack of capacity for the OSPD and HCRC to accept more appointments coupled with the shortage of qualified attorneys who can accept appointment is what is contributing to the backlog of defendants on death row without any appellate representation. The table below summarizes the capital caseload since FY 2007-2008.

Capital Caseload by FYs 2007-2008 thru 2015-2016	FY 2007-2008	FY 2008-2009	FY 2009-2010	FY 2010-2011	FY 2011-2012	FY 2012-2013	FY 2013-2014	FY 2014-2015	FY 2015-2016	Total Between FYs 2007-2008 - 2015-2016
<b>Automatic Appeals Per Yr:</b>	16	30	28	23	18	16	20	19	8	178
<b>Supreme Court Death Judgments Automatic Appeal Filed (*one automatic appeal equals two appointments) by Fiscal Year</b>	32	60	56	46	36	32	40	38	16	356
<b>Supreme Court Capital Appointments Made (direct, habeas, and dual) by Fiscal Year</b>	42	43	41	39	29	32	36	41	35	338
<i>(Note: Not all death judgments that occur in the fiscal year will result in a capital appointment in that fiscal year.)</i>										
<b>Backlog by Fiscal Year (cumulative)</b>	-10	70	15	7	7	0	4	-3	-19	71
<i>(Note: Represents the cumulative backlog since FY 2007-2008, based on new caseload for the same period. A backlog occurs when there is no capital appointment of any type (direct or habeas) in the fiscal year that the death judgment takes place.)</i>										



## 2018-2019 FY Budget Change Proposal Concept

### **Court Appointed Counsel System for the Courts of Appeal – Appellate Projects**

California's Court-Appointed Counsel (CAC) Program fulfills the constitutional mandate of providing adequate representation for indigent appellants in the Courts of Appeal on non-capital cases. The objectives of California's appellate court-appointed counsel system are to: (1) ensure the right of indigent clients to receive the effective assistance of appointed appellate counsel as guaranteed to them by the U.S. Constitution; and (2) provide the Courts of Appeal with useful briefings and arguments that allow the Courts to perform its function efficiently and effectively.

California's CAC system, with non-profit appellate projects and panel attorneys in the private sector, has now been in existence for over 30 years. The Court Appointed Counsel Program for the Courts of Appeal consists of 5 non-profit appellate projects and panel attorneys, all of whom, together, provide critical and constitutionally required representation to indigent individuals in criminal and juvenile appeals. Each district of the California Courts of Appeal contracts with an Appellate Project to manage the court-appointed counsel system in that district and to perform quality control functions. Each Appellate Project oversees a panel of attorneys who receives appointments in that district. The Projects are responsible for working with the panel attorneys to ensure that effective legal assistance is provided to them; reviewing claims for payment for the appellate representation performed by the panel attorneys; providing consistency and controls over the expenditure of these public monies used to pay for the representation; and training attorneys to ensure continuity of quality and competent representation. The contracts between the State and the Appellate Projects requires each project to supervise and assist appointed counsel, so that the State can satisfy its obligation for the provision of competent legal representation for indigent clients in California's Courts of Appeal and, when appropriate, Supreme Court.

The Projects fulfill their contractual obligations to the State by critically reviewing the quality of briefs that are prepared by panel attorneys before they are filed with the Courts of Appeal or the Supreme Court. The level of review that is performed is dependent on whether the legal appointment was made on an "independent" or "assisted" basis, the complexity of the case, and the skills and experience of the assigned panel attorney. In addition to providing the requisite legal assistance and critical review of the panel attorney's work product, the Projects also provide a vital resource and network support to these attorneys, many of them who are sole practitioners or who work in small law offices. The current level of funding for the annual contract with the Appellate Projects is \$17,468,188 and the Courts of Appeal have not received any additional funding to support this critical workload since 2007-2008.

**Justification:** The increased cost of the contracted services from CAP-SF, as well as private counsel services on capital cases, must be addressed. It has been difficult for CAP-SF, to meet the cost of hiring and retaining experienced and qualified attorneys when competing with the salaries of both private law firms and government agencies. Furthermore, CAP-SF has absorbed increases in the cost of doing business and increases in caseload; it can no longer afford to do so without being a detriment to the indigent appellant and attorneys it is contractually obligated to serve. It can no longer continue to meet the level of service required by the Supreme Court to meet the constitutional guarantee of competent counsel.

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The current level of funding for the annual contract with the Appellate Projects is \$17,468,188 with an additional \$786,000 expected from a 2017-2018 BCP. Since 2007-2008, the Projects have experienced significant cost increases in areas such as rent, liability insurance, employee benefits, and technology, but have received no contract increases since that time. In an effort to contain costs and remain within their operating budgets, the Projects have taken different actions to address the funding shortfalls, including: moving to lower rent areas to lessen the impact of rent increases; keeping positions vacant to the detriment of the project and its remaining staff; reducing health plan coverage and/or passing on greater co-pay and premium costs to employees; reducing salaries or keeping salaries constant; decreasing or eliminating employer contributions to retirement plans; re-negotiating contracts with vendors; significantly reducing the size of print libraries; and deferring critically needed technology upgrades.

The current funding for the annual contact with CAP-SF is \$4,986,718 with an additional \$255,000 expected from a 2017-2018 BCP. The 2007 Budget Act provided an additional \$600,000, to support increased workload and associated cost increases. However, since 2007-2008, the Supreme Court has not received any additional funding to support this critical workload that is driven by a constitutional right to a court-appointed legal representation. The increased cost of the contracted services from CAP-SF, as well as private counsel services on capital cases, must be addressed

**Fiscal Impact:** The BCP reflects a 6% increase to the estimated 2017-2018 amounts budgeted for the Appellate Projects and CAP-SF. This funding will be used to offset unfunded cost increases for rent and employer health benefit costs, as well as provide funding for training, records storage, and other service costs that have been cut due to a lack of funding.

	Appellate Projects	CAP-SF	Total
Contract Budget as of FY 2016-2017	\$17,468,000	\$4,987,000	\$22,454,000
BCP 2017-2018 (4.5%)	\$786,000	\$255,000	\$1,041,000
Anticipated Contract Level FY 2017-2018	\$18,254,000	\$5,242,000	\$23,496,000
Proposed BCP funding request (6%)	\$1,095,000	\$314,000	\$1,409,000

**Outcomes and Accountability:** Provide equal public access to justice, timely, and adequate legal representation for indigent appellants for capital and non-capital appeals in California.

*California Appellate Project-San Francisco (CAP-SF):* Based on the level of appointments for the death judgments rendered each year, an increase in staff resources will be greatly needed to address the backlog and to respond to the unrepresented appellants.

*Court Appointed Counsel System for the Courts of Appeal – Appellate Projects:* Increased funding to support the Projects will result in claims being processed timely and indigent appellants will have adequate legal representation on their appeals in non-capital cases.

**Other Alternatives Considered:**

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**Alternative #1:** Do not approve additional funding to support increased costs for contractual services in the Supreme Court's Court-Appointed Counsel Project and the Courts of Appeal Court Appointed Counsel Project Offices.

**PRO:** No impact to the General Fund.

**CONS:**

- Backlog for death row inmates without counsel will continue to grow. Without an increase for the Project contract, the Project would need to reduce its contractual services to the court appointed counsel program, continue to lose its most experienced staff and panel attorneys, and fail in its ability to retain newer attorneys to the panel or recruit new attorneys.
- Appellate Projects will not be able to provide adequate assistance and oversight to the appointed attorneys in either capital or non-capital appeals which would result in more hours claimed and higher appellate costs for the CAC Program.
- The quality of justice provided to the people of California will likely be seriously impaired.

**Alternative #2:** Provide \$1.4 million General Fund beginning in 2018-2019 and ongoing to support increased costs for contractual services in the Supreme Court's Court-Appointed Counsel Project (\$315,000) and the Courts of Appeal Court Appointed Counsel Project Offices (\$1.1 million).

**PROS:**

- Provide adequate funding to address the programmatic needs of the Appellate Projects and the vital function that these Projects perform for the Court Appointed Counsel System.
- Will enable all of the Projects to more effectively meet their ever increasing operating costs.
- Will enable the Projects to attract more highly qualified staff to carry out these essential functions for the State of California.

**CON:** Results in additional General Fund resources.

**Alternative #3:** Provide \$315,000 General Fund beginning in 2018-2019 and ongoing to support increased costs for contractual services in the Supreme Court's Court-Appointed Counsel Project.

**PROS:**

- Provide adequate funding to address the programmatic needs of the Project and the vital function that it performs for the Court Appointed Counsel System.
- Will enable the Project to more effectively meet its ever increasing operating costs; and
- Will enable the Project to attract more highly qualified staff to carry out these essential functions for the State of California.

**CON:**

## 2018-2019 FY Budget Change Proposal Concept

- Appellate Projects will not be able to provide adequate assistance and oversight to the appointed attorneys in either capital or non-capital appeals which would result in more hours claimed and higher appellate costs for the CAC Program.
- The quality of justice provided to the people of California will likely be seriously impaired.
- Results in additional General Fund resources.

**Alternative #4:** Provide \$1.1 million General Fund beginning in 2018-2019 and ongoing to support increased costs for contractual services in the Courts of Appeal Court Appointed Counsel Project Offices.

### **PROS:**

- Provide adequate funding to address the programmatic needs of the Projects and the vital function that they perform for the Court Appointed Counsel System.
- Will enable the Projects to more effectively meet their ever increasing operating costs; and
- Will enable the Projects to attract more highly qualified staff to carry out these essential functions for the State of California.

### **CON:**

- Backlog for death row inmates without counsel and in need of CAP SF will continue to grow. Without an increase for the Project contract, the Project would need to reduce its contractual services to the court appointed counsel program, continue to lose its most experienced staff and panel attorneys, and fail in its ability to retain newer attorneys to the panel or recruit new attorneys.
- The quality of justice provided to the people of California will likely be seriously impaired.
- Results in additional General Fund resources.

**2018-2019 FY Budget Change Proposal Concept**

**Requesting Entity:** Administrative Presiding Justices Advisory Committee  
**Contact:** Bob Lowney and Deborah Collier-Tucker  
**Concept No.:** 18-17

**Proposal Title:** Appellate Court Facility Maintenance Program

**Fiscal Summary:**

Fund Source	Proposed JCC Positions	Total Personal Services	Operating Expenses & Equipment	Proposed Total 2018-2019	Proposed Total 2019-2020	Proposed Total 2020-2021
General Fund	0.0	\$0	\$1,258,000	\$1,234,000	\$1,234,000	\$1,234,000

**Detailed Funding By Fiscal Year:**

	Proposed Total 2018-2019	Proposed Total 2019-2020	Proposed Total 2020-2021
Ongoing	\$1,234,000	\$1,234,000	\$1,234,000
One-Time	\$24,000	\$0	\$0
Total	\$1,258,000	\$1,234,000	\$1,234,000

**Proposal Summary:** Proposed augmentation of \$1.3 million General Fund (\$1.2 million General Fund beginning in 2018-2019 and ongoing and a one-time augmentation of \$24,000 General Fund in 2018-2019) to perform an in-depth building assessment of the two state-owned, court managed appellate court facilities and to establish an Appellate Court Facility Maintenance Program to support preventative and demand maintenance and minor facility modifications in all appellate court facilities. A Facility Maintenance Program is necessary to ensure the customers and staff of the Appellate Courts are provided a safe, secure, and accessible facility by providing funding to maintain, repair, and eliminate deterioration of buildings and building components.

