



# JUDICIAL COUNCIL OF CALIFORNIA

JUDICIAL BRANCH BUDGET  
COMMITTEE

## JUDICIAL BRANCH BUDGET COMMITTEE

**MATERIALS FOR MAY 14, 2019**

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Info 1 – 2019-20 Budget Updates



# JUDICIAL COUNCIL OF CALIFORNIA

JUDICIAL BRANCH BUDGET  
COMMITTEE

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## JUDICIAL BRANCH BUDGET COMMITTEE

### NOTICE AND AGENDA OF OPEN IN-PERSON MEETING

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

THIS MEETING IS BEING RECORDED

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**Date:** May 14, 2019  
**Time:** 09:00 a.m. to 3:00 p.m.  
**Location:** 455 Golden Gate Avenue, San Francisco, CA 94102; Catalina Room  
**Public Call-in Number:** 1-877-820-7831; Pass Code 6677064 (Listen Only)

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

Members of the public seeking to make an audio recording of the meeting must submit a written request at least two business days before the meeting. Requests can be e-mailed to [JBBC@jud.ca.gov](mailto:JBBC@jud.ca.gov).

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 March 18, 2019, Judicial Branch Budget Committee meeting.

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#### II. PUBLIC COMMENT (CAL. RULES OF COURT, RULE 10.75(K)(1)-(2))

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##### In-Person 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 Judicial Council of California, 455 Golden Gate Avenue, San Francisco, CA 94102, attention: Ms. Lucy Fogarty. Only written comments received by 9:00 a.m. on May 13, 2019, will be provided to advisory body members prior to the start of the meeting.

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**III. DISCUSSION AND POSSIBLE ACTION ITEMS (ITEMS 1-2)**

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**Item 1**

**2020-21 Budget Change Proposal Concepts (Action Required)**

Review and prioritization of 2020-21 budget change proposals for the Judicial Branch.

Presenter(s)/Facilitator(s): Hon. David M. Rubin, Chair

**Item 2**

**Request for Support for Potential California Department of Child Support Services Budget Change Proposal for Increased Funding for AB 1058 Program (Action Required)**

Review a request by the California Department of Child Support Services for Judicial Council support of a potential budget change proposal for the AB 1058 program.

Presenter(s)/Facilitator(s): Ms. Anna Maves, Supervising Attorney, Center for Families, Children, and the Courts.

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

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**Info 1**

**2019-20 Budget Update**

Update on the status of the 2019-20 Judicial Branch budget.

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

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**V. ADJOURNMENT**

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**Adjourn**



# JUDICIAL COUNCIL OF CALIFORNIA

## JUDICIAL BRANCH BUDGET COMMITTEE

[www.courts.ca.gov/jbbc.htm](http://www.courts.ca.gov/jbbc.htm)  
[JBBC@jud.ca.gov](mailto:JBBC@jud.ca.gov)

### JUDICIAL BRANCH BUDGET COMMITTEE

#### MINUTES OF OPEN MEETING WITH CLOSED SESSION

March 18, 2019

10:00 a.m. - 2:00 p.m.

455 Golden Gate Avenue, San Francisco, CA 94102  
3rd Floor, Sequoia Room

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**Advisory Body Members Present:** Hon. David M. Rubin, Chair; Hon. Kyle S. Brodie, Vice-Chair; Hon. Marla O. Anderson; Hon. C. Todd Bottke; Hon. Brad R. Hill; Hon. Harold W. Hopp; Hon. Ann Moorman; Mr. Michael M. Roddy; Ms. Andrea K. Wallin-Rohmann

**Advisory Body Members Absent:** None

**Others Present:** Ms. Lucy Fogarty; Mr. Zlatko Theodorovic; Mr. John Wordlaw; Hon. Marsha G. Slough; Hon. Jonathan B. Conklin; Ms. Kim Bartleson; Ms. Brandy Sanborn; Ms. Leah Rose-Goodwin; Ms. Angela Guzman; Ms. Shima Mirzaei; Ms. Melissa Ng; Ms. Marcela Eggleton; Mr. Bob Lowney; Ms. Mimi Morris; Ms. Heather Pettit; Mr. Grant Parks; Mr. Bob Brow

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#### OPEN MEETING

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

The chair called the meeting to order at 10:01 a.m., and took roll call.

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

The advisory body reviewed and approved the minutes of the January 15, 2019 and September 20, 2018 (as amended), Judicial Branch Budget Committee meetings.

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#### DISCUSSION AND ACTION ITEMS (ITEMS 1-2)

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##### **Item 1**

##### **2018-19 \$10 Million Emergency Reserve Funding Request**

**Request from the Humboldt Superior Court for funds from the \$10 Million Emergency Reserve.**

##### **Action:**

*The committee unanimously approved the following:*

1. *Approve a recommendation to the Judicial Council to provide emergency funding of \$117,124 from the \$10 million state-level reserve for the Superior Court of Humboldt to digitize and convert*

court records, contingent upon a plan to house original records and backup records in different facilities.

2. Waive the requirement that approved emergency funding be distributed as a cash advance loan.

## Item 2

### 2020-21 Initial Funding Requests

#### Review of 2020-21 Initial Funding Requests.

#### Action:

The committee unanimously approved the following:

1. The following initial funding requests (IFR) shall be developed into budget change proposal concepts:
  - a. IFR-20-01: Trial Court Reserve Cap
  - b. IFR-20-02: Trial Court Civil Assessment Backfill
  - c. IFR-20-03: Trial Court Civil Assessment Maintenance of Effort
  - d. IFR-20-04: Funding for 10 of the 50 Judgeships Authorized by AB 159
  - e. IFR-20-05: Trial Court Cost Increases
  - f. IFR-20-07: Trial and Appellate Court Deferred Maintenance Funding
  - g. IFR-20-08: Trial Court Facility Operations and Maintenance Funding
  - h. IFR-20-10: Electronic (Intelligent) Judicial Council Forms Solution
  - i. IFR-20-11: Productizing California Court Innovation Grants
  - j. IFR-20-12: Disaster Recovery Consulting Services Solutions – Pilot
  - k. IFR-20-13: Digitizing Documents Phases 2 and 3
  - l. IFR-20-14: Next Generation Data Hosting Consulting Services
  - m. IFR-20-17: Court Technology Manager
  - n. IFR-20-18: Appellate Court Appointed Counsel Projects
  - o. IFR-20-19: Appellate Court Facility Maintenance Program
  - p. IFR-20-20: Appellate Court Judicial Workload
  - q. IFR-20-21: Electronic Resources and Collection Rightsizing Adjustment for Appellate Court Libraries – Westlaw Price Increase Adjustment
  - r. IFR-20-22: Appellate Court Security
  - s. IFR-20-23: Judicial Branch Data Governance
  - t. IFR-20-24: Statutory Statewide Trial Court Audit Program – State Controller’s Office
  - u. IFR-20-25: Language Access Expansion in the California Courts
2. The following IFRs will not be developed into BCP concepts because there is funding provided in the Governor’s proposed budget. The requests can be revisited in the event the funding does not make it into the Budget Act of 2019:

- a. *IFR-20-06: Judicial Branch Litigation Management Program*
- b. *IFR-20-15: Judicial Branch FI\$Cal Staffing Plan*
- c. *IFR-20-16: Implement Phoenix Roadmap*

3. *The following IFRs were deferred:*

- a. *IFR-20-09 Improve Energy Efficiency was deferred for one year.*
- b. *IFR-20-26: Judicial Branch Capital Outlay Projects (Placeholder) was deferred pending completion of the assessment of Judicial Branch facilities as required in the Budget Act of 2018.*

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**ADJOURNMENT**

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There being no further open meeting business, the meeting was adjourned at 2:24 p.m..

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**CLOSED SESSION**

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**Item 1**

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

**Review and discussion of the contingency fund and requests from grantees regarding Innovations Grant Program.**

**Action:**

Adjourned closed session at 2:35 p.m..

Approved by the advisory body on enter date



Judicial Branch  
2020-21 BCP Concept Tracking List

- BCP included in the 2019-20 Governor's Budget and is pending legislative approval.
- BCP Proposed for the 2019-20 Governor's Budget and was denied.
- Request submitted to JBBC in 2019-20 and was denied.

#	Concept Tracking #	JCC Office	Title	Description	# Positions	\$ Estimate	Fund Source	Previous Submittal	JCC Committee	Proposed Lead Advisory Committee	Comments
1	20-01	TC	Trial Court Reserve Cap	This request is to amend Government Code section 77203, to allow the trial courts to carryover an amount not to exceed 5 percent of their operating budget from the previous year.	0.0	-	N/A	N	TCBAC	TCBAC	
2	20-02	TC	Trial Court Civil Assessment Backfill	This request is to transition the deposit of civil assessment revenues into the General Fund instead of the Trial Court Trust Fund (TCTF) and provide the trial courts with stable funding in the amount of actual 2017-18 civil assessment collections from the GF.	0.0	\$56.4 M	GF	Y	TCBAC	TCBAC	A similar request was submitted for the 2019-20 Governor's Budget and was combined into one BCP request titled, <u>Stabilization of Civil Assessment Revenue</u> . The BCP was denied.
3	20-03	TC	Trial Court Civil Assessment Maintenance of Effort	This request is to fund backfill of the MOE obligation to the courts which is currently funded by the civil assessment revenue and transition the deposit of civil assessment revenues to the GF.	0.0	\$48.3 M	GF	Y	TCBAC	TCBAC	
4	20-04	TC	Funding for 10 of the 50 Judgeships Authorized by AB 159	This request is to fund 10 of the 50 trial court judgeships authorized by Assembly Bill (AB) 159 (Ch. 722, Stats. 2007), accompanying support staff, and facilities-related costs (which are unknown at this time).	0.0	\$7.4 M to \$15.4 M	GF	Y	TCBAC	TCBAC	A similar request was submitted for the 2019-20 Governor's Budget and was combined into one BCP titled, <u>Funding to support 10 New judgeships and 1 Appellate Court Justice</u> . The BCP was denied.
5	20-05	TC	Trial Court Funding Stabilization (previously titled Trial Court Cost Increase and submitted as a placeholder)	This request is for funding to address changes in workload and the maintenance and sustainability of actual service levels that can be subject to erosion during inflationary economic cycles.	0.0	\$390 M	GF	N	TCBAC	TCBAC	
6	20-07	FS	Trial and Appellate Court Deferred Maintenance Funding	This request is to provide funding to address deferred maintenance in trial and appellate courts.	0.0	\$100 M	GF	Y	TCFMAC	TCFMAC	A similar request for \$ 40 million was submitted and approved for inclusion in the 2019-20 Governors Budget and is pending legislative approval.
7	20-08	FS	Trial Court Facility Operations and Maintenance Funding	This request is to provide funding for underfunded trial court facility operations and maintenance costs .	10.0	\$49.7 M	GF	Y	TCFMAC	TCFMAC	A similar request was submitted and partially approved (\$ 20.1 million and no positions) for inclusion in the 2019-20 Governors Budget and is pending legislative approval.
8	20-10	IT	Electronic (Intelligent) Judicial Council Forms Solution	This request is to support the implementation and deployment of a branch-wide forms solution based on the recommendations of the ITAC's Intelligent Forms Workstream.	5.0	\$1.988 M	GF	Y	JCTC ITAC	JCTC	A similar request was submitted to JBBC for 2019-20 and did not receive approval for development into a BCP.
9	20-11	IT	Productizing California Court Innovation Grants	This request is to develop and deploy a branchwide strategy for productizing California Court Innovations Grants.	6.0	\$6.398 M	GF	N	JCTC ITAC TCBAC	JCTC	
10	20-12	IT	Next Generation Hosting Consulting Services for Data Center	This request is to implement the recommendations outlined in the Next Generation Hosting Framework (NGH).	3.0	\$1.821 M	GF	Y	JCTC ITAC TCBAC	JCTC	A similar request was submitted to JBBC in 2019-20 and did not receive approval for development into a BCP.

**Judicial Branch  
2020-21 BCP Concept Tracking List**

#	Concept Tracking #	JCC Office	Title	Description	# Positions	\$ Estimate	Fund Source	Previous Submittal	JCC Committee	Proposed Lead Advisory Committee	Comments
11	20-13	IT	Digitizing Documents Phases 2 and 3	This request is to expand the digitizing of court records with implementation of phases 2 and 3.	0.0	\$17.8 M	GF	N	JCTC ITAC TCBAC	JCTC	A request for phase one of the digitizing court records was submitted and approved for inclusion in the 2019-20 Governors Budget and is pending legislative approval.
12	20-17	COA	Court Technology Manager Positions	This request is to fund a Court Technology Manager position for the Supreme Court and each Court of Appeal.	7.0	\$1.523 M	GF	N	APJAC CACCA	APJAC	
13	20-18	COA	Appellate Courts-Court Appointed Counsel Projects	This request is to support increased costs for contractual services in the Supreme Court's Court-Appointed Counsel Project, California Appellate Project – San Francisco (CAP-SF), and the Courts of Appeal Court Appointed Counsel Project Offices (Projects).	0.0	\$1.628 M	GF	Y	APJAC CACCA	APJAC	A similar request was submitted to JBBC in 2019-20 and did not receive approval for development into a BCP.
14	20-19	COA	Appellate Courts Facility Maintenance Program	To establish an Appellate Court Facility Maintenance Program which will include preventative and demand maintenance, and minor facility modifications in all appellate court facilities.	0.0	\$1.408 M	GF	Y	APJAC CACCA	APJAC	A similar request was submitted for the 2019-20 Governor's Budget . The BCP was denied.
15	20-20	COA	Appellate Court Judicial Workload	This request is to provide funding to add one new justice and the 4 associated chambers staff to meet the workload demands in the 4th DCA- Division 2- Riverside Court.	5.0	\$1.247 M	GF	Y	APJAC CACCA	APJAC	A similar request was submitted for the 2019-20 Governor's Budget and was combined into one BCP titled, <u>Funding to support 10 New judgeships and 1 Appellate Court Justice</u> . The BCP was denied.
16	20-21	COA	Electronic Resources and Collection Rightsizing Adjustment for Appellate Court Libraries	This request is to support increased costs for contractual library services in online legal resources research for the California Judicial Center Library and the Courts of Appeal libraries and for increased costs for print collections that are not available in other formats.	0.0	\$682,000	GF	N	APJAC CACCA	APJAC	0
17	20-22	COA	Appellate Court Security	This request is to support seven California Highway Patrol Judicial Protection Section (CHP-JPS) officers at specified appellate court locations during normal business hours.	0.0	\$1.2 M	GF	Y	APJAC CACCA CSAC	APJAC	A similar request was submitted for the 2019-20 Governor's Budget . The BCP was denied.
18	20-23	OCR	Judicial Branch Data Governance	This request is to implement a branch wide data governance and analytics framework to meet the reporting and decision-making needs of the Judicial Branch.	5.0	\$982,000	GF	N	JBBC	JBBC	
19	20-24	Audit	Statutory Statewide Trial Court Audit Program-State Controller's Office	This request is to provide funding to adhere to Government Code, Section 77206(h) which requires external audit agencies to conduct audits of 6 superior courts that focus on their compliance with state rules regarding the revenues, expenditures, and fund balances under their control.	0.0	\$1.6 M	GF	N	ACAFA	ACAFA	
20	20-25	CFCC	Language Access Expansion in the California Courts	This request is to reimburse trial courts for language access services, and to fund Video Remote Interpreting (VRI) equipment for the trial courts for an estimated 15 courthouses and to support staff to enable the launch of a VRI program statewide.	3.0	\$18.269 M	GF	Y	LAS- ACPAF ACPAF TCBAC	ACPAF	A similar request was submitted for the 2019-20 Governor's Budget . The BCP was denied. Funding of \$4 million is included in the 2019-20 Governors Budget to make a one-time allocation of funding permanent and is pending legislative approval.

**Judicial Branch  
2020-21 BCP Concept Tracking List**

#	Concept Tracking #	JCC Office	Title	Description	# Positions	\$ Estimate	Fund Source	Previous Submittal	JCC Committee	Proposed Lead Advisory Committee	Comments
21	20-27	HCRC	HCRC Case Team Staffing and Establishment of Los Angeles Office	This request is to provide funding to hire 70 new positions over the course of three years and establish an HCRC office in Los Angeles to support the increased workload in HCRC as a result of enactment of Proposition 66	70.0	\$11.4 M	GF	N	N/A	N/A	
22	20-28	FS	Trial Court Lease Funding	This request is to support the cost of trial court leases in the JCC portfolio of buildings.	0.0	\$8 M	GF	N	TCFMAC TCBAC	TCFMAC	
23	20-29	FS	Stanislaus-New Modesto Buildout Two Shelled Courtrooms	This request is a change in scope to build out 2 of 5 unfinished courtrooms in a 27-courtroom Stanislaus New Modesto Courthouse and finish the exterior with precast façade.	0.0	\$9.745 M	GF ICNA	Y	CFAC	CFAC	A similar request was submitted for the 2019-20 budget and was denied.

<b>Internal Committees</b>	
JCTC	Judicial Council Technology Committee
LMC	Litigation Management Committee
JBBC	Judicial Branch Budget Committee
<b>Advisory Committees</b>	
ACAFA	Advisory Committee on Audit and Financial Accountability
CIAP	Court Interpreters Advisory Panel
CSAC	Court Security Advisory Committee
CFAC	Court Facility Advisory Committee
TCBAC	Trial Court Budget Advisory Committee
TCFMAC	Trial Court Facility Modification Advisory Committee
LAPTF	Language Access Plan Implementation Task Force
APJAC	Administrative Presiding Justices Advisory Committee
TCPJAC	Trial Court Presiding Judges Advisory Committee
CEAC	Court Executives Advisory Committee
FJLAC	Family & Juvenile Law Advisory Committee
ITAC	Information Technology Advisory Committee
GC-CJER	Governing Committee of CJER
ACPAF	Advisory Committee on Providing Access & Fairness
LAS-ACPAF	Language Access Sub-committee of ACPAF
CACCA	Court of Appeal Clerks

## 2020-21 Budget Change Proposal Concept

**Requesting Entity:** Trial Court Budget Advisory Committee  
**Contact:** Melissa Ng  
**Budget Services Liaison:** Melissa Ng

**Date Prepared:** April 16, 2019  
**Document Tracking Number:** 20-01

**Proposal Title:** Trial Court Reserve Cap

**Fiscal Summary:**

Fund Source	Proposed JCC Positions	Total Personal Services	Operating Expenses & Equipment	Proposed Total 2020-21	Proposed Total 2021-22	Proposed Total 2022-23
N/A	N/A	N/A	N/A	N/A	N/A	N/A

**Detailed Funding by Fiscal Year:**

	Proposed Total 2020-21	Proposed Total 2021-22	Proposed Total 2022-23
Ongoing	N/A	N/A	N/A
One-Time	N/A	N/A	N/A
Total	N/A	N/A	N/A

**Proposal Summary:**

The Judicial Council of California requests trailer bill language to amend Government Code section 77203, to allow the trial courts to carryover an amount not to exceed 5 percent of their operating budget from the previous fiscal year. Current law restricts courts to carryover an amount not to exceed 1 percent of their operating budget from the prior fiscal year. This limits trial courts’ ability to manage their resources effectively and efficiently. Increasing the reserve cap to 5 percent would permit courts to have a reliable reserve that will facilitate responsible budget management including covering unanticipated expenses and weathering economic downturns.

**Background Information:**

Prior to June 30, 2014, courts were afforded the ability to carry over all unexpended funds from the courts operating budget from the prior fiscal year. However, Senate Bill 1021 (Chapter 41, Statutes of 2012) added Government Code section 77203, which authorized trial courts on or after June 30, 2014, to carry over unexpended funds in an amount not to exceed 1 percent of the courts’ operating budget from the prior year. Currently, courts provide a preliminary calculation of estimated prior year ending fund balance above the 1 percent cap in July, with a final fund balance calculation provided in October. Reductions to courts’ allocation occurs in the current year and is made following Judicial Council approval of the reduction for preliminary and final fund balances above the 1 percent cap. In April 2016, the council approved a process for courts to request funds be retained in the TCTF as restricted fund balance for the benefit of those courts. The process is intended only for expenditures that cannot be funded by a court’s annual budget or three-year encumbrance term and that require multi-year savings to implement. Additionally, pursuant to Government Code section 68502.5 (c)(2)(B), the council is required to hold a reserve of \$10 million in the Trial Court Trust Fund to be available to fund trial

## 2020-21 Budget Change Proposal Concept

courts for emergencies, and any funding allocated is replenished on an annual basis in the following year from trial court base allocations.

### **Justification:**

Due to legislative changes that have impacted penalties and other assessment revenues, this change would allow the court system the flexibility to respond to annual volatility in its revenue and alleviate short term challenges in meeting operating cash flow. Additionally, as the State continues to build reserves in its rainy-day fund in order to soften the impact of future recessions, courts should also be allowed to retain reasonable reserves to cushion the impact of budget problems that may emerge during a recession. The increased reserve would also allow courts to cover unanticipated expenses and plan for large projects that require multi-year savings to implement. If this proposal is not approved, courts face significant risk in the event of an economic downturn with revenue declines and state funding cuts. This could result in closure or reduced public hours and create inconvenience and delays for the public seeking swift administration of justice.

### **Fiscal Impact:**

This change would not affect appropriation of state funds or allocation of trial court funding but would allow courts to retain a fund balance of up to 5 percent, which would provide courts flexibility to plan and manage cash flow more effectively.

### **Outcomes and Accountability:**

This proposal would allow courts to maintain services, prevent service reductions, and minimize impacts to court users in the event of a recession by allowing courts to maintain an appropriate reserve.

### **Projected Outcomes:**

This statutory change will benefit all 58 trial courts and will assist the courts in stabilizing service levels to the public.

We expect that requests for supplemental funding in the forms of cash advances or requests for funding from the \$10 million reserve to be reduced since courts will be able to better manage cash flow during periods of low revenue or unexpected expenditures. We would also expect the number of funds held on behalf requests to lessen since courts will be able to retain funding to complete small and moderate sized projects without the need to hold funds in the TCTF restricted balance in order to retain funds above the current 1 percent threshold for these projects.

### **Other Alternatives Considered:**

**Alternative 1:** Phase in the increase to 5 percent fund balance that may be carried over from the prior year. This would increase the amount allowed for carryover to up to 2.5 percent of fund balance in 2020-21, and up to 5 percent of fund balance by 2021-22.

### **Pros:**

- Allows courts graduated relief from the 1 percent restriction over two years.
- Would reduce the number of cash advance requests, funds held on behalf requests and \$10 million reserve requests.

## 2020-21 Budget Change Proposal Concept

- Alleviates certain unintended challenges of cash shortfalls between monthly budget allocations and operating expenses.

### Cons:

- Some courts may continue to face some challenges with cash flow during the phasing in of the increase.

**Alternative 2:** Provide trailer bill language to remove language limiting courts to carryover funds not to exceed 1 percent of the courts operating budget.

### Pros:

- Allows courts maximum flexibility to manage their cash flows and plan for the future.
- Minimizes the number of cash advance requests, funds held on behalf requests and \$10 million reserve requests needed.
- Alleviates certain unintended challenges of cash shortfalls between monthly budget allocations and operating expenses.

### Cons:

- There would no longer be statutory control over court expenditures and reserves.

**Alternative 3:** Do not change current statute.

### Pros:

- No statutory change is needed.

### Cons:

- Courts may continue to face some challenges with cash flow for procuring multi-year contracts and during economic downturns.



## 2020-21 Budget Change Proposal Concept

**Requesting Entity:** Trial Court Budget Advisory Committee  
**Contact:** Donna Newman  
**Budget Services Liaison:** Donna Newman

**Date Prepared:** 4/10/2019  
**Document Tracking Number:** 20-02

**Proposal Title:** Trial Court Civil Assessment Backfill

**Fiscal Summary:**

Fund Source	Proposed JCC Positions	Total Personal Services	Revenue Backfill	Proposed Total 2020-21	Proposed Total 2021-22	Proposed Total 2022-23
General Fund			\$56,400,000	\$56,400,000	\$56,400,000	\$56,400,000

**Detailed Funding by Fiscal Year:**

	Proposed Total 2020-21	Proposed Total 2021-22	Proposed Total 2022-23
Ongoing	\$56,400,000	\$56,400,000	\$56,400,000
One-Time			
Total	\$56,400,000	\$56,400,000	\$56,400,000

**Proposal Summary:**

The Judicial Council of California (JCC) requests \$56.4 million General Fund beginning in 2020-21 to transition the deposit of civil assessment revenues into the General Fund instead of the Trial Court Trust Fund (TCTF) after \$48.3 million for the Maintenance of Effort shortfall has been fulfilled.

**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 million. 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 AB 227 (Stats. 2007, Ch. 383). While most of the reductions were backfilled by the General Fund, \$48.3 million of the MOE obligation was not. The total MOE contributed by the counties was reduced to \$659 million; which resulted in an ongoing reduction of \$48.3 million to support court operations.

To ensure that court operations would be held harmless by this action, the JCC 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 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 on a 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.

## 2020-21 Budget Change Proposal Concept

Legislative changes have impacted civil assessment revenue. In 2015, SB 405 amended Penal Code 1214.1 and did not require a defendant to pay prior to scheduling a court hearing, it also allowed defendants an additional ten days to appear in court. Additionally, the ability to collect civil assessments during amnesty was eliminated. In 2018, SB 847 added Vehicle Code (VC) 40280 which allows courts to reduce, waive or suspend civil assessments based on an ability-to-pay determination. Current proposed SB 144 would repeal civil assessments entirely.

Civil assessment revenues as imposed pursuant to Penal Code (PC) 1214.1, are currently deposited into the TCTF, net of cost recovery pursuant to PC 1463.007. Per Judicial Council policy, the remitted civil assessment revenues are allocated to the trial court one hundred percent, net of the civil assessment buyout amount. The civil assessment buyout amount of \$48.3 million is maintained in the TCTF to replace the reduced MOE payments made by the counties and support the trial courts' base allocations. The civil assessment revenue collected in 2017-18 was \$104.7 million, including the \$48.3 million shifted to cover the MOE shortfall. \$56.4 million was distributed back to the courts.

### **Justification:**

Advocacy groups, the Federal Department of Justice, the state's legislature and the Judicial Council have highlighted how the imposition of increased fines and fees impact the people served by the judicial branch.

Chief Justice Cantil-Sakauye, in her March 2019 state of the judiciary address to the legislature, recognizes:

1. Income equality should not translate into a two-tiered justice system;
2. Fines and fees should no longer fall on those least able to afford them;
3. Minor traffic offenses should not turn poor drivers into poor criminals.

Under the current civil assessment statute, there could be a perceived conflict of interest between the imposition of the civil assessment by a court and the funding a court receives. This proposal would have civil assessments deposited into the General Fund and would appropriate a set amount from the GF to be transferred to the TCTF.

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 2019-20 LAO report Analysis of the Governor's Criminal Justice Proposals.

Future policy and legislative changes could bring more volatility to civil assessment revenue, thus making the general fund a stable funding source for the courts. Sufficient and stable funding ensures that



## 2020-21 Budget Change Proposal Concept

California courts are able to meet the needs of individuals, families and business that come through the courthouse doors as hundreds of thousands do each year.

### **Fiscal Impact:**

This proposal requests \$56.4 million General Fund to transition the deposit of civil assessment revenues into the General Fund instead of the Trial Court Trust Fund (TCTF). This amount reflects the actual value of civil assessment revenues returned to the courts on a dollar for dollar basis in 2017-18.

The funding to support court operations would remain static to ensure funding stability; while the civil assessment revenue deposited into the General Fund may vary. Any excess civil assessment revenues remitted over the fixed General Fund appropriation would benefit the General Fund, while any fluctuations in the civil assessment revenue below the fixed appropriated amount will be covered by General Fund. The table below reflects the civil assessment revenue (net of the \$48.3 million MOE buyout) collected in the past six fiscal years. The estimated revenue for 2018-19 is estimated based on seven months of actual collections.

In Millions	FY 2013-14	FY 2014-15	FY 2015-15	FY 2016-17	FY 2017-18	FY 2018-19 estimated
Civil Assessment Revenue	\$106,500	\$111,900	\$79,300	\$67,200	\$56,400	\$55,000

### **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 leaves hearings at risk of being rescheduled, and leaves individuals' in jeopardy of unresolved cases.

With chronic underfunding, the courts have delayed filling vacancies, cut hours of operations, or closed courthouses completely. This fund shift provides a step towards stabilized funding to the courts by ensuring a set amount of General Fund support in lieu of the fluctuating civil assessments revenue; thus, ensuring courts can remain open and accessible to all Californians.

#### Equality, Fairness and Timeliness

Stabilized funding can be measured by the prompt and efficient resolution of disputes. The lack of consistent, stable funding for the trial courts make it impossible to provide fair, equitable and timely justice to all litigants. Further, the lack of stable funding causes trials to be postponed due to lack of staff or operating hours. The paralysis of the justice system contributes to dual problems of jail-overcrowding and diminishing prosecution.

## 2020-21 Budget Change Proposal Concept

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 profound consequences for the persons directly concerned, the court, allied agencies, and the community at large.

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 access to justice for all California citizens.

### **Other Alternatives Considered:**

**Alternative #1:** Use the past year (2017-18) civil assessment revenue to calculate the amount transferred into the Trial Court Trust Fund. Deposit all civil assessment revenue into the General Fund instead of the Trial Court Trust Fund in exchange for \$56.4 million ongoing General Fund to support trial courts.

#### **Pros:**

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

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

**Alternative #2:** Phase in the fund shift of civil assessment revenue over a three-year period, ensuring that in any fiscal year the TCTF would not receive less than \$56.4 million.

- In year 1, provide \$20 million in General Fund and allow the Judicial Council to retain Civil Assessment revenue collections in amounts up to \$36.4 million so that a total of \$56.4 million is still available for base court operations.
- In year 2, provide \$40 million in General Fund and allow the Judicial Council to retain Civil Assessment revenue collection in amounts up to \$26.4 million so that a total of \$56.4 million is still available for base court operations.
- In year 3, provide \$56.4 million in General Fund and all Civil Assessment revenue would be deposited into the General Fund.

#### **Pros:**

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

#### **Cons:**

- 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.

## 2020-21 Budget Change Proposal Concept

**Alternative #3: Status Quo.** Do not transition the deposits of civil assessment revenue to the General Fund in return for \$56.4 million in ongoing General Fund monies to support the trial courts.

**Pros:**

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

## 2020-21 Budget Change Proposal Concept

**Requesting Entity:** Trial Court Budget Advisory Committee

**Contact:** Donna Newman

**Budget Services Liaison:** Donna Newman

**Date Prepared:** 4/10/2019

**Document Tracking Number:** 20-03

**Proposal Title:** Trial Court Civil Assessment Maintenance of Effort

**Fiscal Summary:**

Fund Source	Proposed JCC Positions	Total Personal Services	MOE Backfill	Proposed Total 2020-21	Proposed Total 2021-22	Proposed Total 2022-23
General Fund			\$48,300,000	\$48,300,000	\$48,300,000	\$48,300,000

**Detailed Funding by Fiscal Year:**

	Proposed Total 2020-21	Proposed Total 2021-22	Proposed Total 2022-23
Ongoing	\$48,300,000	\$48,300,000	\$48,300,000
One-Time			
Total	\$48,300,000	\$48,300,000	\$48,300,000

**Proposal Summary:**

The Judicial Council of California (JCC) requests \$48.3 million General Fund beginning in 2020-21 to backfill Maintenance of Effort (MOE) payments that are currently being funded from civil assessment revenues to stabilize the Trial Court Trust Fund (TCTF) funding that supports trial court allocations. This proposal provides for transition of deposit of civil assessment revenues after collecting and distributing \$56.6 million (current service level of funding) to the courts into the General Fund and requests General Fund to backfill the amount of retained civil assessment revenues that annually funds this portion of the base trial court allocations.

**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 an 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 million. 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). While most of the reductions were backfilled by the General Fund \$48.3 million of the MOE obligation was not. The total MOE contributed by the counties was reduced to \$659 million; which resulted in an ongoing reduction of \$48.3 to support trial court’s base allocations.

In lieu of allocating a reduction to the trial courts based on the shortfall, the JCC 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 to each court on a dollar-for-dollar basis. To recover the \$48.3 million shortfall from MOE payments, the Judicial Council withholds

## 2020-21 Budget Change Proposal Concept

\$48.3 million from civil assessments revenue collected by the courts before distributing the remainder back to the courts on a 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.