**Background Information:** In the past 10 years, there have been significant investments in new appellate court facilities; however, no ongoing funding was provided for a facility maintenance program. Any repairs or improvements must be paid out of the appellate courts’ general operating budget, which is already strained due to previous budget reductions. With limited funding, only the most urgently needed and/or safety-related projects can proceed, leaving system replacements unaddressed, including roofs, mechanical and electrical systems, etc., that often result in more expensive repairs in future years. Since there is no base funding available, these repairs can only be undertaken to the extent there are available savings from the operating budget.

Preventative maintenance provides that equipment is regularly inspected and maintained before a breakdown occurs; demand maintenance addresses unique, unforeseen events. Minor facility modifications include projects that restore or improve the designed level of function of a facility or facilities. The appellate courts occupy a total of just over 500,000 square feet of space in 9 facilities. Of

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the 9 locations, 4 are state owned facilities managed by the Department of General Services (DGS), 2 are state-owned, court managed facilities, and 3 are in leased space.

<b>Appellate Court</b>	<b>Location</b>	<b>Type of Facility</b>	<b>Square Footage Occupied</b>
First District	San Francisco	State-owned, DGS managed	83,000
Second District	Los Angeles	State-owned, DGS managed	119,000
	Ventura	Leased space	23,000
Third District	Sacramento	State-owned, DGS managed	56,000
Fourth District	San Diego	Leased space	50,000
	Riverside	State-owned, DGS managed	35,000
	Santa Ana	State-owned, court managed	52,000
Fifth District	Fresno	State-owned, court managed	51,000
Sixth District	San Jose	Leased space	39,000

In 2008-2009, the Legislature approved the construction of a new appellate court facility in Santa Ana. The BCP included \$415,000 General Fund for ongoing operations and maintenance. While funding was provided for the construction of the new facility, the Legislature removed the \$415,000 for ongoing maintenance and deferred it to a future fiscal year. As the facility was relatively new, operations and maintenance costs were minor and absorbed within the court’s operating budget. As this facility has aged, there are insufficient funds available to continue maintaining the facility.

In 2015-2016, the Courts of Appeal established a Court Facilities Architectural Revolving Fund (CFARF) for the Fourth and Fifth District appellate court facilities with one-time year-end savings to support a small portion of deferred maintenance projects. A total of \$1.1 million was transferred to the CFARF (\$607,000 for Fourth District and \$480,000 for Fifth District) to address projects such as, the replacement of failing boilers, fire alarm systems, security cameras, and light fixtures, upgrades to elevator controls for ADA compliance, and other building maintenance projects. These funds addressed some, but not all of the most critical projects, and it is not expected that the Courts of Appeal will have year-end savings to support this workload in the future.

**Justification:** The Courts of Appeal are primarily funded from the General Fund, approximately \$209.9 million is included in the 2016 Budget Act. Additionally, approximately \$5.5 million is provided from the Appellate Court Trust Fund. Excluding non-discretionary spending (rent and Court-Appointed Counsel costs), approximately \$8.3 million is available annually to support all operating expenses and equipment costs for all six districts. Budget reductions and the increased cost of goods and services have further constrained the flexibility of the Courts of Appeal budget. In order to maintain the appellate court facilities, critical positions have been left vacant to support these unfunded costs. As workload at the appellate courts continues to increase, keeping these positions vacant is no longer an option.

**Fiscal Impact:** This request will create a Facility Maintenance Program, taking a proactive approach towards identifying, maintaining, and funding critical building needs in the Appellate Courts. This request includes \$1.2 million in ongoing funding and is comprised of two components: (1) \$4.12 per square foot for the two court managed facilities, which is based on BOMA (Building Owners and

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Managers Association) standards and includes preventative and routine maintenance, and (2) \$2 per square foot for the remaining 7 appellate court facilities for minor facility modifications and demand maintenance not covered by the building owner. The appellate courts occupy a total of just over 500,000 square feet of space in 9 facilities.

<b>Facility Type</b>	<b>Square Feet</b>	<b>Cost per sf</b>	<b>Total</b>
Building Assessment			\$24,000
State Owned, Court Managed	103,000	\$4.12	\$424,000
Leased Space/DGS Managed	405,000	\$2.00	\$810,000
<b>Total</b>			<b>\$1.258 million</b>

Currently, no facility assessment exists for either of the state-owned, court-managed facilities (Santa Ana and Fresno), and there is no life cycle replacement plan in place. Santa Ana currently budgets \$3.13/sq. ft. for routine maintenance. This is funded out of the operations budget and is based on what is affordable for the court, not what is required or necessary. As operating costs have increased, Santa Ana is unable to maintain the budget for routine maintenance. Fresno is using a combination of in-house staff and Judicial Council contracted maintenance providers. Fresno currently budgets \$2.77/sq. ft. for routine maintenance and repairs. With both courts utilizing funds from their operations budgets, only the most urgently or safety-related projects can be approved, resulting in shorter system lifespans or costlier repairs. This request will provide \$24,000 to perform an in-depth assessment of the two state-owned, court-managed facilities to document the current condition and create project and cost estimates for identified deficiencies. Additionally, this request will provide \$424,000 (\$4.12 per square foot) to support projects identified in the assessment.

While the three leased facilities (Ventura, San Diego, San Jose) have modest tenant improvement funding built into their leases, the amount is not sufficient to support the projects required to maintain the appellate courtrooms. Any courtroom-specific requests must be absorbed within existing resources.

In the state-owned, DGS managed facilities, DGS addresses mechanical/facility needs when a failure occurs, but does not provide assistance/funding to support courtroom-related and other specific appellate court needs. For example, as the appellate courts move to televised oral arguments, significant upgrades must be made to the courtrooms to accommodate the equipment and supporting system infrastructure. The appellate courts do not have sufficient resources to support these minor facility modification projects, nor will DGS perform the work on their behalf. This request includes \$810,000 (\$2 per square foot) to support this workload.

Budget reductions and the increased cost of goods and services have further constrained the flexibility of the Courts of Appeal budget. In order to maintain the appellate court facilities, critical positions have been left vacant to support these unfunded costs. As workload at the appellate courts continues to increase, keeping these positions vacant is no longer an option.

Further, as bonds are retired on the remaining state-owned, DGS managed facilities, an assessment will need to be performed to determine the remaining life-cycle of major building components. Historically, funding and responsibility for the Supreme Court and Court of Appeal facilities have been provided by the state, unlike the trial courts which did not become part of state funding until the Trial Court Funding

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Act of 1997. As the appellate court facilities have always been part of the state's property portfolio and managed by the Department of General Services, the Judicial Branch Facility Program, established specifically for trial court facilities, has not included any of the appellate court facility needs in the deferred maintenance assessments. Due to the unique nature of the management of appellate court facilities and relatively small square footage in relation to the trial court space, merging the appellate court facility needs with the existing trial court deferred maintenance list is not preferred. Further, the Judicial Branch Facility Program (staffing and projects) is funded primarily from the two trial court construction funds (State Court Facilities Construction fund and the Immediate and Critical Needs Account) which, per statute, is dedicated specifically for trial court facility needs.

**Outcomes and Accountability:** Once the assessment is completed on the state-owned, court-managed facilities, the Courts of Appeal will be able to identify an equipment life-cycle replacement and routine maintenance schedule. Upon approval of funding, the Courts of Appeal will have funds available for preventative and demand maintenance, as well as, minor facility modifications. This will allow the Courts of Appeal to shift resources from current operating equipment and expense line items to personal services and begin filling positions they have had to keep vacant to support facility needs.

### Other Alternatives Considered:

**Alternative #1:** Do not approve additional funding to establish an Appellate Court Facility Maintenance Program to support preventative and demand maintenance and minor facility modifications in all appellate court facilities.

**PRO:** No impact to the General Fund.

**CON:**

- Increases the reduction of preventative maintenance services to critical life-safety levels, redirecting remaining funds to only responding to emergency and urgent requirements.

**Alternative #2:** Provide \$448,000 General Fund (\$424,000 beginning in 2018-2019 and ongoing and a one-time augmentation of \$24,000) to perform an assessment of the state-owned, court-managed facilities and to support preventative and demand maintenance and minor facility modification projects in those facilities.

**PRO:** Provides relief to only the state-owned, court-managed facilities.

**CONS:**

- Results in additional General Fund resources.
- Leaves the other 7 court facilities without sufficient resources to maintain equipment and perform necessary building maintenance critical to maintain life-safety levels.

**Alternative #3:** Provide \$1.1 million General Fund (\$1.1 million beginning in 2018-2019 and ongoing and \$24,000 one-time) to provide \$2 per square foot to perform an assessment of the state-owned, court-managed facilities and to support preventative and demand maintenance and minor facility modification projects in those facilities.

**PRO:** Provides some relief to appellate court facilities.



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### **CONS:**

- Results in additional General Fund resources.
- May not provide sufficient resources to maintain equipment and perform necessary building maintenance critical to maintain life-safety levels.

**Alternative #4:** Provide a one-time augmentation of \$24,000 General Fund to perform an assessment of the state-owned, court-managed facilities.

**PRO:** Establishes a baseline assessment for equipment and building needs for only the two state-owned, court-managed facilities.

### **CONS:**

- Results in minor one-time additional General Fund resources.
- Increases the reduction of preventative maintenance services to critical life-safety levels, redirecting remaining funds to only responding to emergency and urgent requirements.

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**Requesting Entity:** Habeas Corpus Resource Center  
**Requesting Entity Contact:** Louis Stanford  
**Concept No.:** 18-19

**Proposal Title:** Habeas Corpus Resource Center – Case Team Staffing

**Fiscal Summary:**

Fund Source	Proposed JCC Positions	Total Personal Services	Operating Expenses & Equipment	Proposed Total 2018-2019	Proposed Total 2019-2020	Proposed Total 2020-2021
General Fund	0.0	\$2,000,000	\$600,000	\$2,600,000	\$5,400,000	\$5,200,000

**Detailed Funding By Fiscal Year:**

	Proposed Total 2018-2019	Proposed Total 2019-2020	Proposed Total 2020-2021
Ongoing	\$2,400,000	\$5,200,000	\$5,200,000
One-Time	\$208,000	\$186,000	\$0
Total	\$2,600,000	\$5,400,000	\$5,200,000

**Proposal Summary:** Proposed augmentation of \$2.6 million General Fund in 2018-2019; \$5.4 million in 2019-2020, and \$5.2 million in 2020-2021 and ongoing to create four additional case teams to provide legal representation to inmates on California’s death row. This request requires an amendment to Government Code § 68661. This request will establishment of 34 employee positions phased in over two consecutive fiscal years: the first 18 positions would be effective October 1, 2018, and the second 16 positions would be effective October 1, 2017.

This proposal is necessary to reduce the increasing backlog of inmates on California’s death row who have the right to counsel in state post-conviction proceedings, but currently must wait as long as 20 years for appointment of an attorney. Such undue delays in appointment of counsel substantially increase both the litigation costs of each case and the incarceration costs associated with the delay in providing a substantial number of condemned inmates relief from their death judgments. This proposal will reduce the long-term costs associated with California’s dysfunctional death penalty system.