Civil assessment revenues as imposed pursuant to Penal Code (PC) 1214.1, are currently deposited into the TCTF, net of cost recover pursuant to PC 1463.007. However, Legislative changes have impacted the revenues for civil assessments. Beginning in 2015, SB 405 amended Penal Code 1214.1; a defendant now has twenty (20) days after the court mails a warning notice for failing to appear, the defendant is no longer required to pay the assessment before appearing, and during the amnesty period (October 1, 2015 to March 31, 2017) the collection of civil assessments was eliminated. In 2018, SB 847 added Vehicle Code (VC) 40280 which allows courts to reduce, waive, or suspend civil assessments based on an ability-to-pay determinations. Further, there is current proposed legislation (SB 144) that would repeal civil assessments entirely.

The civil assessment buyout amount of \$48.3 million is maintained in the TCTF to replace the reduced MOE payments made by the counties and support the trial courts' base allocations. The civil assessment revenue collected in 2017-18 was \$104.7 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 highlighted how the imposition of increased fines and fees impact the people served by the judicial branch.

Chief Justice Cantil-Sakauye, in her March 2019 state of the judiciary address to the legislature, recognizes:

1. Income equality should not translate into a two-tiered justice system
2. Fines and fees should no longer fall on those least able to afford them;
3. Minor traffic offenses should not turn poor drivers into poor criminals.

Under the current civil assessment statute, there could be a perceived conflict of interest between the imposition of the civil assessment by a court and the funding a court receives. This proposal would have civil assessments deposited into the General Fund and would appropriate a set amount from the GF to be transferred to the TCTF.

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

## 2020-21 Budget Change Proposal Concept

the Legislature in the annual state budget. This was reiterated in the 2019-20 LAO report Analysis of the Governor's Criminal Justice Proposals.

Future policy and legislative changes could bring more volatility to civil assessment revenue, thus making the general fund a stable funding source for the courts. Sufficient and stable funding ensures that California courts are able to meet the needs of individuals, families and business that come through the courthouse doors as hundreds of thousands do each year.

### **Fiscal Impact:**

This proposal requests \$48.3 million General Fund to transition the deposit of civil assessment revenues into the General Fund instead of the TCTF. This request is consistent with the MOE obligations to the courts which was the result of the reduction to the county payments, totaling \$48.3 million.

This request will continue to ensure stability of funding in the TCTF and progress towards equity of funding for the 58 trial courts. It is in line with Judicial Branch Goal VII to provide adequate, stable and predictable funding for a fully functioning branch. Statutory changes to Penal Code (PC) 1214.1 will be required to implement this change.

### **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 leaves court hearings at risk of being rescheduled, and individuals' in jeopardy of unresolved cases.

With chronic underfunding, the courts have delayed filling vacancies, cut hours of operations, or closed courthouses completely. This fund shift provides a step towards stabilized funding to the courts by ensuring a set amount of General Fund support in lieu of the fluctuating civil assessments revenue; thus, ensuring courts can remain open and accessible to all Californians.

#### Equality, Fairness and Timeliness

Stabilized funding can be measured by the prompt and efficient resolution of disputes. The lack of consistent, stable funding for the trial courts make it impossible to provide fair, equitable and timely justice to all litigants. Further, the lack of stable funding causes trials to be postponed due to lack of staff or operating hours. The paralysis of the justice system contributes to dual problems of jail-overcrowding and diminishing prosecution.

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 profound consequences for the persons directly concerned, the court, allied agencies, and the community at large.

## 2020-21 Budget Change Proposal Concept

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 access to justice for all California citizens.

### **Other Alternatives Considered:**

**Alternative #1:** Approve the request. civil assessment revenues after collecting and distributing \$56.6 million (current service level of funding) to the courts into the General Fund instead of the Trial Court Trust Fund in exchange for \$48.3 million ongoing General Fund.

#### **Pros:**

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

#### **Cons:**

- The General Fund could be negatively impacted if revenues are less than the appropriation

**Alternative #2:** Phase in the fund shift of civil assessment revenue over a three-year period, ensuring that in any fiscal year the TCTF would not receive less than \$48.3 million.

- In year 1, provide \$16 million in General Fund and allow the Judicial Council to retain Civil Assessment revenue collections in amounts up to \$32.3 million so that a total of \$48.3 million is still available for base court operations.
- In year 2, provide \$32 million in General Fund and allow the Judicial Council to retain Civil Assessment revenue collection in amounts up to \$16.3 million so that a total of \$48.3 million is still available for base court operations.
- In year 3, provide \$48.3 million in General Fund and all Civil Assessment revenue would be deposited into the General Fund.

#### **Pros:**

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

#### **Cons:**

- 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.

## 2020-21 Budget Change Proposal Concept

**Alternative #3: Status Quo.** Do not transition the deposits of civil assessment revenue to the General Fund in return for \$48.3 million in ongoing General Fund monies to support the trial courts.

**Pros:**

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



## 2020-21 Budget Change Proposal Concept

**Requesting Entity:** Trial Court Budget Advisory Committee  
**Contact:** Leah Rose-Goodwin  
**Budget Services Liaison:** Michael Sun

**Date Prepared:** 4/19/2019  
**Document Tracking Number:** 20-04

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

**Fiscal Summary:**

Fund Source	Proposed JCC Positions	Total Personal Services	Operating Expenses & Equipment	Proposed Total 2020-21	Proposed Total 2021-22	Proposed Total 2022-23
General fund	0			\$7.4 million or \$15.4 million	\$7.4 million or \$15.4 million	\$7.4 million or \$15.4 million

**Detailed Funding by Fiscal Year:**

	Proposed Total 2020-21	Proposed Total 2021-22	Proposed Total 2022-23
Ongoing	\$7.4 million or \$15.4 million	\$7.4 million or \$15.4 million	\$7.4 million or \$15.4 million
One-Time			
Total	\$7.4 million or \$15.4 million	\$7.4 million or \$15.4 million	\$7.4 million or \$15.4 million

**Proposal Summary:**

The Judicial Council of California (JCC) requests either \$7.4 million or \$15.4 million General Fund beginning in 2020-21 to support 10 of the 50 trial court judgeships authorized by Assembly Bill (AB) 159 (Ch. 722, Stats. 2007), accompanying support staff, and facilities-related costs (which are unknown at this time) as applicable.

**Background Information:**

While the latest Judicial Needs Assessment (2018) shows that the branch needs just over 127 judgeships in 17 courts based on workload<sup>1</sup>, efforts to secure funding for the previously-authorized judgeships under AB 159 have been unsuccessful. The only significant changes in judgeships since 2007 was the reallocation of four vacant judgeships in the 2017-18 Public Safety Omnibus trailer bill (Chapter 17, Statutes of 2017), which reallocated two vacant judgeships each from the Superior Courts of California, County of Alameda and County of Santa Clara to the Superior Courts of California, County of Riverside and County of San Bernardino, and the addition of two judgeships to Riverside in the Budget Act of 2018. Forty-eight of the fifty authorized judgeships continue to be unfunded.

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<sup>1</sup> In late 2019, the branch will reissue the 2018 Judicial Needs Assessment with updated workload measures based on a time study that was conducted in the branch in late 2018. Period updates of the measures used to assess judicial workload need are necessary to incorporate any changes in the law, technology or practices. Therefore, the judicial need in the branch may change prior to finalization of this BCP proposal.

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**Justification:**

There remains a critical judicial shortage in the trial courts with the greatest need. Without new judgeships, court users have to wait longer to get a case assigned to a judge, to receive a judgment, or to have their matter resolved. 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 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. The council’s methodology will direct new judicial resources to the courts that are in greatest need of judgeships and therefore will help equalize access to justice more expeditiously.

**Fiscal Impact:**

Estimated costs of \$7.4 million or \$15.4 million General Fund is for 10 trial court judgeships and a complement of court staff needed as identified in the Resource Assessment Study/Workload-based Allocation and Funding Methodology (RAS/WAFM) model which includes a court interpreter complement, and facilities-related costs as applicable. The range of the cost estimate comes from using a court staff complement of either 3 positions (as used in previous BCP requests) or 8.87 positions (the full staff complement using the RAS model estimate of staff need as a ratio to judicial need). Facilities-related costs are unknown at this time and will be dependent on the specific needs in the jurisdiction for which the judgeships are provided.

**Outcomes and Accountability:**

Filings per judicial officer is one workload measure that would show the direct impact of fulfilling this request. New judgeships directed at the courts with the greatest resource need will lower the number of filings per judicial officer, which in turn impacts scheduling, case assignment and case resolution.

**Projected Outcomes:**

Workload Measure	2017-18 Past Year	2018-19 Past Year	2019-20 Current Year	2020-21 Budget Year
Average filings per judicial officer	TBD	TBD	TBD	TBD

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### Other Alternatives Considered:

**Alternative #1:** Fund the ten judgeships and accompanying support staff at the lower staff per judge ratio of 3.0 to 1.0 at a cost of \$7.4 million in 2020-21 and ongoing.

#### Pros:

- Requires a lesser commitment of General Fund resources on an ongoing basis.
- This is a lower staff complement than what is fully needed to handle all of the accompanying workload associated with a new judgeship and will result in continued backlogs in case management. However, it is put forward in the interest of securing the most judgeships possible and having the widest effect to the most courts on case processing and workload.

#### Cons:

- This level of staff complement will not provide the necessary staff support for judges to efficiently try cases.

**Alternative #2:** Fund five of the fifty judgeships authorized by AB 159 and accompanying support staff at an estimated cost of either \$3.7 million or \$7.7 million in 2020-21 and ongoing.

#### Pros:

- Requires a lesser commitment of General Fund than proposed request.
- Would provide some relief to the courts with the greatest need for judgeships.

#### Cons:

- This would result in fewer judge resources being allocated to courts and fewer courts receiving new judgeships. Some courts whose need is just as critical as others would have to wait an indefinite amount of time for judgeships.
- The benefits of having new judgeships – such as reducing wait times for hearings—would be realized more slowly and would impact fewer courts.

**Alternative #3:** Fund five of the fifty judgeships authorized by AB 159 and accompanying support staff at an estimated cost of either \$3.7 million or \$7.7 million in 2020-21 and then fund the remaining five judgeships and support staff at an estimated cost of either \$3.7 million or \$7.7 million in 2021-22. The ongoing cost starting in 2021-22 would be either \$7.4 million or \$15.4 million.

#### Pros:

- This reduces the first-year cost of the new judgeships, while still providing much-needed judge resources.

#### Cons:

- Some courts would not receive their new judgeships expeditiously and would have to wait longer than others to realize the benefits of the additional judge resources.
- The public would suffer because their access to needed judge resources would be delayed.

## 2020-21 Budget Change Proposal Concept

**Requesting Entity:** Trial Court Budget Advisory Committee

**Contact:** Lucy Fogarty

**Budget Services Liaison:** Lucy Fogarty

**Date Prepared:** April 8, 2019

**Document Tracking Number:** 20-05

**Proposal Title:** Trial Court Funding Stabilization

**Fiscal Summary:**

Fund Source	Proposed JCC Positions	Total Personal Services	Operating Expenses & Equipment	Proposed Total 2020-21	Proposed Total 2021-22	Proposed Total 2022-23
General Fund	\$0	\$0	\$390,000,000	\$390,000,000	\$390,000,000	\$390,000,000

**Detailed Funding by Fiscal Year:**

	Proposed Total 2020-21	Proposed Total 2021-22	Proposed Total 2022-23
Ongoing	\$390,000,000	\$390,000,000	\$390,000,000
One-Time	\$0	\$0	\$0
Total	\$390,000,000	\$390,000,000	\$390,000,000

**Proposal Summary:**

The Judicial Council of California (JCC) requests \$390 million General Fund beginning in 2020-21 to address changes in workload and the maintenance and sustainability of actual service levels that can be subject to erosion during inflationary economic cycles.

In order to ensure that trial court funding is not eroded and that sufficient funding is provided to trial courts to continue to enhance services levels, and to accommodate operational cost changes without degrading the quantity or quality of court services to the public, the trial courts should be funded based upon two analytical approaches: a workload-based formula and the annual year-to-year percentage change in Consumer Price Index (CPI). The current Workload Formula, as approved by the Judicial Council, shall serve as the basis for the workload-based funding adjustments. For the annual percentage change adjustment, trial court costs shall include, but are not limited to, all expenses for court operations and court employee salaries, plus social security and Medicare, but shall not include the costs of compensation for judges, subordinate judicial officers or judges in the Assigned Judges Program. One-time costs are also excluded from this calculation such as capital improvements and large automation projects. It is intended that the CPI percentage change shall be provided to all 58 courts, regardless of whether the court is above the median average equity threshold based on the current Workload Formula, as this adjustment is used exclusively to ensure that actual service levels are sustained for employee and other operating costs.

**Background Information:**

In 1998, the Lockyer Eisenberg Trial Court Funding Act was enacted by the Legislature. It created a new paradigm in which formerly county-funded limited and general jurisdiction courts became state-funded. The Legislature's intent of this omnibus bill was to address the great disparity in funding levels found in

## 2020-21 Budget Change Proposal Concept

58 county court systems to ensure that all Californians would have access to justice and similar experiences across jurisdictions in resolving their legal disputes in the trial courts. The enactment of Trial Court Funding followed more than a decade of failed or deficient funding attempts by the Legislature to bring more equity to funding the trial courts. Previous initiatives in the 1980s and 1990s included block grants and realignment funds, but these solutions were critically under-appropriated and only made modest gains in addressing the funding disparities. Former Chief Justice Ronald M. George often stated that access to justice should be no different for litigants in Alpine County than for those in Los Angeles County. This sentiment was the aspirational spark for Trial Court Funding.

When Trial Court Funding became law, many financial entanglements between the counties and the state, as well as the courts and their counties, had to be addressed including the transfer of funds provided by counties for court operations to the state to offset the new financial obligations undertaken by the state. These annual maintenance of effort (MOE) payments were codified in law and used during the transition period and for many years to partially fund the courts. Some MOE payments are still made by counties today, although many have stopped due to subsequent legislative relief to underfunded counties.

In 2012, at the direction of the Judicial Council, the courts undertook the creation and development of the Workload Formula to articulate the resource needs of the trial courts based on the number of annual filings and weighting factors applied to each kind of filing. The Judicial Council commissioned a Resource Assessment Study (RAS) that collected more than one million data points to determine the average amount of time required to process each case type from filing to final adjudication. RAS developed an average number of minutes per case type and then multiplied those weighting factors by the number of filings in each case type in each court. The aggregate number of minutes for all case types in a court comprised the ‘workload’ for each court. This workload was then used to calculate how many staff were needed to process these cases, based on the annual number of work hours in a year. The Workload Formula has been in use in the courts since 2013-14 and now forms the basis for articulating the workload needs of the courts and has successfully informed the redistribution of existing and new funding to close the gap between severely and moderately under-resourced courts. The Legislature and the Judicial Council continue to address remaining inequities across the spectrum of courts.

Currently, the State does not consistently fund the trial courts based on workload metrics. The Judicial Council-approved Workload Formula has been utilized in prior years to provide additional funding, such as the \$47.8 million provided in the Budget Act of 2018. However, this formula has not been utilized consistently to make funding adjustments. In order to provide for stability of funding for the trial courts, it is proposed that the Workload Formula be recognized as the funding model for the trial courts beginning in 2020-21.

### **Justification:**

Despite efforts to achieve equity in funding related to workload, trial courts are still not fully funded. In addition, funding to maintain service levels and sustain ongoing operations of the trial courts is not addressed by the Workload Formula. Costs related to employee salaries, goods and services vendors (e.g., janitors, legal publications, per diem court reporters, office supplies, postage, technology equipment and services, etc.) and other professional contractors (e.g., trial experts, forensic services, mediators, court appointed counsel, etc.) continue to escalate and there is currently no budgetary mechanism to address these cost increases, which, over time, has resulted in less purchasing power for the trial courts and an

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ultimate erosion or elimination of some critical services. The public relies on the courts to support their infrastructure and baseline business costs to maintain access to the justice system. The public also relies on the courts to provide professionals and experts to assist them in investigating, mediating and advocating on their behalf in their own cases. These are the costs for which there is currently no inflationary factor to account for regular periodic cost increases experienced by trial courts when procuring these services. For many years, courts have been compelled to reduce and/or eliminate service levels to close the gap between available funds and escalating costs.