**Background Information:** The HCRC was established in 1998 to accept appointments in state and federal habeas corpus proceedings and serve as a resource for private attorneys appointed to these cases. See Gov. Code Section 68661. By statute, the mission of the HCRC is (1) to provide timely, high-quality legal representation for indigent petitioners in death penalty habeas corpus proceedings before the Supreme Court of California and the federal courts; (2) to recruit and train attorneys to expand the pool of private counsel qualified to accept appointments in death penalty habeas corpus proceedings, and to serve as a resource to them; and thereby (3) to reduce the number of unrepresented indigent inmates on California’s death row. Following its founding, the HCRC steadily increased its capacity to accept additional appointments through general fund augmentation until 2010-2011. In Fiscal Year 2011-2012, however, the HCRC’s ongoing general fund allocation was reduced by \$1.067 million, with an additional \$220,000 reduction in 2012-2013. Since that time, there has been no increase in HCRC’s general-fund

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workload capacity. The HCRC has received additional funding only to partially offset the cost of eliminating furlough days and increases in retirement and health benefits. In 2015-2016, HCRC received an adjustment for cost-of-living salary increases.

Currently, the HCRC has authorized staffing of 88 positions, including the Executive Director, an Assistant Director, 34 attorneys, 18 investigators/litigation support assistants, 19 paralegals/litigation support assistants, three case assistants, one legal secretary, four information technology/resource positions, two docket staff positions, and five administrative/support positions. Funding reductions have mandated that at least six or more essential legal staff positions be held vacant, and in addition, hiring delays and temporary vacancies have been imposed to conserve funds. Furthermore, in order to adjust to rising office leasing costs and the reduced general fund allocation, the HCRC relinquished 8,000 square feet of office space so that any increase in staff must be accompanied by a proportionate increase to leased office and storage space.

Even without an increase in resources, the HCRC has continued to accept appointments, although at a reduced rate. The cases accepted during the HCRC's growth phase, many of which were extraordinarily complex, large-scale cases, had immovable deadlines in the ensuing fiscal years, and thus demanded disproportionate human and associated fiscal resources at a time in which the HCRC's resources have been radically reduced.

The California Supreme Court attempts to appoint habeas corpus counsel for inmates on a first-come first-served basis, and is currently appointing counsel for cases arising from judgments in 1996. That is, the cases currently receiving counsel are up to 20 years old. This unwarranted delay in the timely appointment of counsel is the direct result of two inter-related problems: (1) the State's inability to provide the private defense bar with sufficient financial support to persuade them to accept death penalty appointments; and (2) the State's failure to provide the HCRC with the resources and staff necessary to accept appointments in capital cases at or near the rate death judgments are generated by the counties.

**Justification:** This proposal seeks to address the growing delays and costs in California's death-penalty system by expanding the HCRC's capacity to accept capital habeas corpus representation through measured growth in HCRC staff. As noted, the Commission report concluded that adequately funding an expansion of the HCRC -- rather than relying on private counsel -- was likely the only viable means of addressing the state's need for qualified habeas corpus attorneys. Despite the substantial recruiting and training efforts of the California Supreme Court, California Appellate Project (CAP), and the HCRC, there is a severe shortage of private attorneys qualified and willing to accept appointments in capital habeas corpus cases. Private counsel typically do not have sufficient resources to competently represent clients in habeas corpus proceedings. The Commission report further found that the state's level of funding private counsel does not satisfy American Bar Association guidelines, and fails to fully compensate attorneys for their work. Without such resources, attorneys cannot fulfill their legal or ethical duties to their clients, and their petitions are subject to further resource-intensive, post-conviction litigation. In addition, lacking the team-based approach of an agency setting, private counsel often withdraw mid-representation. From July 2003 to July 2015, of the 212 cases in which habeas corpus petitions have been filed, 41 capital petitioners lost their initially appointed private counsel and required replacement counsel -- a replacement rate of more than 19 percent.

The HCRC was established to meet the state's demands for habeas corpus counsel. In 2008-2009, when the HCRC's budget was at its peak, the HCRC accepted more than 62 percent of all the habeas corpus appointments made by the Court. Despite the 12 percent reduction to its general fund allocation, which

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has not been restored, the HCRC continues to accept appointments to capital cases. Since 2006, the HCRC has accepted approximately forty percent of the capital habeas appointments made by the California Supreme Court, and during the past five years, the HCRC has filed approximately forty percent of all habeas corpus petitions.

The HCRC's reduced capacity to accept new appointments has coincided with a shrinking number of qualified private counsel willing to accept habeas corpus appointments. Each year, private counsel accept fewer appointments -- in the last three fiscal years the Court has made six or fewer appointments to private counsel each year, which does not even begin to keep up with the numbers of annual death judgments much less address the backlog of unrepresented inmates.

Recognizing that private counsel will not be able to meet the state's need for habeas corpus attorneys, the Commission on the Fair Administration of Justice recommended that HCRC be expanded by 500 percent, to an authorized and funded strength of 150 lawyers, phased in over a five-year period. As the Commission noted, the HCRC is able to provide training, supervision, and support to its staff attorneys, and leverage the efficiencies of its team-based model to ensure legally sufficient representation as well as eliminate the need for replacement counsel should individual staff attorneys leave the office.

Although the Commission recommended that the HCRC be expanded by 500 percent, this proposal outlines a more measured and less costly plan to add two case teams per year as well as several other essential positions. This proposal includes supervisory and support services to ensure high-quality representation and support to private attorneys while increasing its capacity to take additional cases. This proposal is further justified by the fact that, if granted, it will result in substantial long-term cost savings to the state. This is due to the fact that delay in appointment of counsel increases the litigation cost in each case. Some of the increases in cost include the following: increases in record, document, and data location, retrieval, and analysis; increases in the costs of locating, interviewing, and working with lay witnesses; increases in costs in locating and working with trial counsel and experts, who often have little or no recollection of the case after more than 20 years and must be paid to review hundreds of pages of material to refresh their memories; and costs of having to reconstruct records, documents, information, and data that has been lost due to the passage of time.

In addition, the current 20-year delay in appointment of counsel increases the long-term incarceration costs of the death row population. For example, approximately 50 percent of all death row inmate in California, whose cases have been litigated to finality, have received some form of post-conviction relief that invalidates the death judgments and resulted in their either being released or transferred to the general population. Conservative estimates are that it costs \$90,000 per year more to house an inmate on death row rather than in the general population. If half of the 358 inmates on death row were to receive counsel and obtain relief consistent with the long-standing 40 year trends of penalty reversals, the state would realize an estimated savings of approximately \$16 million dollars per year.

**Fiscal Impact:** \$5.2 million General Fund to support four new case teams.

**Outcomes and Accountability:** This proposal seeks to address the extraordinary and increasing delay and costs in California's death penalty process by expanding the HCRC's capacity to accept capital habeas corpus representation through measured growth. By accepting additional cases, the HCRC will help to reduce the current and projected future backlog of unrepresented death-row inmates.

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**Projected Outcomes**

<b>Workload Measure</b>	<b>2016-2017</b>	<b>2017-2018</b>	<b>2018-2019</b>	<b>2019-2020</b>	<b>2020-2021</b>	<b>2021-2022</b>
Accept an increased number of capital habeas appointments (over current projections)	0	0	6-8	10-12	10-12	10-12

**Other Alternatives Considered:**

**Alternative #1:** Do not provide additional funding to support HCRC workload.

**PRO:** No impact to the General Fund.

**CONS:**

- The HCRC will be able to accept appointment in fewer capital cases in 2017-2018 and beyond.
- Delay in obtaining relief for numerous clients will continue to result in increased yearly housing costs for those inmates.
- When the HCRC accepts new case appointments into the future, the costs of litigating those cases will be higher than they would have been absent the delay in appoint of counsel.
- The backlog of cases without habeas counsel will grow and the average wait for habeas counsel, which is now more than ten years after imposition of sentence, will increase.
- The state’s capital-punishment process will continue to be vulnerable to constitutional attacks based on the delays that result from inadequate funding.
- HCRC case team resources will continue to be diverted from critical case work to other tasks necessary to keeping the case work moving forward.

**Alternative #2:** Use contract attorneys, paralegals, and investigators to address increased workload. This alternative would result in additional General Fund resources, depending on the number of contract personnel needed.

**PROS:**

- Use of agency temporary help would not add to permanent staff levels.
- The state would not pay benefits (e.g., health insurance, sick/vacation time, unemployment insurance) for agency temporary help.

**CONS:**

- Contract attorneys lack experience in capital litigation, requiring an investment in training, a steep learning curve, and substantial supervision by HCRC attorneys.
- Contract attorneys lack continuity. Constant turnover in personnel would require constant training, review, and oversight by HCRC attorneys, diverting legal staff from critical case work and resulting in little, if any, savings in staff time.
- Contract attorneys are seldom available to make a three- to four-year commitment to litigate a single habeas corpus case through state court or to commit the additional time required to litigate the case through the federal courts. If contractors leave mid-case, their

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replacements as well as HCRC staff will use valuable time familiarizing themselves with the cases to which they are assigned.

- Contract legal staff is more costly than permanent staff. The minimum contract litigation attorney salary rate is typically more than \$150 per hour, which amounts to \$311,400 on an annual basis. Contract investigator rates are a minimum \$80 per hour, which translates to \$166,000 per year. In addition, most investigators lack the specific skills needed for capital habeas corpus investigation. Litigation paralegals command \$80,000 to \$85,000 per year in the Bay Area market. By contrast, the average costs of the HCRC legal staff requested here are \$106,000 for non-supervisory staff attorneys; \$78,000 for investigators; and \$75,000 for paralegals (including benefits, but exclusive of ongoing facilities costs, which would apply equally to both contract attorneys and staff attorneys).
- This alternative would also require a General Fund augmentation for each attorney, paralegal, investigator, and litigation support person obtained through contract. The funds required would exceed the cost of hiring a full-time person for the work.

**Alternative #3:** Recruit private counsel to accept appointments in habeas corpus cases. This request would result in additional General Fund resources to the Court Appointed Counsel Program, depending on the number of private counsel willing and able to accept appointments.

### PROS:

- Use of private counsel would not add to permanent state staff levels.
- Private counsel appointments are less expensive than permanent staff, on a single-case basis.

### CONS:

- The combined efforts of the HCRC, CAP, and the California Supreme Court have failed to recruit private counsel willing to accept habeas appointments.
- Current compensation rates for private counsel have proven to be ineffective incentives to convince counsel to accept new appointments at a rate sufficient to reduce the backlog.
- Private counsel require assistance from the CAP, which is funded under contract with the California Supreme Court through the General Fund.
- Private counsel lack the resources and opportunity to share experience or knowledge with other counsel, resulting in a constant training requirement for private counsel.
- The California Supreme Court incurs more costs in cases with private counsel representation, in the form of increased administrative expenses, the likelihood of untimely petitions or the need for replacement counsel, and the workload that results from the increased number of cases that are returned to the Court for further proceedings after its disposition of the informal briefing submitted by private (as opposed to HCRC) counsel.

**Alternative #4:** Provide \$2.6 million General Fund in 2018-2019; \$5.4 million in 2019-2020, and \$5.2 million in 2020-2021 and ongoing to create four additional case teams to provide legal representation to inmates on California's death row.

### PROS:

- This proposal assures maximum productivity, efficiency, and consistency.
- Additional permanent staff builds a base of experience on which the HCRC will draw for training both internal staff and private counsel.