### **Fiscal Impact:**

This proposal will provide a \$390 million General Fund to support trial court operations. Funding includes:

1. \$340 million to fund the courts based upon the Workload Formula.
2. \$50 million to provide a percentage change adjustment, based on the Consumer Price Index, to allow for maintenance of effort consistent with many Executive Branch agencies that utilize the Consumer Price Index to obviate erosion of mandatory costs.

### **Outcomes and Accountability:**

If additional workload-based funding is provided, the trial courts will be able to:

- Stabilize service hours and days that courts are open and available to the public;
- Improve service delivery by reducing lines and case processing delays;
- Implement technological improvements; and
- Improve employee retention rates.

The provision of an annual percentage adjustment based upon CPI will assist the courts in maintaining services to the public and would prevent service reduction including:

- Reducing court hours;
- Closing court locations;
- Increased lines; and
- Case processing delays.

**Projected Outcomes:** The funding provided will benefit all 58 trial courts and will assist the courts in enhancing service levels to the public and implementing changes as identified in the Outcomes and Accountability section.

### **Other Alternatives Considered:**

**Alternative #1:** Approve the proposal as presented.

**Alternative #2:** Approve the CPI adjustment and apply a tiered approach for the workload-based funding. The funding will be implemented over a three-year period with 50 percent of the funding provided in the first year, 25 percent in the second year, and 25 percent in the third year. For 2020-21, the General Fund augmentation for workload-based funding will be \$170 million. This option would limit the courts' ability to improve services to the public.

**Alternative #3:** Approve the CPI adjustment and apply a tiered approach for the workload-based funding. The funding will be implemented over a five-year period with 30 percent of the funding provided

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in the first year, 20 percent in the second and third year, and 15 percent in the fourth and fifth year. For 2020-21, the General Fund augmentation for workload-based funding will be 113.3 million. This option would also limit the courts' ability to improve services to the public.

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**Requesting Entity:** Trial Court Facility Modification Advisory Committee

**Contact:** Karen Baker

**Date Prepared:** 04/10/19

**Budget Services Liaison:** Mike Sun

**Document Tracking Number:** Concept 20-07

**Proposal Title:** Trial and Appellate Court Deferred Maintenance Funding

**Fiscal Summary:**

Fund Source	Proposed JCC Positions	Total Personal Services	Operating Expenses & Equipment	Proposed Total 2020-21	Proposed Total 2021-22	Proposed Total 2022-23
GF			\$100,000,000	\$100,000,000		

**Detailed Funding by Fiscal Year:**

	Proposed Total 2020-21	Proposed Total 2021-22	Proposed Total 2022-23
Ongoing			
One-Time	\$100,000,000		
Total	\$100,000,000		

**Proposal Summary:**

The Judicial Council of California (JCC) requests \$100 million General Fund in 2020-21 to provide funding to address deferred maintenance in trial and appellate courts. The request supports the JCC’s strategic goals by means of sustaining court facilities at an industry level of service; thus, mitigating disruptions that could negatively affect trial and appellate courts from discharging their duties as required by statute.

The JCC’s existing \$2.8 billion deferred maintenance backlog includes building system repairs (i.e. elevators, roofs, fire/life/safety), retrofits, upgrades and other deferred maintenance activities that have been postponed due to insufficient funding. These conditions do not represent an imminent threat to the facility or its occupants, but the failure to perform preventive maintenance creates a “run to failure” basis, where maintenance or replacement is only performed when equipment has failed.

**Background Information:**

The JCC’s Facilities Services Office administers a portfolio of 467 facilities. Roughly 45% of these facilities (210) are fully managed by the JCC, 29% (136) are managed by the county; 19% (90) are leased; and 7% (31) are delegated by the JCC to either the county or the court. The portfolio includes a variety of building types: courthouses, jails, offices, parking structures and parking lots. There are a handful of additional facilities that will eventually be transferred to JCC management, as their bond debt is fully paid off.

Facilities were transferred to the JCC from counties beginning in 2007, 10 years after the Trial Court Funding Act began the process of shifting financial responsibility for support of trial courts from the counties to the state. This time lag in transfer led to facility degradation due to postponed or decreased



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maintenance. Accordingly, the facilities in the portfolio all include an extensive backlog of deferred maintenance calculated at \$2.8 million, which contributes to the challenges of bringing the facilities up to industry standards for system maintenance.

In 2018-19 the Judicial Council allocated \$65 million, \$40 million from the State Court Facilities Construction Fund (SCFCF) and \$25 million from the Immediate and Critical Need Account, to be used to fund facilities modifications in trial courts only. Facility modifications range from major repairs to renovations and system lifecycle replacements. This \$65 million in annual funding is ongoing at the current level until 2024-25 when the total amount funded from the SCFCF will be reduced to \$25 million for a total ongoing amount of \$50 million.

The JCC received one-time funding for deferred maintenance in 2016-17 (\$45 million) and 2018-19 (\$50 million) to address the failures of roofs, elevators, and HVAC systems. The 2019-20 Governor's budget proposes \$40 million to address fire/life/safety systems. Additional funding of \$100 million for deferred maintenance will allow continued efforts to address the deferred maintenance in court facilities. Failure to adequately maintain facility systems not only decreases the life expectancy of state assets, but also increases replacement costs.

### **Justification:**

The State of California's court facilities are aging and the continued lack of re-investment in facilities can lead to premature deterioration of buildings and exponentially higher repair or replacement costs. The 2019-20 JCC portfolio's deferred maintenance list provided to Department of Finance (DOF) establishes a backlog of \$2.8 billion. The deferred maintenance backlog continues to grow due to insufficient funding to address system lifecycle replacements. As a result, the JCC uses the limited ongoing funding available to address only those most urgent, prioritized building system needs. Facilities' staff review emergency repair data and direct funding toward the building systems that are currently generating the most emergencies. Facilities also considers the safety of occupants in order to prioritize project funding.

A General Fund augmentation of \$100 million for deferred maintenance will provide for repairs and replacement of some of the most urgent deferred maintenance in the Judicial Branch portfolio. Systems on the deferred maintenance backlog include roofs, elevators, HVAC, and fire/life/safety systems.

System failures create a higher cost due to the immediate need for action created by an unexpected failure and the lack of time to carefully and cost-effectively plan the repair/replacement effort. Due to insufficient funding for system lifecycle replacements, the JCC operates on a run-to-failure mode for many building systems. Failure of building systems results in an emergency event, creating higher costs, and posing the risk of court closures.

The requested funding is necessary to ensure that proper facility maintenance occurs in order to avoid costlier and earlier than expected system replacements which contribute to the increased degradation of these state-owned assets.

### **Fiscal Impact**

The one-time General Fund augmentation of \$100 million would help address those deferred maintenance projects that are creating the most frequent and expensive emergencies. Staff evaluates emergency repair

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data in order to identify those projects that should be prioritized with available funds. This strategy will minimize the rate of decay of state-owned facilities and avoid costly system failures.

### Outcomes and Accountability:

Years of insufficient maintenance are resulting in increasing system failure that threaten to keep the deferred maintenance backlog on an upward trend. A two-pronged approach of both increased maintenance and targeted investment in the systems resulting in the most emergencies will help to dramatically slow the growth of the backlog.

The Trial Court Facility Modification Advisory Committee (TCFMAC) provides ongoing oversight of the Judicial Branch Facilities Program, authorizing funding for facility modifications in accordance with the Judicial Council’s policy. The TCFMAC reviews the annual Deferred Maintenance Report and approves the submission of the report to DOF each year. The outcome of funding for deferred maintenance efforts will be evidenced by the reduction in the Deferred Maintenance Report backlog of work. As deferred maintenance work is completed, the identified effort and associated costs will be removed from the Deferred Maintenance Report as monitored by the TCFMAC and DOF.

### Projected Outcomes:

Workload Measure	2017-18 Past Year	2018-19 Past Year	2019-20 Current Year	2020-21 Budget Year
Roofing Projects	26	7		
Elevator Projects	7	19		
Building Automation Projects		27		
Fire Life Safety Projects			52	
Electrical Switchgear Projects				30
Plumbing Projects				50
Fire Protection Projects (Sprinklers)				15

### Other Alternatives Considered:

**Alternative #1:** Provide a one-time General Fund augmentation of \$65 million to address the most urgent deferred maintenance in the JCC portfolio.

**Pros:** Because of the anticipated ongoing growth in the deferred maintenance backlog with no investment, any amount of funding will help to address the backlog.

**Cons:** By not aggressively addressing the significant and extensive backlog of deferred maintenance, our facilities are less reliable. We know that system failures will occur if we don’t address the issues. These failures can disrupt court operations. Facility disruptions in general are costly, but they are more costly in courthouses due to the diversity of the occupants: judges, members of the general public and in-custody populations all are impacted.

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**Alternative #2:** Provide ongoing, annual General Fund resources of \$40 million to systematically and steadily address the deferred maintenance Backlog.

**Pros:** Reliable funding to address the most pressing needs allows for long term, cost-effective planning. The logistics of spending a lot of money in one year are more disruptive than setting up a regular plan for ongoing system rejuvenation.

**Cons:** By not aggressively addressing the significant and extensive backlog of deferred maintenance, our facilities are less reliable. We know that system failures will occur if we don't address the issues. These failures can disrupt court operations. Facility disruptions in general are costly, but they are more costly in courthouses due to the diversity of the occupants: judges, members of the general public and in-custody populations all are impacted.

**Alternative #3:** Status Quo: Do not provide a General Fund augmentation for deferred maintenance in the JCC portfolio.

**Pros:** Doing nothing appears to cost nothing and reduces demand on the general fund in the current year.

**Cons:** Failure to address deferred maintenance creates a misperception of saved resources. The long-term costs of unplanned, emergency repairs far exceed the original investments. Not addressing the needs in our portfolio will result in the continued degradation of the entire portfolio, and continued growth of the deferred maintenance backlog, which increases the risk of system failures which could result in the closure of a trial court or appellate court.

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**Requesting Entity:** Trial Court Facility Modification Advisory Committee

**Contact:** Karen Baker

**Date Prepared:** 04/10/2019

**Budget Services Liaison:** Mike Sun

**Document Tracking Number:** 20-08

**Proposal Title:** Trial Court Facility Operations and Maintenance Funding

**Fiscal Summary:**

Fund Source	Proposed JCC Positions	Total Personal Services	Operating Expenses & Equipment	Proposed Total 2020-21	Proposed Total 2021-22	Proposed Total 2022-23
General Fund	10	\$1,200,000	\$48,500,000	\$49,700,000	\$49,700,000	\$49,700,000

**Detailed Funding by Fiscal Year:**

	Proposed Total 2020-21	Proposed Total 2021-22	Proposed Total 2022-23
Ongoing	\$49,700,000	\$49,700,000	\$49,700,000
One-Time	-	-	-
Total	\$49,700,000	\$49,700,000	\$49,700,000

**Proposal Summary:**

The Judicial Council of California (JCC) requests 10.0 positions and \$49.7 million General Fund beginning in 2020-21 to provide funding for underfunded trial court facility operations and maintenance costs (O&M). Funding is required to bring operations and maintenance services up to an industry standard level of service for the entire portfolio.

On-Demand and Preventive Maintenance ensure effective and efficient facility management. Properly maintained facilities experience fewer emergency repairs and increased asset longevity. JCC relies on contracted service providers to maintain its buildings but does not have enough staff to confirm that maintenance is being done properly and thoroughly. The JCC-managed portfolio spans the state’s breadth, with courthouses in 45 of the 58 counties. The current staff to courthouse ratio is currently 1:6, but the size of the state requires extensive travel by staff to adequately oversee each facility, making it difficult to regularly ensure that work is being done at every facility.

The new field positions, likely Facilities Management Administrators, with an average pay range of \$90,000, an average cost with benefits of \$120,000, and an average total cost of \$1.2 million, will help provide oversight to ensure that portfolio maintenance is being performed by the service providers. We also propose additional funding for operations and maintenance in the amount of \$48.5 million, for a total request of \$49.7 million.

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The additional funding requested for operations and maintenance will bring the original portfolio's funding up to the International Facility Management Association (IFMA) standards and help address current shortfalls in maintenance. It also brings the staff to courthouse ratio to 1:4.8 and will help both eliminate unproductive travel time and ensure more reliable maintenance of the portfolio.

### **Background Information:**

The JCC's Facilities Services Office administers a portfolio of 467 facilities. Roughly 45% of these facilities (210) are fully managed by the JCC, 29% (136) are managed by the county; 19% (90) are leased; and 7% (31) are delegated by the JCC to either the county or the court. The portfolio includes a variety of building types: courthouses, jails, offices, parking structures and parking lots. There are a handful of additional facilities that will eventually be transferred to JCC management, as their bond debt is fully paid off.

Facilities were transferred to the JCC from counties beginning in 2007, 10 years after the Trial Court Funding Act began the process of shifting financial responsibility for support of trial courts from the counties to the state. This time lag in transfer led to some facility degradation due to postponed or decreased maintenance. Accordingly, the facilities all include an extensive backlog of deferred maintenance, which contributes to the challenges of bringing the facilities up to industry standards for security, energy efficiency, and operations and maintenance.

Senate Bill 1732, the Trial Court Facilities Act of 2002 (Stats. 2002, Ch. 1082), established both the State Court Facilities Construction Fund (SCFCF) and the Court Facilities Trust Fund (CFTF). SCFCF funds planning, design, construction, rehabilitation, renovation, replacement, leasing, or acquisition of court facilities. The CFTF was created to provide a source of funding for the ongoing operations, repair, and maintenance of court facilities by requiring each county to pay to the state the amount each county historically expended for operation and maintenance (O&M) of court facilities. These payments are known as County Facility Payments or CFPs, and the amounts paid have not been updated to reflect current costs.

In 2008, SB 1407 (Stats. 2008, Ch. 311) authorized additional fee-based revenue generation for court facility construction and authorized bonded indebtedness of up to \$5 billion for the most immediate and critical court facility construction projects. Since passage of SB 1407, the JCC has constructed 26 new trial court facilities with ten more courthouses underway.

The Facility Services has 34 positions dedicated to facility operations. The JCC-managed portfolio spans the state's breadth, with courthouses in 45 of the 58 counties. The current staff to courthouse ratio is 1:6, but the size of the state requires extensive travel by staff to adequately oversee each facility, making it difficult to regularly ensure that work is being done at every facility. The improved ratio of staff to courthouse of 1:4.8 will help validate that preventive maintenance is being performed in portfolio. The additional staff will be assigned to one courthouse as a home base and their portfolio will include additional facilities to oversee on a regular basis to confirm performance of maintenance.

The 2019-20 Governor's Budget proposes an augmentation of \$20.15 million for operations and maintenance funding for a portion of the portfolio. This augmentation is specifically for an additional 2.9 million square feet (net) of space in the current portfolio, which resulted from new construction projects

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authorized by SB 1732 and SB 1407. The proposed augmentation of \$20.15 million is based on IFMA's 2017 rate of \$6.90 per square foot for maintenance and utilities. Trial court facilities from the original portfolio comprise 17.63 million square feet and are funded at \$4.15 per square foot, with no mechanism for increasing the funding level to industry standard levels for effective maintenance of the State's assets.

### **Justification:**

Failure to adequately fund O&M leads to further reductions in the level of facility maintenance. Without the recommended maintenance, major building systems fail. Failures of these systems create massive disruptions to the administration of justice. When key HVAC, vertical transportation, and electrical equipment (major equipment) fail, it can force the closure of a courthouse. The presence of members of the general public, in-custodies, and judicial branch staff make failures of this kind particularly disruptive and dangerous. Additionally, the cost to replace major equipment in turn consumes a larger portion of the annual Facility Modification (FM) budget, meaning that planned FM projects have to be postponed or cancelled in order to fund the emergency repairs.

Regular, ongoing maintenance is also called Preventive Maintenance (PM) because it helps ensure that premature system failures are prevented. The current JCC O&M allocation does not adequately fund a sufficient PM program for maintenance of the JCC's assets to manufacturer-recommended and industry-standard service levels. To both preserve the initial investment and prevent costlier investments in emergency repairs, major rehabilitation, and early replacement, facility managers must not defer needed maintenance and repairs.

An inadequate PM program results in a "run to failure" mode and negatively impacts the life of the asset. The JCC is paying for major repairs earlier, when the life of the asset could have been prolonged with proper maintenance. This request supports the JCC's strategic goals by means of sustaining court facilities at an industry level of service equal to the manufacturer's recommendation.

Rising utility costs add a layer to the complexity of allocating limited O&M resources. Since 2010-11, the JCC experienced an average increase of 12.3% in utility expenditures. JCC utilities are a fixed overhead expense, and cannot be deferred for insufficient funding, like a PM program.

This underfunding combined with rising utility costs, results in fewer resources available for repairs and preventive maintenance tasks. This work is foundational to the work of the Judicial Branch. Our mission is to ensure that every courthouse be as uniformly well-constructed and maintained as possible with respect to the essential components which make a building inhabitable. Without a fully functional court facility, there is no equal access to justice. This funding request will help us comply with the originating legislative directives that resulted in the creation of the Facilities Services Office and to ensure that the courthouses are uniformly functional across the state. Our current understaffing prevents us from holding service providers accountable for properly maintaining our facilities. The size of the state makes access to all of the facilities in the portfolio time-consuming if extensive travel is required. More staff that can be located at remote facilities will greatly improve our ability to ensure that proper maintenance is being performed.

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### Fiscal Impact:

The JCC utilized the IFMA’s formula for estimating costs related to operations and maintenance. Projected costs were calculated by applying 2017 IFMA cost breakdowns for maintenance and utilities, and average cost per square foot.

The estimated cost for this request is \$49.7 million which includes \$1.2 million for additional staffing and \$48.5 million to bring the O&M up to the IFMA standard. The calculation is based on the industry-standard funding level of \$6.90 per square foot times the square footage of the entire portfolio (\$141.8 million) and then subtracting the existing funding of \$73.2 million for the original portfolio and the proposed funding of \$20.15 million in 2019-20 Governor’s Budget for the new square footage. The portfolio includes 17.63 million square feet that are funded at only \$4.15 per square foot rather than at \$6.90 per square foot.

	IFMA 2017 Average Cost per Square Foot	Total Current JCC Facilities Square Footage (net) <sup>[1]</sup>	Portfolio Funding Level Recommended by IFMA	New JCC Facilities Square Footage (net)	IFMA Level funding for new space (2019-20 Governor's Budget)	Current Available Funding for 17.63 million square feet	Operations & Maintenance Funding Gap
	a.	b.	c.	d.	e.	f.	= c - e - f
Maintenance	\$3.81	20.55 million	\$78.3 million	2.92 million	\$11.13 million	\$39.8 million	\$27.37 million
Utilities	\$3.09	20.55 million	\$63.5 million	2.92 million	\$9.02 million	\$33.4 million	\$21.08 million
<b>TOTALS:</b>	<b>\$6.90</b>		<b>\$141.8 million</b>		<b>\$20.15 million</b>	<b>\$73.2 million</b>	<b>\$48.45</b>
	<b>million</b>						

	FTE	Annual Cost <sup>[3]</sup>	Total
Staff Oversight <sup>[2]</sup>	<b>10</b>	\$120,000	<b>\$1,200,000</b>

[1] The JCC Portfolio may fluctuate from year to year as properties become inactive due to termination of leases, transfers and sales, etc.

[2] Inclusive of proportionate Facilities Services staff in support of additional maintenance funds, to ensure quality assurance and fiscal oversight.

Positions would include Facilities Operations Supervisors and Facilities Administrators

[3] Average cost per year, per employee, inclusive of salary, health, and benefits

### Outcomes and Accountability:

The JCC tracks the number of routine PM and unscheduled emergency maintenance work orders that are completed to assess the management and oversight of the trial court facilities O&M program. This reporting ensures adherence to performance standards, PM schedules and quality control requirements.

The requested additional staff will provide the quality assurance, field verification, and fiscal oversight of the funding.



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In addition, compliance to federal, state and local codes, and regulations avoids exposing the State to fines and possible building closures or disruptions to court services. JCC facilities will continue to age and require additional service calls at a rate that may exceed our financial ability to repair/replace them. The program will generate reports from the implemented PM program’s outcomes as listed below:

- Reductions in the total cost of emergency maintenance.
- Fewer urgent and emergency interruptions to operations due to equipment breakdowns.
- Increases in the volume of work that can be planned and scheduled repetitively.
- Decrease in high priority, randomly occurring and unscheduled work.
- Reduced unnecessary damage or replacement needs to facilities equipment.

The JCC’s existing control protocols for O&M assessments, approvals and ongoing reviews will ensure appropriate use of the requested funding. Continued monthly review will contribute to the accountability and monitoring of activities—through monthly budget and financial reporting.

**Projected Outcomes:**

Workload Measure	2017-18 Past Year	2018-19 Past Year	2019-20 Current Year	2020-21 Budget Year
Preventative Maintenance	48,878	50,066	51,287	52,544
Unscheduled Maintenance	18,933	17,824	16,619	15,346

Increased Preventive Maintenance has an inverse relationship to unscheduled (reactive) maintenance. This chart shows how additional funding for preventive maintenance will grow in the Current and Budget Years and the unscheduled maintenance (aka On Demand or emergency) will decrease.

**Other Alternatives Considered:**

**Alternative #1:** Provide ongoing funding for five oversight field positions in the amount of \$600,000 and a general fund augmentation of \$40 million to support utilities costs and partially fund routine and preventive maintenance actions for the existing portfolio.

**Pros:** This alternative would provide some of the needed additional oversight capacity. It would also help to address the imbalance in the current situation with unscheduled emergencies getting ahead of preventive maintenance. Investing in preventive maintenance avoids future higher cost repairs.

**Cons:** This alternative does not provide significant additional staffing for oversight of the program. We consider the additional staffing to be essential to ensure that proper and timely maintenance of our



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facilities occurs. Additionally, due to continued underfunding, this alternative will result in the continued degradation of the portfolio.

**Alternative #2:** Provide an ongoing general fund augmentation of \$30 million to support increasing utilities costs and minimally fund routine and preventive maintenance actions for the existing portfolio.

**Pros:** This alternative would help to address the imbalance in the current situation with unscheduled emergencies getting ahead of preventive maintenance. Investing in preventive maintenance avoids future higher cost repairs.

**Cons:** This alternative does not provide any additional staffing for oversight of the program. We consider the additional staffing to be essential to ensure that proper and timely maintenance of our facilities occurs. Additionally, due to continued underfunding, this alternative will result in the continued degradation of the portfolio.

**Alternative #3:** Provide an ongoing general fund augmentation of \$21.08 million to support the utilities costs associated with the existing portfolio.

**Pros:** This alternative provides a minimal level of resources to address the imbalance in the current situation with unscheduled emergencies getting ahead of preventive maintenance. Investing in preventive maintenance avoids future higher cost repairs and some funding is better than no funding.

**Cons:** This alternative does not provide any additional staffing for oversight of the program. We consider the additional staffing to be essential to ensure that proper and timely maintenance of our facilities occurs. This alternative will not provide resources to fund routine maintenance at the industry standard and will result in the continued degradation of the portfolio, eventually affecting the day-to-day operations of court facilities, to a point where one or more facilities will have to be temporarily closed because of a building system failure.

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**Requesting Entity:** Judicial Council Technology Committee

**Contact:** John Yee and Virginia Sanders-Hinds

**Budget Services Liaison:** Nadia Butler

**Date Prepared:** 4/29/2019

**Document Tracking Number:** 20-10

**Proposal Title:** Electronic (Intelligent) Judicial Council Forms Solution

**Fiscal Summary:**

Fund Source	Proposed JCC Positions	Total Personal Services	Operating Expenses & Equipment <i>One-Time</i>	Operating Expenses & Equipment	Proposed Total 2020-21	Proposed Total 2021-22	Proposed Total 2022-23
General Fund	5.0	922,000	57,000	110,000	1,089,000	1,032,000	1,032,000
General Fund	N/A	0	809,000	90,000	899,000	90,000	90,000
	<b>Total:</b>	<b>922,000</b>	<b>866,000</b>	<b>200,000</b>	<b>1,988,000</b>	<b>1,122,000</b>	<b>1,122,000</b>

**Detailed Funding by Fiscal Year:**

	Proposed Total 2020-21	Proposed Total 2021-22	Proposed Total 2022-23
Ongoing Staffing	1,032,000	1,032,000	1,032,000
One-Time Operations	866,000	0	0
Ongoing Operations	90,000	90,000	90,000
<b>Total:</b>	<b>1,988,000</b>	<b>1,122,000</b>	<b>1,122,000</b>

**Proposal Summary:**

The Judicial Council requests 5.0 positions and \$1.988 million General Fund (including \$866,000 in one-time funding and \$1.122 million in ongoing annual funding) beginning in 2020-21 to support the implementation and deployment of a branch-wide solution for Intelligent Forms. The one-time funding is to procure a solution (including hardware and software) for the modernization of Judicial Council forms. The ongoing request is to fund five positions and the annual maintenance of the system.

The modernization of Judicial Council forms to intelligent forms (e-forms) is critical to achieve the goal of the Digital Court. The cornerstone of a digital court system is the ability to gather data, from filer to the court, and from court to the filer, creating efficiencies not only for the court but the public as well. Judicial Council Forms are the required mechanism for communicating legal needs and wants to the court, either through paper or through a static Portable Document Format (PDF). The current solution does not permit the use of data included in the form, which creates redundant data entry for the courts and the public. Until we can change the static nature of our current Portable Document Format (PDF) forms, a technology developed more than 20 years ago, achieving the digital court will be impossible. Among the many benefits of intelligent forms are: ability to fill forms via mobile device, ability to send data electronically to courts, ability to interact with Chat and interactive tool tips to help fill in the forms, and ability to automate form fields to reduce redundant data entry.

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To achieve the goals of the Digital Court, an investment is required in both technology and technical staff to upgrade our solution to enable the production of forms that can display on phones, tablets, and other devices and allow for the exchange of data collected from filers and the courts.

### **Background Information:**

The first goal of the *Strategic Plan for California's Judicial Branch* and the *Strategic Plan for Technology 2019 -2022* is access to justice. With the understanding of the critical nature of forms to the judicial branch, Judicial Council Information Technology (JCIT) office and the Information Technology Advisory Committee (ITAC), created an Intelligent Forms workstream to evaluate the current status of Judicial Council forms and provide recommendations moving forward with Judicial Council forms. The workstreams scope included technical solutions and solutions for self-represented litigants.

In May 2017, the workstream examined the use of court forms and investigated options for modernizing the electronic format and delivery of Judicial Council forms. The workstream conducted an analysis of forms usage across the branch and developed a report based on how forms are currently used and the impact they have on the administration of justice. The final report provided recommendations for how to address the key concerns and issues identified by the workstream, specifically, ways in which to achieve a possible solution.

The Intelligent Forms workstream identified multiple challenges with the current forms' solutions and recommended forms modernization.

- There is no mechanism to ensure the integrity of Judicial Council forms.
- Judicial Council forms are not compatible with existing data sources.
- Judicial Council forms are not consistently accessible for people with disabilities.
- Forms are updated frequently, but certain changes are not well documented. It is difficult to isolate form errors, metadata issues, or vendor bugs.
- Forms are static, which can render them less effective for courts and litigants. Static PDFs are also less effective in terms of e-filing, as courts with different Case Management Systems (CMSs) cannot currently absorb data from forms, but instead store them as documents and then manually input data into the CMS.

In addition to the problems identified by the workstream, the current technology solution for managing Judicial Council forms will reach end of life within the next two years. The next generation of the current solution is a significantly more complex and cumbersome that requires specialized technical expertise and extensive training to become proficient. To address the problems listed above and keep pace with our changing court needs, a more agile solution is required.

This proposal is seeking to modernize Judicial Council forms and provide a path for a long-term solution, (including both software and hardware) for the development of new forms and the maintenance of existing forms. The Intelligent Forms program will enable the Judicial Council Technology Office to select and deploy the tools and services necessary to support a branch-wide forms solution. The means by which the forms are developed and the way in which the forms are used

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will both serve to improve the efficiency by which forms are developed and service provided by the availability of intelligent forms.

### **Justification:**

Judicia Council forms are the first required step when initiating or communication with any court in California. They are the key elements to any court case, per the California rules of courts. Court forms are the most frequent point of contact that the public has with the Judicial Council of California. The browse forms page on the Judicial Council website was accessed 4.8 million times in 2018. That represented 5.98 million forms. In 2016, 92% of the downloads from the Judicial Council website were forms.

Forms contain data that is repeatedly used throughout the judicial process. This data is required to fill in multiple forms set as required by a case, for case management systems and are used to gather information from various systems. The current Judicial Council forms are static in nature and the data cannot be reused or provide to a court. Court users have long complained about the requirement to enter like information multiple times. The current form solution does not have the capability to address these issues. A well-designed forms solution elicits only the information required for a specific action and does so in an easily accessible and understandable format.

The current solution impacts all users of the Judicial Council forms, including:

- Courts use Judicial Council forms but have no mechanism to take the data from forms and automatically update their CMS. This process must be done manually by court clerks, creating additional workload, that can be resolved with better technology.
- Attorneys use forms to communicate with the court and other parties on behalf of their clients. New forms solution will provide a convenient vehicle for communicating the complex and highly specialized information more efficiently to the courts.
- Self-represented litigants use Judicial Council forms to initiate and complete actions in court. In 2014 a survey of California Courts website users, 37% of the respondents who were seeking self-help resources said that they needed help with legal forms. An overwhelming 86% of self-help seekers responded that they wanted step-by-step instructions for completing forms. A new forms solution would address this growing need in California Courts.

This proposal is seeking to modernize Judicial Council forms by:

- Certifying Judicial Council forms to allow users to quickly identify them as the current approved version
- Making forms compatible with mobile devices and all browsers
- Making forms consistently accessible
- Implementing and communicating form updates by using versioning
- Making forms flexible, so that the end user is only presented with the questions relevant to them based on their answers
- Allowing for data integration by courts, justice partners and others

Absent this service the courts, attorneys, and the public will face challenges in adapting to ongoing changes in forms due to new laws and regulations without the ability for more rapid turnaround and delivery dates. Additionally, without a statewide solution courts may be drawn to developing local

## 2020-21 Budget Change Proposal Concept

solutions which serve to increase the number of versions the courts, attorneys, the public and vendors must learn and adapt to.

A statewide solution provides an opportunity to increase efficiency by providing a standard format where information is presented in a predictable and easily identifiable manner. All users would benefit from forms that can be quickly filled out, and easy to understand when searching for key information. Forms can be pre-populated through systems integration, for example, with the case management system. Data can be electronically exchanged between the case management system and Intelligent forms, reducing data entry for the users.

The proposed request seeks to address the needs and achieve a solution for statewide intelligent electronic forms.

### **Fiscal Impact:**

To estimate the costs for the Intelligent Forms initiative, Judicial Council staff considered the need for program staffing, software and hardware, and professional services.

The estimates for staffing were derived based on costs for full-time equivalent positions, including salary, benefits, and associated operational costs. To initiate the program, \$1.988 million is required to establish 5.0 new positions and to fund the modernization and transformation of Judicial Council Forms, including software, hardware and professional services. The ongoing funding of \$1.122 million is required to fund the annual cost of positions and system maintenance.

- The staffing proposed for the BCP represents the team which would develop and administer the program, providing support at a branch-wide level.
- The Manager would provide oversight for the program, including financial and operations, ensuring adherence to program goals and objectives.
- The Attorney would have responsibility for drafting the forms on behalf of the advisory committees; conducting research on legislations, rules and practices to ensure legal compliance.
- The Architect would design and oversee the technical buildout of the environment to ensure compatibility and adaptability across a diverse universe of tools and technologies.
- The Technical Analyst would build the templates and guide the technical implementations of the tool sets based on the requirements supplied by the Business Systems Analyst, who will work with the courts to define their needs and conduct training as needed.

### **Outcomes and Accountability:**

- To evaluate the outcome and impact of the program, baseline metrics will be established for multiple service areas and those metrics will be used to gauge progress and improvements over the course of the program. Project will be measured by the following Outcomes:
- Solution selected meets defined form solution requirements by 80%, other 20 % must have a solution defined
- Forms conversion can be completed within three years
- New forms development can be achieved by mandated legislative dates
- Self-Represented Litigant's (SRL's) successful navigate and submit electronic documents to courts, with one-time data entry and elimination of Courts manual data entry.