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- This proposal will increase the ability of the HCRC to accept additional appointments in capital cases and provide training and support to private counsel, thereby improving the quality of representation and reducing delays resulting from unexhausted claims and need to replace counsel who withdraw.

**CON:** Results in additional General Fund resources.

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**Requesting Entity:** Real Estate and Facilities Management

**Contact:** Mike Courtney

**Concept No.:** 18-20

**Proposal Title:** Trial Court Facilities Operations Costs

**Fiscal Summary:**

Fund Source	Proposed JCC Positions	Total Personal Services	Operating Expenses & Equipment	Proposed Total 2018-2019	Proposed Total 2019-2020	Proposed Total 2020-2021
General Fund	0.0	\$0	\$18 to \$25 million	\$18 to \$25 million	\$18 to \$25 million	\$18 to \$25 million

**Detailed Funding By Fiscal Year:**

	Proposed Total 2018-2019	Proposed Total 2019-2020	Proposed Total 2020-2021
Ongoing	\$18 to \$25 million	\$18 to \$25 million	\$18 to \$25 million
One-Time	\$0	\$0	\$0
<b>Total</b>	<b>\$18 to \$25 million</b>	<b>\$18 to \$25 million</b>	<b>\$18 to \$25 million</b>

**Proposal Summary:** Proposed augmentation, estimated between \$18 million and \$25 million General Fund, for transfer to the Court Facilities Trust Fund to support unfunded trial court facilities operations and maintenance (O&M) costs associated with maintaining newly constructed court facilities and transferred trial court facilities. The requested funding is necessary to maintain trial court facilities at an industry level of care. The additional funds will augment the county facilities payments (CFPs) provided by counties, allowing the Judicial Council to elevate the level of service above the current run to failure level of care.

**Background Information:** Senate Bill (SB) 1732, the Trial Court Facilities Act of 2002 (Stats. 2002, Ch. 1082), established the Court Facilities Trust Fund (CFTF) to support the O&M of court facilities. It also provided for the transfer of court facilities from the counties to the state and requires counties to make quarterly remittance to the state, in the form CFPs. These CFPs are based on the counties' costs of operating each facility for years from 1996 to 2000, inflated to the date of transfer, and make up approximately 93 percent of the revenues into the CFTF.

Other revenues into the fund include rental income, night court fees, and a transfer from the General Fund. General Fund augmentations were approved prior to 2009-2010 to augment CFPs under the State Appropriation Limit (SAL) authorized pursuant to Government Code § 772022(a)(1)(B)(iv). However, since 2009-2010, SAL increases have been suspended, and previous budget change proposals requesting new General Fund resources have been denied. As a result, no additional revenue has been provided to account for the growth in square footage for newly constructed trial court facilities constructed under the SB 1732 and SB 1407 programs, or cost escalation.



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Government Code, §70351 states, *“It is the intent of the Legislature in enacting this section to provide a source of funding for the ongoing operations and maintenance of court facilities by requiring each county to pay to the state the amount that county historically expended for operation and maintenance of court facilities. It is further the intent of the Legislature that funding for the ongoing operations and maintenance of court facilities that are in excess of the county facilities payments be provided by the state.”* (Italics, underline added.)

**Justification:** Providing fair and equal access to justice for all Californians is the primary mission of the Judicial Council. Court facilities are highly specialized and heavily used building types that are not readily duplicated due to the programmatic complexities associated with ensuring safety and security of the public, in-custody defendants, law enforcement, court employees, and judicial officers. Failure of court facilities systems or systems components due to lack of maintenance funding will result in cancellation or postponement of court activities. In order to ensure the public functional and uninterrupted access to justice, the Judicial Council requests ongoing funding from the General Fund for transfer to the CFTF to support unfunded O&M associated with maintaining the Judicial Council’s portfolio of court facilities to avoid adversely affecting day-to-day court operations.

Currently, court facility O&M is funded by CFP contributions associated with the original facilities costs and square footages. These CFP contributions have not been adjusted since 2009. Moreover, no new funding has been provided for O&M for the 2.049 million additional square feet of new and renovated court facilities constructed under the SB 1732 and SB 1407 court facility construction programs. As old buildings are vacated, the CFPs support the expenses of O&M for their respective, new replacement facilities, but the same funding must support ongoing warm shut down costs tied to the old buildings. These warm shut down costs, such as fire alarms and sprinklers, and essential maintenance continue until the Judicial Council disposes of the facility.

The increase in portfolio square footage and ongoing warm shut down costs are compounded by the fact that inflationary costs for maintaining the originally transferred trial court facilities have been unfunded since 2009-2010. The result on the portfolio has been a reduction of the overall O&M level of service and a shift to a run-to-fail equipment maintenance approach. The Judicial Council standard for O&M is based on the amount of funds available, not the recommended asset management strategies or industry standards, such as the Association of Physical Plant Administrators (APPA) or the Building Owners and Managers Association (BOMA). Due to the funding limitations, little or no preventive maintenance is occurring. Without routine preventive maintenance, unplanned equipment breakdowns and failures, requiring complete equipment replacement, will occur sooner than expected.

Since 2009-2010, the Judicial Council has completed the construction and renovation of 23 court facilities resulting in an increase to the Judicial Council’s building portfolio by approximately 2.1 million square feet. The court facilities that have been replaced were closed largely due to their antiquated and deficient infrastructure as well as a lack of regulatory required judicial programmatic space. The basis of the CFP revenue is the court square footage that was in operation at the time of the facility transfers. As a result of the increase in the building portfolio square footage and inflationary costs, the facility maintenance funding needs have exceeded the static CFP revenue. As an example, three new court facilities will open in 2017-2018 in San Diego, San Joaquin, and Alameda counties totaling approximately 1.2 million square feet. The square footage of the vacated facilities, which is the basis of the CFP revenue supporting the

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new facilities, is approximately 510,000 square feet. The addition of 651,000 square feet to the portfolio is more than twice the amount of CFP basis of revenue. A maintenance service reduction of 78% will be necessary to maintain these three projects within current funding levels.

To calculate the need of unfunded O&M square footage, we determined the O&M cost of the new facility by multiplying the square footage of the new facility by our latest cost per square foot for utilities and routine maintenance. The total operations costs were then offset by the total CFPs of the associated vacated facilities. The difference represents the unfunded O&M costs of the new facility.

Unfunded trial court O&M costs has required the Judicial Council to absorb these facilities cost increases with existing resources. This has resulted in existing CFP dollars being spread to cover more buildings and more square footage. Additionally, inadequate O&M funding forces the Judicial Council into a position where facility systems are operated until failure. This puts court operations at risk as it opens trial court facilities to increased opportunities for complete system breakdowns, service outages, and facility closures, which all would negatively impact the public and their ability to access trial court facilities and their services. Instead of providing routine monthly and quarterly maintenance on non-code compliance items, current efforts have been redirected to emergency and urgent requirements only, and preventive maintenance efforts have been reduced to critical life-safety related projects.

Without the requested funds, the Judicial Council will no longer be able to operate and maintain the new and existing facilities at an industry standard level. Newly constructed courthouse building systems and equipment will quickly deteriorate and start to fail. A lack of new funding will have a detrimental impact on all court facilities statewide as fixed costs that cannot be deferred, such as utilities, rent, and insurance, continue to erode the funds available for preventive maintenance and repair efforts.

**Fiscal Impact:** Preventive maintenance and repairs reduce potential future issues or breakdowns by carrying out simpler, less involved repairs and planned maintenance. By mitigating system failures or breakdowns, long-term costs of replacement, secondary failures, or emergency repairs will be reduced or eliminated, through a more effective method of managing O&M within a facility and ensuring that day-to-day court operations are not negatively impacted by sub-standard operations and maintenance of any court facility.

**Outcomes and Accountability:** On an annual basis, the Judicial Council will track the number of maintenance requests, preventive maintenance and collection work orders completed to assess the management and oversight of the trial court facilities.

Outcomes will include the timely processing of routine and preventive maintenance requests. This will ensure adherence to performance standards, preventive maintenance schedules, quality control requirements, and compliance to federal, state, and local codes and regulations to avoid exposing the state to fines and possible building closures or disruption to court services. Funded work will be taken to the Trial Court Facility Modification Advisory Committee for prioritization, as this committee provides accountability through its oversight of judicial branch facilities operations and maintenance.

**Projected Outcomes:** Approval of this proposal is estimated to provide the funding necessary to maintain trial court buildings at industry standards. Additionally, it allows for improved preventive maintenance service levels, funds additional deferred maintenance requests, reduces anticipated long-term repair costs,

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and reestablishes confidence in a state managed trial court facility program. Below is a matrix detailing work functions that would be impacted by the approval of this proposal:

<b>Workload Measure</b>	<b>2015-2016 Past Year</b>	<b>2016-2017 Past Year</b>	<b>2017-2018 Current Year</b>	<b>2018-2019 Budget Year</b>
Routine Maintenance Request	50,711	51,600	TBD	TBD
Preventive Maintenance Work Orders	15,174	15,440	TBD	TBD
Collection Work Orders	1,409	1,434	TBD	TBD

**Other Alternatives Considered:**

**Alternative #1:** Provide \$18m to \$25m General Fund to support utilities and operations and maintenance for all trial court facilities.

**PRO:** This will allow the Judicial Council to fully operate and maintain all court facilities in the portfolio to basic industry standards and not jeopardize day-to-day court operations.

**CON:** Results in additional General Fund resources.

**Alternative #2:** Provide General Fund (amount TBD) to support utilities at all trial courts and operations and maintenance of new trial court facilities.

**PRO:** This will allow the Judicial Council to fund utilities costs for all trial court facilities and fund maintenance costs for newly constructed court facilities.

**CONS:**

- Results in additional General Fund resources.
- Does not provide any additional funds for operations and maintenance costs for transferred court facilities.

**Alternative #3:** Provide General Fund (amount \$TBD) to support operations and maintenance costs for newly constructed courthouse facilities.

**PRO:** This will fund operations and maintenance costs for new facilities constructed under the SB 1732 and SB 1407 programs.

**CONS:**

- Results in additional General Fund resources
- Does not provide any additional funds for operations and maintenance for transferred court facilities.

**Alternative #4:** Do not approve additional funding to support utilities and operations and maintenance for all trial court facilities.

**PRO:** No impact to the General Fund.

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**CON:** Will result in the continued degradation of the entire portfolio which will eventually impact the day to day operation of court facilities in California to a point where one or more facilities will have to be temporarily closed because of a building system failure or the inability to fund day to day operating expenses, including utilities.

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**Requesting Entity:** Judicial Council Center for Families, Children & the Courts  
**Contact:** Don Will  
**Concept No.:** 18-23

**Proposal Title:** Court Appointed Special Advocate (CASA) in Juvenile Dependency Court

**Fiscal Summary:**

Fund Source	Proposed JCC Positions	Total Personal Services	Operating Expenses & Equipment	Proposed Total 2018-2019	Proposed Total 2019-2020	Proposed Total 2020-2021
General Fund	0.0	\$0	\$500,000	\$500,000	\$500,000	\$500,000

**Detailed Funding By Fiscal Year:**

	Proposed Total 2018-2019	Proposed Total 2019-2020	Proposed Total 2020-2021
Ongoing	\$500,000	\$500,000	\$500,000
One-Time	\$0	\$0	\$0
Total	\$500,000	\$500,000	\$500,000

**Proposal Summary:** Proposed augmentation of \$500,000 General Fund augmentation beginning in 2018-2019 and ongoing to support the court-appointed special advocate grants program. The Court Appointed Special Advocate (CASA) programs are nonprofit organizations which provide trained volunteers who are assigned by a juvenile court judge to a child in foster care.

**Background Information:** CASA grants program is a statutory responsibility for the Judicial Council. Legislation (AB 4445, Stats. 1988, ch. 723) amended Welfare and Institutions Code to require the Judicial Council to establish guidelines encouraging the development of local CASA programs that assist abused and neglected children who are the subject of judicial proceedings. The legislation also called for the establishment of a CASA grant program to be administered by the Judicial Council and required CASA programs to provide local matching—or in-kind funds—equal to program funding received from the Judicial Council. The California Blue Ribbon Commission on Children in Foster Care recommended in 2009 that every child in dependency court be assigned a CASA volunteer.

CASA programs are operated by independent non-profits. One non-profit organization in each county is designated by the local court and the Judicial Council as the CASA grants program for the court, and must meet a variety of standards incorporated in California Rule of Court 5.610. CASA programs are also certified and reviewed by the National CASA Association and the California CASA Association. The volunteers recruited by CASA programs receive 40 hours of initial training before they are assigned a child by the court, and an additional 12 hours of annual training. The principal role of the volunteer is to establish an ongoing relationship with the child, who in foster care is likely to have experienced multiple social workers and foster care placements. The volunteer accompanies the child or youth to court for hearings, gains an understanding of the child’s living arrangements, education, health and mental health,

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and viewpoint on the dependency proceedings. The volunteer may provide this viewpoint to the court through a court report, and for this reason volunteers are often called “the eyes and ears of the judge”.

CASA volunteers have been found to be effective at reducing placement changes, increasing the child or youth’s involvement in the dependency process, improving the quality of information the judge receives, and advocating for services in school or health and mental health services that are often difficult for foster children to access. Because of the vulnerability of children in foster care and the high level of confidentiality that surround dependency proceedings, volunteers are carefully monitored by professional volunteer supervisors who work for the CASA programs. The recommended ratio of CASA volunteers to supervisors is no more than 35 to 1.

CASA programs have grown in the past decade, with 7 new programs established in courts and increasing the number of children in dependency served from 9,000 to 11,000. However, CASAs are constrained by the need to provide adequate supervision to volunteers. Every 35 volunteers recruited to serve children requires an additional volunteer supervisor.

**Justification:** To serve more of the 55,000 children in out-of-home foster care, CASA programs need to be able to add enough supervisors to oversee the volunteers to continue to meet the standard set by the National CASA Association. Increasing the number of children served by 20 percent or 2,200 will reduce backlogs of children in local courts waiting for a volunteer assignment. Increasing the number of children served will give judges the ability to assign volunteers to children who may require a CASA immediately. These are frequently the children who have been forced to make placement changes or have specific educational, health or mental health needs that are not being met.

The program is well-utilized by the juvenile courts, with nearly all programs unable to meet all of the requests for volunteer assignments made by the courts. The number of volunteers that CASA’s are able to provide can serve only 20 percent of the out-of-home foster care population. Since all CASA volunteers must be supervised by professional staff, growth of CASA programs to meet the full need of the courts is limited by the programs’ ability to pay professional staff. The 2006 Budget Act provided an additional \$64,000 (3 percent) specifically to the CASA grants program. Since then, CASA programs have expanded from 39 to 50 courts, and have increased the number of children they serve by approximately 35 percent, from 8,000 to 11,000. Increasing the Judicial Council grant program by \$500,000 will allow programs to increase the number of supervisors and serve an additional 2,200 children (13,200 or 24 percent of children in out-of-home foster care).

**Fiscal Impact:** Approximately \$2.2 million is budgeted annually and administered by the Judicial Council to support CASA programs. CASA programs have been highly effective at using this funding, designated for core operations, to leverage additional funding from government sources, philanthropy, and the community, generally at a rate of about \$10 to every \$1 provided through the state general fund.

To serve an additional 2,200 children in out-of-home care (a growth of 20% in children served by CASA), 63 supervisors are required at an annual personal services cost of \$50,000 per supervisor, for a total of \$3,150,000. The proposal assumes that CASAs can use a base increase of \$500,000 to leverage full funding of \$3,150,000 by raising the additional \$2,650,000 from other sources. Given that CASAs raise

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funding at a rate of \$10 non-state general fund to \$1 from the CASA program, this target of 6 to 1 is achievable.

The Judicial Council conducted a survey and reported on CASA revenues for FY 2010. Sources of revenue for all CASA programs statewide, combined, were:

Source	Amount	Percent
State Funding	\$2,218,000	11%
Other Government Entities	\$4,904,000	24%
Corporations and Foundations	\$4,263,000	21%
Individual donors	\$3,260,000	16%
Fundraising events	\$4,551,000	22%
Other	\$1,165,000	6%
<b>Total</b>	<b>\$20,361,000</b>	<b>100%</b>

CASA programs are non-profit programs and raise funding by submitting grant proposals to government, foundation and corporation philanthropic entities, and by holding fundraising events and soliciting donations from individuals.

**Outcomes and Accountability:** The Judicial Council currently monitors several outcomes from all CASA programs: the number of volunteers recruited and trained; volunteer turnover; volunteer assignments to children and children served; as well as staff and volunteer demographics and budget information. Improvements and changes will be measured by monitoring volunteer supervisors added to the staff, volunteers added, increase in numbers of children served, and reductions in court backlog.

### Projected Outcomes:

### Workload Measures:

Workload Measure	2015-2016 Past Year	2016-2017 Past Year	2017-2018 Current Year	2018-2019 Budget Year
Full-Time Equivalent Supervisors	300	300	300	365
Children Served	11,000	11,000	11,000	13,200
Percent out of home care served	20%	20%	20%	24%

### Other Alternatives Considered:

**Alternative #1:** Do not approve additional funding to support CASA programs.

**PRO:** No impact to the General Fund.

**CON:**

- As backlogs in courts grow, CASA programs are under pressure to serve more children. Without a budget augmentation, two adverse consequences are likely. The first is that CASAs will be required to supervise more volunteers with existing supervising staff,

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which puts vulnerable children at risk when volunteers are not receiving adequate supervision. The second consequence is that more and more court requests to assign a child to a CASA are refused for lack of volunteers, placing more strain on the court as it works to resolve difficult cases with often inadequate information.

**Alternative #2:** Provide \$2.5 million General Fund beginning in 2018-2019 and ongoing to fully fund the CASA Program and serve all 55,000 children in out-of-home care.

**PRO:**

- Increase the quality of information to the court and give many more children separated from their families a caring adult to advocate for them in the system.

**CONS:**

- The network of CASA programs, including their volunteers and their supporters, may not be able to absorb an increase of this size.
- Results in additional General Fund resources.

**Alternative #3:** Provide a partial augmentation of \$250,000 General Fund beginning in 2018-2019 and ongoing to serve approximately 1,100 more children in out-of-home care.

**PRO:**

- This increase would certainly have many positive effects for the network. Restructuring the current Judicial Council CASA grants program to adequately support a funding increase targeted to volunteer supervisors will require effort on the part of both the Judicial Council, the local programs and the local courts. It would be ideal to undertake this effort for a large, measurable benefit.

**CONS:**

- Results in additional General Fund resources.
- Still leaves approximately 42,900 number of children without representation.



## 2018-2019 FY Budget Change Proposal Concept

**Requesting Entity:** Judicial Council Information Technology Office  
**Contact:** Robert Oyung  
**Concept No.:** 18-24

**Proposal Title:** Digitizing paper and filmed case files for the Superior and Appellate Courts

Fund Source	Proposed JCC Positions	Total Personal Services	Operating Expenses & Equipment	Proposed Total 2018-2019	Proposed Total 2019-2020	Proposed Total 2020-2021
General Fund	0.0	\$0	\$20 to \$25 million	\$20 to \$25 million	TBD	TBD

**Detailed Funding By Fiscal Year:**

	Proposed Total 2018-2019	Proposed Total 2019-2020	Proposed Total 2020-2021
Ongoing	\$0	TBD	TBD
One-Time	\$20 to \$25 million	TBD	TBD
Total	\$20 to \$25 million	TBD	TBD

**Proposal Summary:** Proposed augmentation of \$20 to \$25 million General Fund in 2018-2019 to fund the first phase of the digitization of paper and filmed case files for the Superior and Appellate Courts. After the first phase, an assessment will be conducted to determine funding needed for the next phase and to submit a subsequent funding proposal as appropriate.

The cost to digitize paper and filmed case files will be determined based on the final list of courts and the digitizing approach selected; it is estimated to be approximately \$20 - \$25 million. A detailed inventory and Request for Proposal must be issued to determine the precise costs. There are at least 15 courts which have a need for digitizing paper and film documents. The listing of courts must be finalized, then the courts must determine the number of files needed to digitize. It is expected that by December 2017, the courts and volumes will be identified. It is expected that this request will be a placeholder request for the Spring 2018-2019 process.

Costs would include services to perform paper and film scanning, incremental electronic storage infrastructure, and also an initial limited number of desktop scanners to be used by courthouse clerks to scan incoming paper documents that are submitted to the court.

**Background Information:** The California court system—the largest in the nation, with more than 2,000 judicial officers, 19,000 court employees, and nearly 10 million cases—serves over 38 million people — 12.5% of the United States population. During 2013–2014, 7.5 million cases were filed in these courts at some 500-court locations throughout the state.

Court operations center on the receipt, creation, processing, and preservation of court documents. The majority of historical records and much of the current volume consists of paper or filmed documents.

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Utilizing paper and filmed case files is very labor intensive and off-site storage is expensive. Furthermore, existing microfilm and microfiche records are subject to physical deterioration and the devices to view the media are quickly becoming obsolete. Electronic case files will eliminate the need for physical storage facilities and would allow for greater public access and convenience.

In 2014, the Judicial Council approved the “Technology Governance and Funding Model”, “Strategic Plan for Technology”, and “Tactical Plan for Technology”. The plans established a common, shared roadmap and common goals, giving courts the opportunity to innovate and leverage solutions as a branch, or in a multi-court consortium. There were four key technology goals identified through the work of the task force and this BCP directly aligns with the first three goals.

- Promote the Digital Court
- Optimize Branch Resources
- Optimize Infrastructure
- Promote Rule and Legislative Changes

In pursuit of the goal of the Digital Court, over 30 courts are leveraging a branchwide Master Services Agreement (MSA) to implement new case management systems that have capabilities to utilize electronic documents. The main barrier to implementing electronic documents for a Digital Court is the reliance on historical paper documents. It is labor intensive to maintain both paper and electronic versions of a document. One large court with approximately 700 employees estimated that they had 100 people spending 25% of their time processing paper documents.

Several courts have implemented electronic documents in selected case types and have gained operational benefits with the elimination of processing and maintaining paper case files, eliminating file contention where only one person can view a physical file at a given time, and providing the public and justice partners with fast electronic access to case file documents. Many courts are still operating with paper case files and, often, historical files are stored on deteriorating microfilm and microfiche. As the courts migrate from older legacy case management systems, they can take advantage of electronic documents and electronic document processing, but they need a mechanism to convert existing paper and filmed case files into electronic format. The request would allow for a vendor to prepare the physical documents for conversion, scan them into electronic digital format, and provide quality assurance that the documents were converted accurately. The proposed approach would enable “back scanning” of existing files and be used to increase the capacity of a court’s electronic storage infrastructure to hold all the converted documents and to purchase a limited number of scanning devices to convert any new incoming paper documents to electronic format.