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### Projected Outcomes:

Workload Measure	2019-2020	2020-2021	2021-2020
Establish new Forms Soution	Requirements gathering for Forms solution	RFP, Select and Implement new forms solutions	
Forms Conversion		Convert 50 most commonly used forms	Selected Case type and convert forms by case type
SRL Forms Solution	Requirements gather for SRL Forms solution	Investigate and validate existing or new Solution for SRL	

### Other Alternatives Considered:

**Alternative 1:** (Recommended). Approve 5.0 positions and \$1.988 million General Fund (including \$866,000 in one-time funding) beginning in 2020-21 to support the implementation and deployment of a branch-wide solution for Intelligent Forms. The one-time funding is to procure a solution (including hardware and software) for the modernization of Judicial Council forms. The ongoing request is to fund five positions and the annual maintenance of the system.

#### Pros:

- The ability to fill in forms via a mobile device
- Ability to send data electronically to courts
- Ability to interact with Chat and interactive tool tips to help fill in the forms
- Ability to automate form fields to reduce redundant data entry \
- Creates a diverse set of tools to meet the needs of courts of all sizes, with different operating requirements

#### Cons:

- Expense to the state to create an automated, data driven intelligent forms program
- The design and development process will require an extended implementation timeline.

**Alternative 2:** Establish a Master Services agreement with one vendor and allow each court to establish a Leveraged Procurement Agreement (LPA) and procure services to enable development of local forms. Projected cost of \$560K for two contractor resources to develop and administer the Request for Proposal, and work with staff to execute the Master Services agreement.

#### Pros:

- A single vendor and central point of contact for services.
- The ability to fill in forms via mobile device,
- Ability to send data electronically to courts,

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- Ability to interact with Chat and interactive tool tips to help fill in the forms, and
- Ability to automate form fields to reduce redundant data entry.

### Cons:

- Unknown costs due to each county's individual needs
- Inconsistent forms experience from each county
- Cannot ensure that Judicial Council forms are being updated properly, since contract is with each county and not the Judicial Council
- Procurement and maintenance cost may be cost prohibitive for some courts.
- Lack of control over standards and the ability to establish a certification process

**Alternative 3: Status Quo.** Do not fund request— This is the do-nothing approach which will incur costs going forward as the branch attempts to respond to the changes in technologies and the limitations of existing solutions.

### Pros:

- No transition costs will be incurred as the council will simply continue to provide static PDFs

### Cons:

- Judicial Council forms will stagnate using the most basic technology possible and continue to use static PDF forms
- Litigants will be unable to access forms from mobile devices.
- Courts will continue to dedicate staff time to manually input data into local CMSs.
- Providing auto-fill capabilities or data re-use to litigants will not be an option.
- Any new technology deployed such as chatbots and voice-to-text transcription cannot be leveraged against the current state of static PDF forms.
- Judicial Council forms will remain vulnerable to bad actors changing content and functionality of existing forms.

## 2020-21 Budget Change Proposal Concept

**Requesting Entity:** Judicial Council Technology Committee  
**Contact:** Heather Pettit  
**Budget Services Liaison:** Nadia Butler

**Date Prepared:** 4/24/19  
**Document Tracking Number:** 20-11

**Proposal Title:** Productizing California Court Innovation Grants

**Fiscal Summary:**

Fund Source	Proposed JCC Positions	Total Personal Services	Operating Expenses & Equipment One-Time	Operating Expenses & Equipment	Proposed Total 2020-21	Proposed Total 2021-22	Proposed Total 2022-23
General Fund	6.0	\$1,048,000	\$66,000	\$127,000	\$1,241,000	\$1,175,000	\$1,175,000
General Fund	N/A		\$5,157,000		\$5,157,000		
Total General Fund		\$1,048,000	\$5,223,000	\$127,000	\$6,398,000	\$1,175,000	\$1,175,000

**Detailed Funding by Fiscal Year:**

	Proposed Total 2020-21	Proposed Total 2021-22	Proposed Total 2022-23
Ongoing	\$1,175,000	\$1,175,000	\$1,175,000
One-Time	\$5,223,000	\$0	\$0
Total	\$6,398,000	\$1,175,000	\$1,175,000

**Proposal Summary:**

The Judicial Council of California requests 6.0 positions and \$6.398 million General Fund (including \$5.223 million in one-time funding and \$1.175 million in on-going annual funding) beginning in 2020-21 to develop and deploy a branch-wide strategy and solution that will enable the productization (implementation and deployment) of technologies that were developed by local courts from the California Court Innovations Grants Program. In order to accommodate this need, a new technology stack/framework must be created to incorporate these individual projects into a statewide solution. This new branch-wide framework is called “Courtstack”.

In addition, this funding will be used to develop two solutions that would lend the most value and future growth for the courts, the Court Mobile application, where local court services can be accessed through a mobile device; and Court Access where court constituents can access key case information from all courts through a single portal hosted by the Judicial Council.



## 2020-21 Budget Change Proposal Concept

### **Background Information:**

The courts in partnership with the Judicial Council Information Technology (JCIT) office began an initiative in 2018 to address the need to take the single court solutions that were funded by court technology innovations grants and deploy them to other jurisdictions/courts. It was determined that the productization of innovations grants by building CourtStack, as an initiative will extend court technology solutions to courts throughout the state who are interested in utilizing these technologies. This initiative will solve technology and resource challenges for courts that are unable to build/deploy similar solutions yet will allow courts to build and maintain solutions that are county specific.

The CourtStack program is a collaborative initiative that was developed by the trial courts and the JCIT team. The founding courts are Santa Clara (Chair/Lead), Los Angeles, Orange and Monterey. While the founding courts have done a great job of defining the goals of the initiative and designing the architecture with JCIT, the collaboration has recognized the need for additional development resources for product standardization and CMS integration, as well as a sustainable support model to roll out solutions to all interested courts.

### Goals and Objectives of Program:

- To productize individual court innovations so that all courts utilize them and provide additional services to the public.
- To establish an easy to use, integrated suite of products that advances the digital court and is well aligned with the branch's strategic plan and technology initiatives.
- To establish a reliable branch wide digital platform that is compliant with security standards, and common reusable components and services
- To establish a digital ecosystem that fosters technical innovation within the branch and the vendor community

The workgroup evaluated several of the innovation grant projects and determined the two solutions that would lend the most value and future growth for the program are the Court Mobile application, where local court services can be accessed through a mobile device; and Court Access where court constituents can access key case information from all courts through a single portal hosted by the Judicial Council. Each of the court solutions have key components, including security/identity, case data, and court services, which are elements necessary for any new solution to be implemented at other courts. They have been determined to be the furthest and most complete for the new branch-wide framework.

### **Justification:**

In 2016, the legislature provided the Judicial Branch with funding for technology innovations grant program. In 2017, the Judicial Council awarded technology innovations grants to courts throughout the state. These grants were multiyear and one-time funded through the state budget to each of the participating grant courts. These grants helped incubate a number of technical concepts and solutions for individual courts that aligned with branch strategic technology goals. Within the first two years, the Judicial Branch has seen many successful projects emerge from grant courts and many of these solutions

## 2020-21 Budget Change Proposal Concept

have helped to create court efficiencies and to provide better access to court services. Unfortunately, as the technology was developed as a solution by a single court, it has been difficult to deploy to other courts with like needs. To deploy these solutions beyond the single court proof of concept, a software development team, significant amounts of time, and additional financial resources are needed, which poses substantial barriers and challenges for courts attempting to implement these new solutions

This initiative will extend innovation grant solutions to all courts that are interested with these new technologies This will provide a standard implementation framework and solve many of the technical challenges seen while trying to deploy at different entities.

The lead courts and JCIT have taken on the initial effort to create the concept design and have made progress where it coincides with existing innovation grants, local court priorities and other branch wide initiatives. However, to achieve the branch wide mission, vision, and goals, additional funding and resources are needed.

### Benefits to The Branch

#### *Strategic*

- Transform courts and the way information is processed and managed
- Strengthens the courts' ability create services for the public through the digital court
- Creates a connection point with all case management system (CMS) that will foster innovation among the courts and vendors.
- Provides consistency of services throughout the state, providing equal access to justice

#### *Operational*

- Will make minimally viable solutions available to all courts, while allowing larger courts to tailor the solutions to their needs.
- Courts have the flexibility to pick and choose what solutions work for them and their constituency, without being locked into a particular vendor/solution

#### *Financial*

- Will provide solutions to courts that do not have funding to develop their own solutions.
- Facilitates software reuse across courts.
- Uses existing grant funding to build proof of concept solutions

### **Fiscal Impact:**

The estimates for staffing were derived based on costs for full-time equivalent positions, including salary and benefits. To initiate the program, funding requirements are \$1.24 million, representing the cost for salaries and benefits and initial staff equipment expenditures. The estimated one-time expenditure of \$5.223 million represents costs for the development and deployment of a branch wide strategy for productizing two California Court Innovations Grants, Court Access and Court Mobile, across 25 or more courts. The ongoing annual expenditure of \$1.175 million represents ongoing full-time equivalent positions.

## 2020-21 Budget Change Proposal Concept

### Court Integration Services

CourtServices (Virtual CMS)	Consulting Services (Courts)	Consulting Services (JC)
CMS 1	\$671,000	
CMS 2	\$671,000	
CMS 3	\$671,000	
CourtIdentity (Azure AD Abstraction)		\$113,500
CourtPay	\$227,000	
CourtConnect	\$217,000	\$227,000
	<b>\$2,457,000</b>	<b>\$340,500</b>
<b>Sub-total</b>	<b>\$2,797,500</b>	

Application Productization	Consulting Services (Courts)
CourtHub (Foundational - All Apps)	\$671,000
CourtMobile App	\$444,000
CourtAccess	\$869,000
CourtSearch	
CourtDoc	
CourtPay (UI)	
<b>Sub-total</b>	<b>\$1,984,000</b>

Cloud Application Hosting	<b>\$375,000</b>
<b>One-Time funding (Over two years)</b>	<b>\$5,156,500</b>

### Outcomes and Accountability:

The initiative will be measured in the following methods:

- Number of Courts participating in solution deployment
- Number of services available for court/public use
- Number of court users accessing services
- Services being leverages for other technology solutions
- Validations that solution meets security requirements and guidelines
- Ability to rapidly deploy solutions/services to interested courts

### Projected Outcomes:

Task	FY 20-21	FY 21-22	FY 22-23
Deployment of Branch wide Identity	Four Pilot courts implement branch wide identity	10 court implement branch wide identity	25 court implement branch wide identity
Development of Court Case Access- One Case Type	Four Pilot Courts Deploy Court Case access	10 Courts deploy Court Case Access	25 Courts deploy Court Case Access
Development of Court Case Access- Two Case Types		Four pilot court deploy Case Access	10 Courts deploy court case access
Development of Court Mobile App - one service	Four Pilot Court deploy court mobile app	10 court deploy court mobile app	25 courts deploy court mobile app
Development of Court Mobile App-two services		Four pilot court deploy mobile app V2	10 court deploy mobile app V2

## 2020-21 Budget Change Proposal Concept

### Other Alternatives Considered:

**Alternative 1- Recommended, Fund branch wide development and deployment of two innovation grant solutions.** Approve 6.0 positions and \$6.398 million General Fund (\$5.223 million in one-time funding and \$1.175 million in on-going funding) beginning in 2020-21 to develop and deploy a branch-wide strategy for productizing of technologies that were developed by local courts from the California Court Innovations Grants Program.

#### Pros:

- Maximizes use of technology innovation grant funding
- Provides access to all courts across the state to grant solutions
- Creates a standard support and maintenance strategy for on-going and future court developed technology solutions.
- Meets statewide requirement for security and compliance

#### Cons:

- Requires commitment of General Fund resources.

**Alternative 2- Fund Productization of two solutions for Pilot Courts.** Approve \$4.9 million General fund (\$ 3.1 million in one-time funding and \$1.8 million in on-going annual funding) beginning in 2020-21 to implement two innovation grant solutions, Court Access and Court Mobile to four pilot courts over two years.

#### Pros:

- Requires smaller commitment of General Fund resources than proposed solution.
- Ability to validate program with pilot courts

#### Cons:

- Courts will not see the advances of a branch wide solution. Benefits will only be for courts that are currently developing the innovation grants
- Solution needs may not represent the needs of courts other than the founding courts
- Does not provide same or similar access to court services through the state

**Alternative 3- Status Quo.** Do not fund the request. Courts that received court technology innovations grants can make their existing solutions available to other courts, but the receiving courts would need to hire programming resources and would take significant time for customization and integration for each courts CMS.

#### Pros:

- No additional cost to State

#### Cons:

- Judicial Branch will not receive economies of scale by standardizing solutions for use across the branch
- If resources are not available, courts will be less likely implement or deploy innovation grant solutions
- Costs for deployment branch wide will increase exponentially with each court who decides to implement the solution
- Solutions may not adhere to branch wide security standards

## 2019-20 Budget Change Proposal Concept

**Requesting Entity:** Judicial Council Technology Committee  
**Contact:** Donna Keating  
**Budget Services Liaison:** Nadia Butler

**Date Prepared:** 4/12/2019  
**Document Tracking Number:** 20-12

**Proposal Title:** Next Generation Hosting Consulting Services for Data Center

**Fiscal Summary:**

Fund Source	Proposed JCC Positions	Total Personnel Services	Operating Expenses & Equipment One-Time	Operating Expenses & Equipment	Proposed Total 2020-21	Proposed Total 2021-22	Proposed Total 2022-23
General Fund	3.0	478,000	32,000	63,000	573,000	541,000	541,000
General Fund	C&P Services		1,248,000		1,248,000	624,000	
	Total:	478,000	1,280,000	63,000	1,821,000	1,165,000	541,000

**Detailed Funding by Fiscal Year:**

	Proposed Total 2020-21	Proposed Total 2021-22	Proposed Total 2022-23
Ongoing	\$541,000	\$541,000	\$541,000
One-Time	\$1,280,000	\$624,000	\$0
Total	\$1,821,000	\$1,165,000	\$541,000

**Proposal Summary:**

The Judicial Council of California (JCC) requests 3.0 positions and \$1.821 million General Fund in 2020-21 (including \$1.28 million in one-time funding), \$1.165 million in 2021-22 (including \$624,000 in one-time funding), and \$541,000 in ongoing annual funding beginning in 2022-23 to implement the recommendations outlined in the Next Generation Hosting Framework (NGH). This request will build an Information Technology (IT) consulting program for courts data center operations. The program will be staffed with one Senior Business Analyst to manage the program and two Senior Technical Analysts to manage court projects. Judicial Council Information Technology will build the program with the use of contractor services for the first two years. Once the program and playbook have been established, JCIT will take full ownership of the program with the three new staff. The program will provide support and expertise to courts on Data Center Hosting solutions and strategies. Funding will be used to implement the methodology and playbook for courts to execute branch level recommendations developed by the Information Technology Advisory Committee’s (ITAC’s) NGH and DR workstreams. This proposal will provide support to courts by implementing innovative solutions for data center hosting. As technology changes we will continually evaluate new technologies and determine how and what to phase into the current program. The first two years will be spent on refining the playbooks for a set of varying size

## 2019-20 Budget Change Proposal Concept

courts and business needs. This will enable the judicial branch to utilize consistent, best practice framework guidelines and provide standardized services across multiple courts.

### **Background Information:**

In 2016, the ITAC created workstreams for Next Generation Data Center Hosting and Disaster Recovery, recognizing that courts were at varying levels of maturity in next generation data centers and application service delivery. The result of those workstreams are recommendations that provide guidelines to courts making decisions regarding technology solutions for data centers based on the courts' business needs, including business service levels. Service models may vary based upon the business need, geographic location, and available funding. The program will provide a mechanism to evaluate the best practices, methods, and technologies available for modernized solutions for data center services.

### **Justification:**

Based on the results of surveys conducted from the ITAC workstreams, next generation hosting and continued service delivery were identified as part of many courts' primary need areas. A key finding across many of the courts is lack of expertise and resources in planning these initiatives. Many courts throughout the state contend with regional issues that lend to a lack of resources and other technical challenges, requiring more innovative solutions to meet the NGH data center requirements. Over the last year, JCIT has been asked to assist four courts with these efforts. This proposal will work with courts, utilizing the NGH and DR frameworks, to refine common service level definitions and expectations, and to take advantage of new technologies available to the branch. This program will consult with courts on their technology and business needs as they evolve their data center initiatives. Once program consulting services and recommendations are complete, courts will be able to leverage Master Service Agreements (MSA's) negotiated with hosting and failover solution providers for critical applications including: court case management systems, public service portals, jury systems, DMV, payroll, financial, email systems and web services. This funding request is in direct support of Goal 3 under the *Strategic Plan for Technology 2019-2022*, to *Advance IT Security and Infrastructure*, specifically Objective 3.3: ensure that critical systems, infrastructure hardware, and data can be recovered in a timely manner. It also has a direct impact on the branch's ability to accomplish another of its strategic technology goals: invest in modern, scalable, and cost-effective solutions that provide enhanced public access to the courts, enable data sharing among the courts, and promote collaboration across the judicial branch.