During the recent invitation to submit proposals for innovation grant funding, 13 courts submitted detailed proposals related to the digitization of paper and filmed documents.

**Justification:** The courts have made significant progress toward the goal of a statewide implementation of the Digital Court. Several courts have identified new case management solutions that support electronic documents and have engaged in a transition activities, moving them away from their legacy systems. However, a major barrier identified by the courts is the conversion of existing paper documents to electronic format. The process is time consuming and requires several months of “learning on the job” in

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order to identify and resolve common issues to ensure the creation of high quality digital images. A court's top priority is to convert active case files, especially those that will be on calendar in the next several months. A typical migration to the use of electronic files follows these steps:

1. Court decides on a date for which all processing will be electronic ("day-forward approach").
2. Paper case files for all cases on calendar on the start date and several weeks after are then scanned and digitized. Since this is the initial scan, all historical documents related to the case need to be scanned. For multi-volume files, usually the most recent two are scanned.
3. On the selected day to start electronic files, any incoming paper documents are scanned. Thus both new and historical data for active cases that are on calendar are now all in electronic format.

This request will facilitate this startup process for the courts so that they each do not need to reinvent the scanning process independently and instead can leverage a common process and vendor across all the courts. Obtaining funding for implementing the conversion to digital documents is key to "Promoting the Digital Court," the first goal in the *Court Technology Governance and Strategic Plan*. The benefits of extending modern technology to the public, the courts and our justice partners will not be realized until the courts are able to digitize their physical records.

Time is of the essence as scarce resources could be reallocated from performing labor intensive paper processing to higher value tasks. Furthermore, filmed documents are slowly deteriorating and the equipment to view them are quickly failing and are difficult and expensive to replace.

**Fiscal Impact:** This request will provide a one-time General Fund augmentation to fund the first phase of the digitization effort; however, at this time, the cost to digitize paper and filmed case files is unknown, but is estimated to be between \$20 and \$25 million. Once an assessment is performed to determine the volume of documents to convert, an RFP will be issued to solicit bids for performing the conversion of existing records. JCIT will request cost estimates for converting active case files and historical case files to compare the costs. The office will also estimate the number of initial desktop scanners that would be needed to help courts begin to scan their incoming paper documents. It is expected that by December 2017, the courts and volumes will be identified. It is expected that this request will be a placeholder request for the Spring 2018-2019 process. After the first phase, an assessment will be conducted to determine funding needed for the next phase and to submit a subsequent funding proposal as appropriate.

**Outcomes and Accountability:** The Interbranch Agreement, which will be used to facilitate the transfer of funds to the courts, has specific reporting requirements that courts must adhere to. Each court will be responsible for monitoring day-to-day project activities and will make periodic reports regarding program performance and financial status. Accounting records will be supported by appropriate documentation. The courts will provide information regarding all fund expenditures to the council. The information requested may include, but is not limited to, performance and financial reports. Performance reports will contain a comparison of actual accomplishments to the objectives, for the reporting period. Results will be quantified wherever possible. Courts with project costs greater than or equal to five million will submit project documentation to the California Department of Technology, with copies to Judicial Council of California staff.

**Projected Outcomes:** The outcomes will vary by court, as each court will have different volumes of records. However, the objective will be to have all participating courts digitize the records that will have the greatest operational impact for their particular environment. In some cases, that would be to digitize

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active files in preparation for executing a “day-forward” strategy. In other cases, it would be to digitize historical records for preservation. In either case, the courts will be able to eliminate physical storage by purging the physical documents after they are digitized. Once in electronic format, those documents will be more easily accessible by court staff, the public, and other government agencies. For example, providing the public with access to court documents through a web portal will reduce staff time currently required to answer questions from the public at the counter or over the phone and allow staff resources to be redirected to perform other tasks.

### **Other Alternatives Considered:**

**Alternative #1:** Do not approve the one-time augmentation request for the digitization of paper and filmed case files for the Superior and Appellate Courts.

**PRO:** No impact to the General Fund.

#### **CONS:**

- Courts will continue to digitize documents as resources become available. They will each duplicate efforts to establish local conversion processes and will need to establish individual contracts with vendors. This process will be slow and have the branch limping towards the goal of a digital court rather than sprinting towards it.
- Filmed documents will continue to deteriorate and existing viewing equipment will continue to fail and be difficult to replace.

**Alternative #2:** Negotiate a branchwide MSA for digitizing documents.

**PRO:** No impact to the General Fund. Negotiating and executing branchwide MSAs are currently a JC staff function so no incremental costs are involved.

**CON:** The Judicial Council could negotiate an MSA that courts could leverage when they are ready to digitize their documents so that they do not need to create new scanning processes themselves. However, without the appropriate funding, courts could not utilize the services provided by the selected vendors.

**Alternative #3:** Provide partial funding to digitize documents for a subset of courts (less than 15 courts).

**PRO:** Provides some resources to support a small subset of courts to proceed with digitization efforts.

#### **CONS:**

- Results in additional General Fund resources.
- Fewer than the anticipated 15 courts will be able to proceed with digitization efforts, thereby delaying the branch’s efforts to move to digital courts.

## 2018-2019 FY Budget Change Proposal Concept

**Requesting Entity:** Judicial Council Information Technology Office  
**Contact:** Robert Oyung  
**Concept No.:** 18-25

**Proposal Title:** Deploy and maintain the California Case Protective Order Registry (CCPOR) for the Superior Courts.

**Fiscal Summary:**

Fund Source	Proposed JCC Positions	Total Personal Services	Operating Expenses & Equipment	Proposed Total 2018-2019	Proposed Total 2019-2020	Proposed Total 2020-2021
General Fund	1.0	\$161,000	\$813,000	\$974,000	\$1,010,000	\$1,013,000

**Detailed Funding By Fiscal Year:**

Description	Proposed Total 2018-2019	Proposed Total 2019-2020	Proposed Total 2020-2021
Ongoing Costs	\$974,000	\$984,000	\$1,013,000
One-Time Costs	\$0	\$26,000	\$0
Total Estimated Costs	\$974,000	\$1,010,000	\$1,013,000

**Proposal Summary:** Proposed augmentation of \$974,000 General Fund in 2018-2019, \$1,010,000 in 2019-2020, and \$1,013,000 in 2020-2021 and ongoing to deploy the California Courts Protective Order Registry (CCPOR) program to five courts, add an additional Business System Analyst, and to provide a stable source of funding for the on-going operations of the program. The program delivers support for deployment, onboarding, enhancements, defect fixes, legislative changes, and modifications required by the Department of Justice (DOJ) to provide a central repository of restraining and protective orders (RPO’s). CCPOR data includes scanned images of actual RPO’s signed by the judge which can be accessed by court staff and law enforcement officers across the state. Access to the RPO images signed by the judge improves the accuracy of critical public safety information available to legal enforcement and court staff. Currently, CCPOR serves 43 courts and their respective law enforcement agencies plus 13 tribal courts with read-only access. We expect 10 additional trial courts will be implemented in 2017-18. Additional funding is needed to provide funding to deploy the remaining five trial courts, add an additional Business System Analyst and provide a stable funding source for on-going operations of the program.

**Background Information:** The CCPOR program resulted from a recommendation to the Judicial Council submitted by the Domestic Violence Practice and Procedure Task Force to provide a statewide protective order registry. Launched in June 2010, the CCPOR provides a statewide repository of protective orders containing both data and scanned images of orders that can be accessed by judges, court staff, and law enforcement officers. Currently used by superior courts in 43 counties, CCPOR allows judges to view orders issued by other court divisions and across county lines. Armed with more complete data, judges can make more informed decisions and avoid issuing multiple protective orders with

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conflicting terms and conditions. Law enforcement officers also benefit from the ability to view complete images of orders, including notes, special conditions, and warnings that are often handwritten by judges on the orders. The information maintained by CCPOR also benefits the DOJ by providing a gateway to enter RPO's into the DOJ's California Restraining and Protective Order System (CARPOS).

The current 43 counties using CCPOR represent approximately 40% of the RPO's issued throughout the state based upon a count of active RPO's in April 2017. As a statewide application, to be the most effective, the remaining 15 trial courts need to be on-boarded to the CCPOR program. In FY 17/18, the Victims of Crime Act (VOCA) has provided grant funding administered by the Judicial Council Center for Families, Children and the Courts to on-board an additional eight trial courts with most of these eight courts representing small courts by case volume. Additionally, funding has been identified to on-board the Orange and Sacramento trial courts in FY 2017-2018. Adding these 10 trial courts in 2017-18 will bring the total courts using CCPOR to 53 and represent approximately courts and represents approximately 56% of active RPO's. Funding is needed to on-board the remaining five large courts which includes LA. These last five courts represent approximately 44% of the total RPO's issued throughout the state. On-boarding these remaining five courts will provide a truly statewide program and yield the full benefit of having a central repository with scanned images of RPO's.

The CCPOR program cost include the network hardware and infrastructure to host the application at the California Courts Technology Center. There are also two FTE's (one Business Systems Analyst and one Sr. Application Developer) supporting the CCPOR program. The table below shows the historical budget allocation and expenditures by funding source from FY 2012-2013 though FY 2016-2017.

### CCPOR Resource History

Fund Source	FY 2012-13		FY 2013-14		FY 2014-15		FY 2015-16		FY 2016-17	
	Budget Allocation	Expenditures	Budget Allocation	Expenditures	Budget Allocation	Expenditures	Budget Allocation	Expenditures	Budget Allocation	Expenditures <sup>(1)</sup>
CA DOJ Grant Funding	\$ 411,285	\$ 318,338	\$ 473,081	\$ 274,843	\$ 155,928	\$ 79,412	\$ 17,134	\$ -	\$ -	\$ -
IMF Funding	663,000	654,498	675,800	444,559	585,600	233,017	861,200	849,082	740,300	444,954
<b>Total CCPOR Budget</b>	<b>\$ 1,074,285</b>	<b>\$ 972,836</b>	<b>\$ 1,148,881</b>	<b>\$ 719,401</b>	<b>\$ 741,528</b>	<b>\$ 312,429</b>	<b>\$ 878,334</b>	<b>\$ 849,082</b>	<b>\$ 740,300</b>	<b>\$ 444,954</b>

<sup>(1)</sup> FY 2016-2017 Expenditures are as of May 2017.

**Justification:** The CCPOR program currently has 43 trial courts using the program which represents approximately 40% of the active RPO's in California. The CCPOR registry is accessed by approximately 340 users per day from both the court and law enforcement agencies. To fully realize the vision of a statewide protective order registry recommended by the Domestic Violence Practice and Procedure Task Force and supported by the Judicial Council, the remaining 15 trial courts representing 60% of the RPO's in California need to be on-boarded. Additionally, the on-going costs for the program needs a stable funding source. Currently the CCPOR program is funded using the State Trial Court Improvement and Modernization Fund (IMF). However, the IMF fund is not structurally suited to fund the on-going operations of this program. A more stable source of funding for this critical public safety program is required to sustain the program.