### **Fiscal Impact:**

Included in this request is funding for 1.0 Senior Business Systems Analyst to provide program support for several initial court assessments and implementations of data center hosting solutions. This position would also administer multiple statewide vendor contracts and Master Services Agreements (MSA's), coordinate procurement of services, develop Requests for Proposals (RFP's), and provide guidance for several proof of concept NGH services to the courts. Also included is a request for 2.0 Sr. Technical Analyst positions to work directly with two or more pilot courts to assess their current infrastructure and to provide technical expertise and strategic assistance in the implementation of scalable, robust, and cost-effective hosting solutions that are suitable for each court's technology environment. To estimate the consulting costs associated with this request, the calculation is based on utilizing four consulting resources in year one, full time, at a blended rate of \$150 an hour to support a four-court engagement in parallel, with a six to nine-month engagement period and a mix of project management resource types. 2021-22 estimates are based on utilizing two consulting resources while ramping down the services.

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**Outcomes and Accountability:**

Success of this program will be determined by:

- Number of courts requesting consulting services for next generation data center solutions
- Courts ability to meet recommended data center service levels
- Courts ability to budget and plan for new data center technologies
- Courts ability to successfully mitigate a catastrophic event

**Projected Outcomes:**

Workload Measure	2017-18 Past Year	2018-19 Past Year	2019-20 Current Year	2020-21 Budget Year
<b>Number of Courts Assessed</b>	N/A	1	1	3-4

**Other Alternatives Considered:**

**Alternative # 1-Recommended Option.**

Approve 3.0 positions and \$1.821 million General Fund in 2020-21 (including \$1.28 million in one-time funding), \$1.165 million in 2021-22 (including \$624,000 in one-time funding), and \$541,000 in ongoing annual funding beginning in 2022-23 to implement the recommendations outlined in the Next Generation Hosting Framework (NGH).

**Pros:**

- This approach would create a program that serves the courts future needs for data center hosting solutions.
- Overall costs would be less than proposed alternatives utilizing third party vendor professional services or building consulting service from within JCIT.
- This approach would create a ramp up period to provide a full range of range of operational support services,
- More courts will be able to take advantage of the framework and tools created by the workstreams and be able to leverage the findings and recommendations from the initial court assessment efforts.
- Courts will have the ability to successfully mitigate a catastrophic event and utilize emerging technologies and hosting best practices
- Courts will have the framework and tools to utilize emerging technologies to support recommended service levels for data center service
- This approach would allow JCIT to continually evaluate new technologies and to determine how and what to phase into the ongoing program.

**Cons:**



## 2019-20 Budget Change Proposal Concept

- Additional resources from General Fund is required.

### **Alternative # 2** -*Utilize an alternate third-party vendor – professional services.*

The JCC has taken advantage of IT resources for various short-term projects procured via other third-party vendor contracts—for example, Ernst and Young.

#### **Pros:**

- These efforts provided quick and effective access to resources that resulted in a successful speedy turnaround.

#### **Cons:**

- It would not create a program that serves the courts for the needs for the future and would only serve a few courts for a couple of years.
- The cost of work effort and resource requirement would be too high and would not be on-going. Costs to adequately fulfill the obligations of this program via an alternate third-party vendor would range from \$150,000-\$300,000 or more per court with an hourly rate for these resources range from \$120/hour to \$235.35/hour.
- This solution would not have the advantage of an established, long standing partnership with the JCC and intimate knowledge of the courts. This lack of familiarity would be an obstacle that would incur additional non-monetary costs in terms of ramp up time and pre-project knowledge transfer.

### **Alternative # 3**-*Build consulting services unit from within JCIT without consulting ramp up support*

The JCC has considered building a court-facing IT architecture and support services unit within the branch to provide for a team consisting of employees ranging from an Enterprise Architect, Project Manager, Network Engineers, Senior Technical Analysts, Senior Business Systems Analysts, and other Analyst job titles

#### **Pros:**

- This team would provide the consulting and analysis of on-site court IT systems and infrastructure with respect to hosting options and disaster recovery.
- The team would do an assessment and provide a recommendation, manage and monitor the progress of the project, and be responsible for the implementation and ongoing operational support on the court's behalf

#### **Cons:**

- This proposal does not achieve cost savings with regard to resource allocation and is beyond the scope of the JCC charter
- This approach would eliminate the court's financial obligation for support beyond the assessment and initial phases; the burden of cost would then fall to JCIT
- A team of this size would not be sustainable and therefore would need to be either downsized or migrated to other internal programs



## 2020-21 Budget Change Proposal Concept

**Requesting Entity:** Judicial Council Technology Committee  
**Contact:** Heather Pettit  
**Budget Services Liaison:** Nadia Butler

**Date Prepared:** 04/09/2019  
**Document Tracking Number:** 20-13

**Proposal Title:** Digitizing Documents Phases 2 and 3

**Fiscal Summary:**

Fund Source	Proposed JCC Positions	Total Personal Services	Operating Expenses & Equipment	Proposed Total 2020-21	Proposed Total 2021-22	Proposed Total 2022-23
General Fund			\$17,807,000	\$6,693,000	\$11,114,000	

**Detailed Funding by Fiscal Year:**

	Proposed Total 2020-21	Proposed Total 2021-22	Proposed Total 2022-23
Ongoing			
One-Time	\$6,693,000	\$11,114,000	
Total	\$6,693,000	\$11,114,000	

**Proposal Summary:**

The Judicial Council of California (JCC) requests \$6.7 million General Fund in 2020-21 and \$11.1 million in 2021-22 to expand the digitizing of court records. This extends and supports the Phase 1 of the BCP that is included in the 2019-20 Governor’s Budget and is pending final legislative approval.

**Background Information:**

To assess demand for digitizing court records, a survey was sent to all California trial and appellate courts. Thirty-one courts responded to the needs survey, and 29 wanted to participate in a pilot. Of the 29 wanting to participate in a pilot, 22 were committed, willing to re-engineer their business processes, provide staffing for the pilot and provide documentation of their experiences so that future implementations would go more smoothly. Each court measured or provided estimates for the quantity of paper and filmed files, for both active and archived cases. In total, the 29 courts reported more than 300,000 linear feet of active case paper files (more than 56 miles). The response to the survey identifies an opportunity for substantial reductions in physical storage, through the digitizing of paper.

The 2019.20 Governor’s Budget proposes funding of \$5.6 million for the first phase of digitization of mandatory paper court records. This funding was for equipment and consulting services for 5 to 7 courts for this effort. This budget change proposal is to fund the next two phases of the paper digitization. The funding will cover the conversion of mandated paper case files in at least one case type for approximately 15 courts, including Supreme Court, Court of Appeals and Trial Courts. The tentative implementation strategy is:

## 2020-21 Budget Change Proposal Concept

Phases	Estimated Linear	Types of Courts
** Phase 1 (BCP FY 19-20)	27,151	5 trial courts/1 court of appeal
Phase 2 (FY 20-21)	28,535	5 trial courts 1/3 of Multiple phase implementation)
Phase 3 (FY 21-22)	50,772	7 trial court/ 1 court of appeal 1/3 of 2 courts multi- phase implementation

**106,458 Estimated Total Linear Feet of Documents**

*\*\* Included in 2019-20 Governor's proposed budget*

**Justification:**

This request is in alignment with the Branch strategic goals I, II, III, IV, and VI as it enables faster and easier access to case information for the public, allows greater transparency to the public at lower cost to the courts, reduces the requirement that customers stand in line at the courthouse and the workload on court staff, as well as allowing for access to relevant case information at the convenience of the authorized parties.

Digitizing paper and film files is a foundational requirement of the digital court that allows the judicial branch to effectively utilize a modern case management system and to realize significant savings by providing electronic service delivery over face-to-face transactions.

Benefits of the digital court include:

For the court:

- Better utilization of the workforce with faster routing and simultaneous review of documents
- Elimination of file contention and a reduction of misplaced files
- An increase in the speed of access to files, especially during a courtroom session
- Allows the courtroom to process all cases in the same manner; judges will not have to go back and forth from existing manual case files to newly created digital case files on the same calendar.
- Elimination of manual ticklers and tracking for work flow processes, allowing the use of functions available in modern case management systems.
- Improved court disaster recovery and continuity of operations capability
- Simplification of the document purging process
- Significant reduction of the physical space required to store documents
- Cost savings from the elimination of support for obsolete microfiche and microfilm viewers
- Environmentally more responsible

For the Public:

- Reduced need to come to the courthouse to obtain copies of documents
- Self-service at a time and place of their convenience
- A reduction of copy fees
- Environmentally more responsible

**Fiscal Impact:**

Courts interested in participating in the program assisted with the estimated costs, implementation strategy, and inventory of paper records; digitizing vendors provided service and equipment estimates.

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Two-year estimated costs for Phases 2 - 3 are detailed below. The 2019-2020 Governor’s Budget , included Phase 1 money for equipment, digitizing services, and 1.0 on-going position to manage the project.

Estimated Phase 2-3 Costs

The average cost per 15" box of files was \$203", or \$162.57 (or \$163) per linear feet.

**One 15" box =.8 Linear Feet**

	<b>Year 2: 29,000 Linear feet</b>	<b>Year 3: 51,000 Linear feet</b>	
<b>Estimate Cost Linear Feet</b>	\$5,893,000.00	\$10,364,000.00	
Scanning Equipment	\$650,000.00	\$650,000.00	
Contingency	\$150,000.00	\$100,000.00	<b>Total Year 2-3</b>
	<b>\$6,693,000.00</b>	<b>\$11,114,000.00</b>	<b>\$17,807,000.00</b>

**Outcomes and Accountability:**

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 environment. In some cases, that would be to digitize active files in preparation for executing a “day-forward” strategy. Rather than scanning all historical paper files, a “day-forward” strategy focuses on identifying case files that will be needed within the next 3-4 months and scanning those first. Then future scanning only includes any new paper documents coming into the court and any historical files that are needed for upcoming court calendars. In other cases, it may be to digitize historical records to preserve the diminishing quality of the court record. 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 and pulling the files, allowing staff resources to be redirected to perform other tasks.

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 JCC. 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.

## 2020-21 Budget Change Proposal Concept

### Projected Outcomes:

Workload Measure	FY 2019-2020	FY 2020-2021	FY 2021-2022
<p>Courts need to Digitize Paper</p> <ol style="list-style-type: none"> <li>1. Active Cases</li> <li>2. Cases that need to be retained for 10+ years or longer.</li> <li>3. Deteriorating microfilm and microfiche.</li> <li>4. All other cases.</li> </ol>	<p>Select courts, develop project plan and coordinate courts' digitization efforts – the outcome is that the project plan is developed, and courts' digitization is coordinated for Phase 1, approximately 5 Trial Courts, 1 Court of appeals, 28,000 court records.</p>	<p>Select Courts, develop project plan and coordinate courts' digitization efforts – the outcome is that the project plan is developed for Phase 2 of the court digitization effort, focusing on approximately 5 trial court (including 1/3 of the paper court records for one court), 29,000 linear feet.</p>	<p>Select Courts, develop project plan and coordinate courts' digitization efforts – the outcome is that the project plan is developed for Phase 3 of the court digitization effort, focusing on approximately 7 trial court, 1 court of appeal (including 1/3 of the paper court records for two courts), 51,000 linear feet.</p>
<p>Digitizing paper, and re-engineering current paper processes linear feet:</p>	<p>The outcome is that 28,000 linear feet of court records for Phase 1 be scanned into an electronic format, totaling 5 trial courts and 1 court of appeal.</p>	<p>The outcome is approximately 29,000 linear feet for Phase 2 to be scanned into an electronic format, totaling 5 trial courts paper court records.</p>	<p>The outcome is approximately 51,000 linear feet for Phase 3 to be scanned into an electronic format, totaling 7 trial courts and 1 court of appeals paper court records.</p>
	<p>The outcome is that courts detailed data relating to digitizing costs</p>	<p>The outcome is to validate cost, time, JC resources and playbook for increased document digitization for future phases.</p>	<p>The outcome is to validate cost, time, JC resources and playbook for increased document digitization for future phases.</p>
	<p>The outcome is a detailed data relating to re-engineering efforts and creation of standard playbook</p>	<p>The outcome is to create budget projections, updated resources allocation plan for future phases of the court digitization program.</p>	<p>The outcome is to validate budget projections and vendor capability with increased workload.</p>
	<p>The outcome is a detailed data relating to time to convert paper records into digital records.</p>		
	<p>The outcome are Master Service Agreements with Digitization service providers for JC/Courts to leverage for program</p>		

### Other Alternatives Considered:

**Alternative #1:** Approve \$6.7 million General Fund one-time in 2020-21 and \$11.1 in 2021-22 for phases 2 and 3 of the digitization of paper and filmed case files for the Superior and Appellate Courts.

### Pros:

- Digitizing paper and film case files is a necessary foundational step to enable the digital court. The benefit of the digital court will not be realized when the active case files are still on paper or film. The courts participating in this pilot will commit to re-engineering processes and procedures to realize the benefits of the digital court – benefitting both the court and the public.
- Digitizing paper and film case files for a limited number of pilot courts manages the risk that benefits are not as great as predicted and/or costs are not as low as originally estimated.

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### Cons:

- There is a one-time impact on the General Fund.
- There is a delay in realizing the benefits of the digital court for those courts who were not selected to participate in the pilot.

**Alternative #2:** Approve \$6.7 million one-time General Fund in 2020-21 for phase 2 of the digitization of documents.

### Pros:

- Less impact to the General Fund than the proposed alternative.

### Cons:

- There is a one-time impact on the General Fund.
- There is a delay in realizing the benefits of the digital court for those courts who were not selected to participate in the pilot and phase 2.
- If efficiencies are gained with pilot and phase 2, courts will not have funding to continue to move forward with additional phases, without an additional BCP request.

**Alternative #3:** Do not approve the one-time augmentation request for the digitization of paper and filmed case files phases 2 and 3 for the Superior and Appellate Courts.

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

### Cons:

- Courts will only be able to digitize documents as resources become available. Courts will 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, significantly delaying the benefits for both the court and the public as it will not result in a coordinated statewide effort
- Courts with modern case management systems (CMS) will have to maintain two processes for new cases and existing paper cases. Full functionality of the new CMS may not be available for paper case files and courts would be required continue to track and process manually, reducing workflow efficiencies available with the modern CMS.
- Filmed documents will continue to deteriorate, and existing viewing equipment will continue to fail and be difficult to replace. If filmed documents deteriorate too far, they may be lost and may have an impact on access to justice.

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**Requesting Entity:** Administrative Presiding Justices Advisory Committee

**Contact:** Deborah Collier-Tucker

**Date Prepared:** 2/28/2019

**Budget Services Liaison:** Shirley Mohammed

**Document Tracking Number:** 20-17

**Proposal Title:** Court Technology Manager Positions

**Fiscal Summary:**

Fund Source	Proposed JCC Positions	Total Personal Services	Operating Expenses & Equipment	Proposed Total 2020-21	Proposed Total 2021-22	Proposed Total 2022-23
General Funds	7.0	\$1,294,000	\$229,000	\$1,523,000	\$1,444,000	\$1,444,000

**Detailed Funding By Fiscal Year:**

	Proposed Total 2020-21	Proposed Total 2021-22	Proposed Total 2022-23
Ongoing	\$1,444,000	\$1,444,000	\$1,444,000
One-Time	\$79,000	\$	\$
Total	\$1,523,000	\$1,444,000	\$1,444,000

**Proposal Summary:**

The Judicial Council of California (JCC) requests 7.0 positions and \$1.523 million General Fund (including \$79,000 in one-time funding) beginning in 2020-21 to provide 7.0 Court Technology Manager positions, for the Supreme Court and the six Courts of Appeal. The incumbents will be charged with creating technology vision within each court, establishing alignment between technology solutions and efficient business processes, as well as implementing the Judicial Branch Strategic Plan for Technology and its accompanying initiatives. Each Court Technology Manager would be stationed at a respective appellate court and would be responsible for management and restructuring of each existing Information Technology (IT) support department. They would also be the direct liaisons for technology between their respective courts and the JCC, identical to how Court Information Officers (CIOs) at superior court operate.