**Fiscal Impact:** This request will provide \$974,000 in 2018-2019 and \$1.0 million in 2019-2020 and ongoing to support full expansion of the CCPOR program and shift the costs currently funded from the IMF to the General Fund. In FY 2017-2018, the CCPOR program will expand to an additional 10 trial

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courts (eight of these ten courts are being on-boarded through Victims of Crime Act (VOCA) grant funding administered by the Judicial Council Center for Children and Families) which will bring the total trial courts using CCPOR to 53. This request for \$974,000 in FY 2018-2019 and \$1 million in subsequent years will provide on-going funding for the CCPOR program and allow for the on-boarding of the remaining five larger courts to provide a true statewide repository of RPO's. Listed below are the assumptions used for the CCPOR budget estimates in this BCP request. Assumptions number 5, 6 and 7 need to be validated with the impacted trial courts.

### CCPOR Budget Assumptions:

1. 10% increase per year in storage costs excluding those courts which are loading historical RPO information as part of their CCPOR deployment.
2. Current server infrastructure has the capacity to support the on-boarding of the remaining 15 courts with only additional network storage needed.
3. Adding the remaining 15 courts representing an additional 60% of RPO's will require one additional BSA beginning in FY 2018-2019.
4. The case management system of the remaining five large courts to be on-boarded as well as the Sacramento and Orange County courts has the ability to send images of RPO's to the CCPOR system and will not require the courts to manual scan RPO's.
5. Trial Court resources required to deploy CCPOR (e.g. staffing costs, case management system changes, etc.) are not included in the CCPOR program cost estimates. CCPOR cost estimates include funding needed for additional storage and one-time travel cost only.
6. Of the courts which remain to be on-boarded to the CCPOR program, the Sacramento, Orange, Alameda and Contra Costa are the only trial courts which will require conversion of historical RPO's records. It is also assumed that the loading of the historical RPO's will utilize the CCPOR data interface known as DSP917.

**Outcomes and Accountability:** Improvements will be measured with the additional RPO's maintained in the CCPOR application as well as the increase in the number of users accessing the information by adding more trial courts and law enforcement agencies. The estimated projected outcomes in the table below shows the increased percentages of statewide RPO's as 10 additional courts are added in 2017-2018 and the remaining five large courts added in 2018-2019.

### **Projected Outcomes:**

Workload Measure	FY 2017-2018	FY 2018-2019	FY 2019-2020
43 CCPOR Courts Active RPO Percentage	40%		
53 CCPOR Courts Active RPO Percentage		56%	
58 CCPOR Courts Active RPO Percentage			100%

- Current 43 CCPOR Courts represent approximately 40% the Active RPOs across California.
- Additional 10 Courts – Alpine, Mono, Colusa, Yolo, Siskiyou, Stanislaus, San Mateo, and Santa Barbara represent approximately 16% of the Active RPOs across California.

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- Additional 5 Courts – Contra Costa, Alameda, San Bernardino, San Diego, and Los Angeles represent 44%% of the Active RPOs across the state of California.

### Other Alternatives Considered:

**Alternative #1:** Do not approve additional funding requested for the CCPOR program.

**PRO:** No impact to General Fund.

#### **CONS:**

- Continue to fund the CCPOR program out of the IMF and run the risk of not having sufficient funding to deploy the remaining five large courts.
- There is a potential risk of not having sufficient funding for the on-going CCPOR program for courts already using the system.

**Alternative #2:** Approve partial funding for the CCPOR program to on-board less than five courts.

**PRO:** Reduced impact to General Fund.

**CON:** This is not a viable option as the amount requested to on-board the last five courts is relatively minimal, i.e., approximately \$50,000 plus the \$161,000 for an additional Business Systems Analyst position. The remaining portion of the request is to provide ongoing support for the courts already on CCPOR.



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**Requesting Entity:** Judicial Council Information Technology Office  
**Contact:** Virginia Sanders-Hinds  
**Concept No.:** 18-26

**Proposal Title: Self Represented Litigants Statewide E-Services Portal Solution**

**Fiscal Summary:**

Fund Source	Proposed JCC Positions	Total Personal Services	Operating Expenses & Equipment	Proposed Total 2018-2019	Proposed Total 2019-2020	Proposed Total 2020-2021
General Fund	2.0	TBD	TBD	TBD	TBD	TBD

**Detailed Funding By Fiscal Year:**

	Proposed Total 2018-2019	Proposed Total 2019-2020	Proposed Total 2020-2021
Ongoing	TBD	TBD	TBD
One-Time	TBD	TBD	TBD
Total	TBD	TBD	TBD

**Proposal Summary:** Proposed General Fund augmentation (amount \$TBD) in 2018-2019 to envision, design, and deploy a statewide Self-Represented Litigants (SRL) e-services portal. This request also includes 2.0 positions to support the deployment of the e-Services portal. While several counties across the state offer some degree of virtual or online assistance, a statewide e-services portal would serve all Californians and deliver state-of-the-art interactive educational content, online diagnostic tools, real-time chat and call centers to help Californians successfully resolve legal issues without an attorney. At this time, the cost to develop and implement a statewide e-services litigant portal/website solution is unknown. The workgroup charged with envisioning, designing, and implementing this solution intends to post a Request for Information (RFI) to better understand anticipated one-time and ongoing costs. The anticipated release of the RFI is August, 2017. It is expected that this request will be a placeholder request for the Spring 2018-2019 process.

**Background Information:** The proposal will transform the depth and breadth of online e-services dedicated to support SRLs. Numerous surveys point to the increasing number of Californians each year who attempt to resolve their legal issues without an attorney. In many cases, the main driver for self-represented litigants is cost and affordability. If you cannot afford an attorney, then your access to justice is severely curtailed.

This proposal aims to deliver a coordinated, modern, and interactive collection of legal resources, including instructional video, intelligent ‘triage’ engines, online chat, and integration with 58 court websites across the state to facilitate document assembly and e-filing, where available.

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The e-services portal would integrate with trial courts across the state and provide seamless hand-offs to enable site visitors to conduct document assembly and e-filing, where available. Californians will be able to establish user accounts, and save and retrieve documents at any time. Moreover, when unsure about a next step, a real-time chat engine would attempt to answer questions and prompt next steps. A staffed call center would provide escalation support to any issues that online chat was unable to resolve.

Funding would support acquisition of a new judicial branch web content management platform; development of interactive instructional tools and resources for various civil case types, as well as traffic and non-traffic misdemeanors; and deployment of a statewide online chat problem resolution platform. Funding would also support integration with existing document assembly programs, identity management solutions, and e-filing systems at local trial courts throughout the state.

A robust online web portal that can provide an end-to-end ‘customer journey’ would level the playing field for the self-represented as well as provide benefits to courts as they continue to operate under severe financial and staffing constraints.

While much “self-help” information exists today on websites and in libraries, most resources fail to deliver linear end-to-end solutions to navigating the entire legal process.

As envisioned, the SRL e-services portal would establish a framework for integrating numerous new and existing e-services including interactive educational components; account creation and personalization; intelligent ‘triage’ to provide automated intake; document assembly to correctly complete the right forms; and online chat, supported by call center assistance.

**Justification:** The proposed project will address the current patchwork of services for self-represented litigants and introduce a comprehensive, one-stop online portal of instruction, information, and assistance to radically transform and increase the breadth and depth of e-services available to the self-represented.

There is a huge unmet need in the Self-Represented Litigant world. While there are vast amounts of information about resolving various case types on one’s own, there is no statewide SRL solution that provides meaningful online assistance from start to finish. This proposal will dramatically change the landscape for those hoping to resolve legal issues without an attorney.

The proposed SRL e-Services portal solution will increase the percentage of litigants who can successfully navigate through the legal system and successfully file cases on their own. The portal will reduce litigant time and cost. The proposed project will also ensure that the courts’ valuable human resources can focus on helping resolve substantive SRL issues, and not be wasted on more trivial requests that would be better resolved online or via real-time chat. It will also provide standardization of self-help information and ensure information remains current and consistent with legislative changes.

**Fiscal Impact:** At this time, the cost to design build and implement the SRL e-Services portal solution is unknown. It is anticipated that 2.0 positions will be added to support the deployment of the e-Services portal. An RFI will be posted in the summer of 2017 to help gain insight into vendor capabilities and associated costs. It is expected that this request will be a placeholder request for the Spring 2018-2019 process.

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**Outcomes and Accountability:** Performance metrics will include number of monthly and annual users; greater customer satisfaction; less unnecessary foot traffic to courthouses; reduction in both costs and time for litigants; percentage of successful hand-offs to trial courts; completed cases. Most of these measurements can be obtained through Web analytics programs, as well as annual surveys to courts and to litigants themselves.

### **Other Alternatives Considered:**

**Alternative #1:** Do not approve additional funding to fund the design and deployment of a statewide SRL e-services portal.

**PRO:** No impact to the General Fund.

#### **CONS:**

- The needs of self-represented litigants will continue to be unmet.
- A patchwork of SRL resources will remain in place for those fortunate enough to live in counties where local courts have established virtual self-help centers.

**Alternative #2:** Do not approve additional funding and instead rely on private sector companies for a similar solution on a “pay-as-you-go” basis.

**PRO:** No impact to the General Fund.

#### **CONS:**

- No oversight over fees charged by private companies to the public.
- Limits access to services to those who can afford to pay fees charged by private companies.

## 2018-2019 FY Budget Change Proposal Concept

**Requesting Entity:** Judicial Council Information Technology Office  
**Contact:** Robert Oyung  
**Concept No.:** 18-27

**Proposal Title:** Single Sign-On Solution

**Fiscal Summary:**

Fund Source	Proposed JCC Positions	Total Personal Services	Operating Expenses & Equipment	Proposed Total 2018-2019	Proposed Total 2019-2020	Proposed Total 2020-2021
General Fund	0.0	\$0	\$3,300,000	\$3,300,000	\$800,000	\$800,000

**Detailed Funding By Fiscal Year:**

	Proposed Total 2018-2019	Proposed Total 2019-2020	Proposed Total 2020-2021
Ongoing	\$800,000	\$800,000	\$800,000
One-Time	\$2,500,000	\$0	\$0
Total	\$3,300,000	\$800,000	\$800,000

**Proposal Summary:** Proposed augmentation of \$3.3 million General Fund in 2018-2019 and \$800,000 in 2019–2020 and ongoing to acquire, design, and deploy an enterprise single sign–on system for the branch. The request includes \$2.5 million to modify case management systems from the three major case management software vendors in order to take advantage of the unique identifier assigned by the single sign–on solution. It also includes \$800,000 in one-time and ongoing costs for software licenses for judicial branch employees. This system will assign a unique identifier to members of the judicial branch, attorneys, members of the public and justice partners who access judicial branch computer systems and electronic services. It is envisioned that this system will be deployed using the software-as-a-service model so that there are no direct costs such as hardware, in–house support and operational costs.

**Background Information:** An Identity Management solution is the foundation that allows the judicial branch to uniquely identify an individual who is accessing judicial branch electronic systems. Currently, each court has a local identity management system to secure its systems but those usernames and passwords cannot be used across courts. For attorneys, their bar number is a unique identifier but there is no associated password with that number and thus cannot be used for secure access to systems. For the public, there is no way to uniquely identify them today and in fact, at times it is difficult to determine if cases with similar participant names are the same or different person.

Assigning a unique identifier to everyone will enable an entirely new set of electronic services. For example, the ability for a member of the public to login once to a portal and pay for any outstanding fines or fees from any court within the state and view all of their case files across different courts. An attorney could use their unique login to be notified if there are any actions or changes to any case that they have open at any court across the state from the superior courts to the Supreme Court. Judges and court staff

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could use their unique login to securely access systems without needing to memorize multiple usernames and passwords. Justice partners could securely access court systems to view information that only they are authorized to do so.

This proposal is for infrastructure that will enable new, improved services that have the following benefits: business hours can be extended, customers can expect more accurate data, and customer satisfaction as well as security are improved. It has the potential to improve customer service for all customers – attorneys; the public, in general; self-represented litigants; parties to cases; and members of the branch.

**Justification:** Implementing and promoting the Digital Court will provide better customer service (longer hours, access to records and services without having to appear at the courthouse, the ability for customers to conduct business on their own time), all without adding additional permanent staff. Depending upon the implementation, this may offer greater security and better data quality, in addition to the improved customer service. This is especially applicable to customers such as attorneys, who conduct business in multiple jurisdictions within the State.

If this proposal is not approved, customers may be required to create multiple IDs, multiple passwords and use multiple authentication systems, especially if they do business in multiple jurisdictions. Changing public expectations are making online transactions the norm, precisely because they improve customer service, and extend business hours without adding additional staff. The sooner we implement this, the sooner the public will be able to take advantage of the increased access.

**Fiscal Impact:** This request will provide \$3.3 million to acquire, design, and deploy an enterprise single sign-on system for the branch. It also includes \$800,000 in one-time and ongoing costs for software licenses for judicial branch employees.

**Outcomes and Accountability:** Performance measures include:

- The number of unique identifiers entered into the single sign-on system
- The number of people utilizing the court services that take advantage of the unique identifier
- The number of times court services utilizing the unique identifier were utilized
- Customer satisfaction surveys

**Other Alternatives Considered:**

**Alternative #1:** Do not approve additional funding for the acquisition, design and deployment of an enterprise single sign-on system for the judicial branch.

**PRO:** No impact to the General Fund.

**CONS:**

- It will not be possible to distinguish between parties with the same names. If you wish to restrict access to certain services only to those involved in a case, you would need to positively identify an individual or risk providing court information to the wrong party.

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Members of the public would continue to receive generic service without information tailored to their situation.

- Members of the public and attorneys who file in multiple counties would need multiple ID's for individual court directories rather than a single ID.
- Members of the judicial branch will have to juggle multiple ID's and most likely, multiple passwords in order to use multiple judicial branch systems.

**Alternative #2:** Create a Single Sign-On system for the judicial branch utilizing a commercially available software tool.

**PROS:**

- Major software firms already have created robust systems for this purpose, and development costs are spread across multiple clients.
- Eliminates need for in-house staff to administer and maintain the system.

**CON:** No custom capabilities are available in commercial off-the-shelf software if we needed any customization.

**Alternative #3:** Host our own on-premise directory to store user information for both our branch and customers.

**PROS:**

- Allows the outsourcing of the operation of a directory service into the cloud for which the vendor would provide operational support.
- Operational costs are distributed by the vendor among multiple clients, thus offering a competitive advantage over hosting our own system.

**CON:** Increased impact to the General Fund if we do not outsource the operation of our on-premise directory to the cloud, in view of the need to acquire redundant hardware staff for 24/7 operations, for the development and testing of disaster/recovery plans, and for periodical refresh of both hardware and software.

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**Requesting Entity:** Judicial Branch Facility Program  
**Contact:** Madelynn McClain  
**Concept No.:** 18-28

**Proposal Title:** Restoration of Immediate and Critical Needs Account Resources

**Fiscal Summary:**

Fund Source	Proposed JCC Positions	Total Personal Services	General Fund Transfer	Proposed Total 2018-2019	Proposed Total 2019-2020	Proposed Total 2020-2021
General Fund	0.0	\$0	\$560,300,000	\$560,300,000	\$50,000,000	\$50,000,000

**Detailed Funding By Fiscal Year:**

Description	Proposed Total 2018-2019	Proposed Total 2019-2020	Proposed Total 2020-2021
Ongoing Costs	\$50,000,000	\$50,000,000	\$50,000,000
One-Time Costs	\$510,300,000	\$0	\$0
Total Estimated Costs	\$560,300,000	\$50,000,000	\$50,000,000

**Proposal Summary:** Proposed augmentation of \$560.3 million General Fund in 2018-2019 and \$50 million in 2019-2020 and ongoing for transfer to the Immediate and Critical Needs Account (ICNA). This request will return previously redirected funds (\$510.3 million), eliminate the ongoing transfer of \$50 million from the ICNA to the Trial Court Trust Fund (TCTF) to support trial court operations, and support solvency of the ICNA. The solvency of the fund is in question due to the multiple funding redirections that occurred during the recent economic crisis and decreases in revenue that have occurred over the last five years, which has left the fund projected to be insolvent in less than 10 years.

**Background Information:** Senate Bill (SB) 1732, Trial Court Facilities Act of 2002 (Chapter 1082, Statutes of 2002) provided for the transfer of court facilities from the counties to the state and, among other things, established the State Court Facilities Construction Fund (SCFCF) to be used to acquire, rehabilitate, construct or finance state court facilities and implement trial court projects.

In September 2008, the Legislature signed Senate Bill 1407 into law, (Chapter, 311, Statutes of 2008), The law created the ICNA within the SCFCF, the proceeds of which would be used for the planning, design, construction, rehabilitation, renovation, replacement or acquisition of court facilities, for the repayment of moneys appropriated for lease of court facilities pursuant to the issuance of lease-revenue bonds, and for the payment for lease or rental of court facilities in an amount not to exceed \$5 billion. When the legislation was enacted it was estimated that the fund would generate \$275 million in annual revenues.

Subsequent to the enactment of SB 1407, in October 2008 the Judicial Council adopted a list of 41 trial court capital outlay projects to be funded by the revenues derived from the enactment of SB 1407. In 2009 and 2010, 40 courthouse capital outlay projects had their scope and budget established as approved

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by the State Public Works Board with notice to the legislature.

Due to the “Great Recession”, the Budget Act of 2011 included a transfer of \$310.275 million from ICNA to the General Fund. This resulted in the cancellation of two capital outlay projects, reduced budgets on all other projects, and the delay of several projects from moving into their next project phase. The Budget Act of 2012 included a redirection of \$240 million one-time and, beginning in 2013-2014, a direct ongoing appropriation of \$50 million from ICNA to support trial court operations which resulted in a pause on design activities (no new design phases were appropriated) during which time council-mandated changes were evaluated and the capital program ensured operational efficiencies were reflected in the design of new courthouse; acquisition phases were authorized but could only occur if resources were available, and seven SB 1407 Capital Outlay Project were indefinitely delayed. The Budget Act of 2013 included another one-time redirection of an additional \$200 million. As a result, a one year delay to an additional 11 SB 1407 capital outlay projects occurred. The Budget Act of 2013 also required ICNA to assume the costs of funding the annual service fee for the Los Angeles – Governor George Deukmejian Courthouse in Long Beach at an estimated annual cost of \$54 million, which was originally proposed to be funded by the General Fund. This resulted in an additional four SB 1407 capital outlay projects being indefinitely delayed.

In total approximately \$1.4 billion of redirections from ICNA has occurred since 2009-2010. Due to the reduction in resources available to fund trial court capital outlay projects, the Judicial Council has also directed the cost of all SB 1407 projects be reduced.

**Justification:** Under the Lockyer-Isenberg Trial Court Funding Act of 1997, Assembly Bill (AB) 233 (Chapter 850, Statutes of 1997), funding of trial court operations became a state responsibility. AB 233 also created the Task Force on Court Facilities (Task Force) charged to review and report on the status of court facilities throughout the state, and to make recommendations as to which government entity should be responsible for funding and managing court facility construction and maintenance. The Task Force submitted its final report to the Legislature and Governor in October 2001 with the recommendation that the state assume full responsibility for all the state's court facilities.

The Task Force report identified widespread and serious problems of inadequate security, safety, and access for the disabled in the courts, and further found that a significant number of state court buildings are in need of repair, renovation, or maintenance. Furthermore, the Task Force Report states: “[T]he judiciary should have the authority, responsibility, and financial capacity for all of the functions related to its operations and staff, including facilities. Controlling both operations and facilities ensures that all costs are considered when decisions are made and ensures economical, efficient, and effective court operations.”

The ICNA was established to plan, design, construct, rehabilitate, renovate, replace or acquire court facilities. Due to the economic downturn the General Fund redirected and transferred approximately \$1.4 billion in resources from the ICNA to support critical needs in both the General Fund and trial court operations. Additionally, since 2010-2011 revenues have declined nearly 23% as compared to 2014-2015 projected final revenue collections. The downward trend in revenue collections is projected to continue in 2018-2019. These significant reductions in revenue coupled with the redirection of over a \$1 billion in revenue have left the fund projected to be insolvent in less than 10 years.

Not only does ICNA fund critically needed capital outlay projects, but it also supports \$25 million annually in facility modifications projects which benefit trial courts across the state. The initial funding plan for ICNA facility modifications funding included \$40 million in annual expenditures; due to lack of resources in the fund this level of funding cannot be accommodated.



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Without the return of the requested funds, the Judicial Council will be unable to move all projects currently underway forward into design and construction, and fulfill its goal of providing safe, secure, trial court facilities that ensure equal access to justice for all Californians.

**Fiscal Impact:** This request will provide \$560.3 million in 2018-2019 and \$50 million in 2019-2020 and ongoing to return previously redirected funds and eliminate the ongoing transfer from the ICNA to the TCTF to support trial court operations and support solvency of the ICNA.

**Outcomes and Accountability:** With the return of the requested redirected revenues, ICNA is projected to remain solvent in the near future and may allow for some of the currently active projects to proceed to construction and facility modifications to be funded at \$25 million annually on an ongoing basis.

### Other Alternatives Considered:

**Alternative #1:** Do not approve funding requested to return previously redirected funds from the ICNA.

**PRO:** No impact to General Fund.

#### CONS:

- The fund will be in insolvent under this alternative. Consequently, all 17 projects will remain on hold after they complete their current phase.
- The potential for reduction in the current facility modification appropriation of \$25 million annually to the detriment of all trial court facilities for which the state is responsible to maintain.

**Alternative #2:** Provide only \$50 million from the General Fund to the TCTF annually to eliminate the transfer from the ICNA to support trial court operations.

#### PROS:

- Restores some funds to the ICNA.
- In this alternative, the projected deficit is estimated to occur later than in Alternative #1.
- This alternative will allow for \$50 million of funding for trial court operations to remain in place.

#### CONS:

- The fund is still projected to be insolvent unless revenues recover.
- Potential reduction to the current facility modification appropriation of \$25 million annually to the detriment of all trial court facilities for which the state is responsible to maintain.
- Requires additional General Fund resources.

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**Alternative #3:** Provide \$510.3 million General Fund in 2018-2019 to backfill previous redirection of funds.

### **PROS:**

- Provides ICNA with some additional resources in order to backfill some of the previous redirections.
- In this alternative, the projected deficit is estimated to occur later than in Alternative #1.
- This alternative will allow for \$50 million of funding for trial court operations to remain in place.

### **CONS:**

- The fund is still projected to be insolvent unless revenues recover.
- Potential reduction to the current facility modification appropriation of \$25 million annually to the detriment of all trial court facilities for which the state is responsible to maintain.
- Requires additional General Fund resources.