**Background Information:**

Over the last five years, technology growth in the appellate courts has peaked with internal, legislative and public demands for innovation and increasing efficiencies within the judicial branch. The JCC historically has provided technology vision and leadership for the appellate courts but has been unable to meet the increasing demands for court technology due to staffing shortages and ongoing budget limitations. Establishing a technology manager position within each court will help implement technology visioning and support within each appellate court and will therefore ensure all appellate courts

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can implement the initiatives identified in the Judicial Branch Strategic Plan for Technology for the benefit of the courts and the public.

### **Justification:**

The growing dependency on technology in the appellate courts, the increasing demands from the public (court customer) for technological access, and the need to meet the internal staff technology services results in the appellate courts needing dedicated technology leadership. The Court Technology Manager will enable the courts to improve technology services to both the public (customers) as well as internal staff for purposes of creating efficiencies and providing expanded accessibility to judicial services. The ongoing deficit of technology support within each appellate court is directly related to the lack of technology leadership and exponentially expanding list of technology initiatives that the courts of review are poised to execute. If this budget change proposal is not approved, it is expected that appellate courts will continue to struggle with implementing the initiatives in the Judicial Branch Strategic Plan for Technology and will be unable to provide agile electronic access to judicial resources that the public has come to expect. Unlike the superior courts, appellate courts cannot quickly pivot and adjust revenues to establish another position; instead, appellate courts must manage within their established position structure based on existing funding. Securing funding for a technology manager within each appellate court will enable each appellate court to strategically implement new technology solutions, create and establish technology vision, and bring forth efficiencies that would otherwise be impossible with existing limited technology staff resources.

### **Fiscal Impact:**

The cost would be comprised of 7.0 Court Technology Manager positions and associated operating costs, 1.0 at the Supreme Court and the 6.0 for each Courts of Appeal district. The courts would provide work space within the existing facility structures. No other actions, approvals or resources are needed from other governmental entities for this proposal to be implemented.

### **Outcomes and Accountability:**

Results will be seen immediately and will be measured by the rate at which existing and new initiatives that stem from the Judicial Branch Strategic Plan for Technology get implemented within each appellate court.

Courts will conduct both internal and external recruitments to ensure the most seasoned and skilled incumbents are chosen to fill the new positions. That recruiting method will not only ensure that the newly funded positions are outfitted with the best candidates possible, but also will bring fresh perspectives and more efficient ways of doing business into the appellate courts.

To provide metrics in response to the funding of these positions being provided, courts could survey both staff and customers on improvements in expanding electronic access to judicial resources and new efficiencies brought forth through the creation of modern business processes that have both internal and external impact.

### **Projected Outcomes:**

The outcomes for the creation of this position are measured in terms of development of future technology projects. This would be measured in quality of the work product rather than quantity of projects. The



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legislature will see direct results from technological projects that ensure the courts are more and more efficient as we realize that resources are limited.

### Other Alternatives Considered:

**Alternative 1:** Provide funding for hiring additional technology staff, rather than a technology manager, at each court.

#### Pros

- The funding of additional technology staff will help with the implementation of projects.

#### Cons

- This option is not recommended because non-management line staff do not effectively establish technological vision and make critical business decisions thus leaving those decision to managers without technological expertise. Also, future budget change proposals would likely be necessary to hire even more technology line staff.

**Alternative 2:** Provide funding for and establishing dedicated technology position(s) at the Judicial Council of California for purposes of providing the needed technology vision and support to Appellate Courts.

#### Pros

- This provides top-down visioning and support to the needs of appellate courts.

#### Cons

- This option is not recommended because the incumbents would not be located within each Appellate Court site and would be unable to address the unique technological needs of that particular court. They also would be unable to effectively manage technology staff and deploy resources from a remote location. Additionally, there remains the risk the positions would be utilized more broadly to support the Judicial Branch as a whole and not able to focus attention on addressing and driving technology within the respective appellate court.

As seen above, the cons outweigh any potential gains for each of the alternatives considered. We are confident that the chosen and proposed concept will have immediate, positive, effective and measurable results that will further enhance access to justice and bring courts of review in alignment with judicial branch technology standards.

**Alternative 3: Status quo:** Continuing to rely on Judicial Council IT staff to manage IT in the appellate courts.

#### Pros

- Technology will continue to be implemented at the same pace and level of responsiveness to the appellate courts as is currently provided.

#### Cons

- This option is not recommended because as mentioned previously, Judicial Council IT possesses limited staffing and financial resources that are used to support a variety of technology initiatives other than the appellate courts. As a result, they are unable to keep pace with technology needs in the Appellate Courts.



## 2020-21 Budget Change Proposal Concept

**Requesting Entity:** Administrative Presiding Justices Advisory  
**Contact:** Deborah Collier-Tucker  
**Budget Services Liaison:** Shirley Mohammed

**Date Prepared:** 2/27/2019  
**Document Tracking Number:** 20-18

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

**Fiscal Summary:**

Fund Source	Proposed JCC Positions	Total Personal Services	Operating Expenses & Equipment	Proposed Total 2020-21	Proposed Total 2021-22	Proposed Total 2022-23
General Fund	0.0	\$0	\$1,628,000	\$1,628,000	\$1,628,000	\$1,628,000

**Detailed Funding by Fiscal Year:**

	Proposed Total 2020-21	Proposed Total 2021-22	Proposed Total 2022-23
Ongoing	\$1,628,000	\$1,628,000	\$1,628,000
One-Time	\$0	\$0	\$0
Total	\$1,628,000	\$1,628,000	\$1,628,000

**Proposal Summary:**

The Judicial Council of California (JCC) requests \$1.628 million General Fund beginning in 2020-2021 to support increased costs for contractual services in the Supreme Court’s Court Appointed Counsel Project (\$350,000) and the Courts of Appeal Court Appointed Counsel Project Offices (\$1,278,000).

**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 attorney’ means an attorney appointed

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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 designated 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.

### **Supreme Court’s Court Appointed Council - California Appellate Project-San Francisco**

Current law requires the appointment of defense counsel in all capital cases for indigent individuals in California. The Supreme Court’s (SC) California Appellate Project-San Francisco (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. 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, retention and training qualified attorneys to direct, assist, 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 takes additional time for CAP-SF to fill attorney vacancies.

Over the last 11 years, with only a 4.5% increase in funding, 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 less costly 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.

### **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 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.

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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. 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 of providing competent legal representation to indigent clients in California's Courts of Appeal and (when appropriate) Supreme Court.

### **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, and can no longer continue to meet the level of service required by the Supreme Court to meet the constitutional guarantee of competent counsel.

The current funding for the annual contact with CAP-SF is \$5,840,218 with the addition of \$255,000 (4.5%) from the approved 2017-18 BCP. The 2007 Budget Act provided an additional \$600,000, to support increased workload and associated cost increases. However, since 2007-, the Supreme Court has only received a 4.5% increase in new funding to support this critical workload that is driven by a constitutional right to court-appointed legal representation. A 4.5% increase to cover cost increases over 10 years is not sufficient to support and maintain the required legal services provided under CAP-SF's contract, and the increased cost of contracted work must be addressed.

The current level of funding for the annual contract with the Courts of Appeal Court Appointed Counsel Appellate Projects is \$18,254,255, with the addition of \$786,068 (4.5%) approved in the 2017 Budget Act. Since 2007, the Projects have experienced significant cost increases in areas such as rent, liability insurance, employee benefits, and technology, but have only received a 4.5% contract increase 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. A 4.5% increase to cover cost increases over 10 years is not sufficient to support and maintain the required legal services provided under Appellate Projects' contracts.

### **Fiscal Impact:**

The BCP reflects a 6% to 7% increase to the 2020-21 amounts budgeted for the CAP-SF (6%) and Appellate Projects (7%). 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.

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	SC CAP-SF	COA CAC- Appellate Projects	Total
Contract Budget as of FY 2016-2017	\$5,585,000	\$17,468,000	\$23,053,000
BCP 2017-2018 (4.5%) approved	\$255,000	\$786,000	\$1,041,000
Contract Level FY 2018-2019	\$5,840,000	\$18,254,000	\$24,094,000
Proposed BCP funding request 2020-2021	\$350,000	\$1,278,000	\$1,628,000

**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.

*Supreme Court’s 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.

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

**Projected Outcomes:** N/A

**Other Alternatives Considered:**

**Alternative #1:** Provide \$1.628 million General Fund beginning in 2020-21 to support increased costs for contractual services in the Supreme Court’s California Appellate Project-San Francisco (\$0.35 million) and the Courts of Appeal Court Appointed Counsel Project Offices (\$1.278 million).

**Pros:**

- Provide adequate funding to address the programmatic needs of the CAP-SF and COA 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 increasing operating costs.
- Will enable the Projects to attract more highly qualified staff to carry out these essential functions for the State of California.

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

**Alternative #2:** Provide \$1.278 million General Fund beginning in 2020-2021 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 increasing operating costs; and

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- Will enable the Projects to attract more highly qualified staff to carry out these essential functions for the State of California.

### Cons:

- 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.

**Alternative #3:** Provide \$350,000 General Fund beginning in 2020-2021 to support increased costs for contractual services in the Supreme Court's California Appellate Project-San Francisco.

### Pros:

- Provide adequate funding to address the programmatic needs of the California Appellate Project-San Francisco and the vital function that it performs for the Court Appointed Counsel System.
- Will enable the Project to more effectively meet its 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.

### Cons:

- COA's 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:** 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.

### Pros:

- 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 on 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.

## 2020-21 Budget Change Proposal Concept

**Requesting Entity:** Administrative Presiding Justices Advisory Committee

**Contact:** Deborah Collier-Tucker

**Date Prepared:** February 27, 2019

**Budget Services Liaison:** Shirley Mohammed

**Document Tracking Number:** 20-19

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

**Fiscal Summary:**

Fund Source	Proposed JCC Positions	Total Personal Services	Operating Expenses & Equipment	Proposed Total 2020-21	Proposed Total 2021-22	Proposed Total 2022-23
General Fund	0.0	\$0	\$1,408,000	\$1,408,000	\$1,408,000	\$1,408,000

**Detailed Funding by Fiscal Year:**

	Proposed Total 2020-21	Proposed Total 2021-22	Proposed Total 2022-23
Ongoing	\$1,408,000	\$1,408,000	\$1,408,000
One-Time	0	\$0	\$0
Total	\$1,408,000	\$1,408,000	\$1,408,000

**Proposal Summary:**

The Judicial Council of California (JCC) requests \$1.4 million General Fund in 2020-21 and ongoing to establish and support of Appellate Court Facility Maintenance Program which will include preventative and demand maintenance, and minor facility modifications in all appellate court facilities. Funding is required to bring operations and maintenance (O&M) services up to an industry standard level of service for 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.

Demand and Preventive Maintenance ensure effective and efficient facility management. Properly maintained facilities experience fewer emergency repairs and increased asset longevity. The funding requested for operations and maintenance will bring Appellate Court Facilities up to the International Facility Management Association (IFMA) standards and help address current shortfalls in maintenance.

**Background Information:**

The appellate courts occupy a total of just over 500,000 square feet of space in nine facilities. Of the nine locations, four are state owned facilities managed by the Department of General Services (DGS), two are state-owned, court managed facilities, and three are in leased space.

Appellate Court	Location	Type of Facility	Square Footage Occupied
First District	San Francisco	State-owned, DGS managed	83,000
Second District	Los Angeles	State-owned, DGS managed	119,000



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	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 2008-09, 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 absorbable within the court’s operating budget. As this facility has aged, there are insufficient funds available to continue maintaining the facility.

In 2015-16, the Courts of Appeal transferred funds to the 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:**

Failure to adequately fund O&M leads to further reductions in the level of facility maintenance. Without the recommended maintenance, major building systems fail. Failures of these systems create massive disruptions to the administration of justice. When key HVAC, vertical transportation, and electrical equipment (major equipment) fail, it can force the closure of a courthouse. The presence of members of the general public, in-custodies, and judicial branch staff make failures of this kind particularly disruptive and dangerous. Additionally, the cost to replace major equipment in turn consumes a large portion of the budget, meaning that planned projects are postponed or cancelled in order to fund the emergency repairs.

Regular, ongoing maintenance is also called Preventive Maintenance (PM) because it helps ensure that premature system failures are prevented. Current budget allocations do not adequately fund a sufficient PM program for maintenance of the assets to manufacturer-recommended and industry-standard service levels. To both preserve the initial investment and prevent costlier investments in emergency repairs, major rehabilitation, and early replacement, facility managers must not defer needed maintenance and repairs.

An inadequate PM program results in a “run to failure” mode and negatively impacts the life of the asset. The JCC is paying for major repairs earlier, when the life of the asset could have been prolonged with proper maintenance. This request supports the JCC’s strategic goals by means of sustaining court facilities at an industry level of service equal to the manufacturer’s recommendation.

## 2020-21 Budget Change Proposal Concept

In the past 11 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.

The Courts of Appeal are primarily funded from the General Fund, approximately \$40.7 million is included in the 2019 proposed budget. Additionally, approximately \$6.3 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 reflects an estimated cost for minor facility modifications at \$2.00 per square foot for owned and leased appellate court facilities. Preventive maintenance and demand maintenance efforts for the two, court managed facilities, are estimated at \$3.81 per square foot, based on the International Facility Management Association (IFMA) industry-standard level of funding.

Planned facility condition assessments will be performed on the two, court-managed facilities to identify life-cycle replacements of major building components, such as, equipment that has reached the end of its useful life. Further, as bonds are retired on the remaining state-owned, DGS-managed facilities, an assessment will need to be performed to determine the available remaining life-cycle of major building components

	Square Footage Occupied	Estimated Cost per Square Foot	Total
<b>Minor Facility Modifications - all locations</b>	508,000	\$2.00	\$1,016,000
<b>Maintenance (Preventive and Demand) – Court Managed</b>	103,000	\$3.81	\$392,430
			<b>\$1,408,430</b>

In the state-owned DGS managed facilities, DGS addresses mechanical/facility needs when a failure occurs, but does not provide 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.



## 2020-21 Budget Change Proposal Concept

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.

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 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 recommended. 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:**

Compliance to federal, state and local codes, and regulations avoids exposing the State to fines and possible building closures or disruptions to court services. JCC facilities will continue to age and require additional service calls at a rate that may exceed our financial ability to repair/replace them. The program will generate reports from the implemented PM program's outcomes as listed below:

- Reductions in the total cost of emergency maintenance.
- Fewer urgent and emergency interruptions to operations due to equipment breakdowns.
- Increases in the volume of work that can be planned and scheduled repetitively.
- Decrease in high priority, randomly occurring and unscheduled work.
- Reduced unnecessary damage or replacement needs to facilities equipment.

The JCC's existing control protocols for O&M assessments, approvals and ongoing reviews will ensure appropriate use of the requested funding. Continued monthly review will contribute to the accountability and monitoring of activities—through monthly budget and financial reporting.

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:** Provide \$1,016,000 General Fund beginning in 2020-21 to provide \$2.00 per square foot to support minor facility modification projects in all facilities.

#### **Pros:**

- 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.
- Allows for further degradation of appellate court facilities and will likely result in more expensive future deferred maintenance needs.

**Alternative #2:** Provide \$392,000 General Fund beginning in 2020-21 to support preventative and demand maintenance in the two state-owned, court managed facilities.

### Pros:

- 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.
- Allows for further degradation of appellate court facilities and will likely result in more expensive future deferred maintenance needs.

**Alternative #3:** 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.

### Pros:

- No impact to the General Fund.

### Cons:

- Increases the reduction of preventative maintenance services to critical life-safety levels, redirecting remaining funds to only responding to emergency and urgent requirements.
- Allows for further degradation of appellate court facilities and will likely result in more expensive future deferred maintenance needs.

## 2020-21 Budget Change Proposal Concept

**Requesting Entity:** Administrative Presiding Justices Advisory Committee

**Contact:** Deborah Collier-Tucker

**Date Prepared:** 2/27/2019

**Budget Services Liaison:** Shirley Mohammed

**Document Tracking Number:** 20-20

**Proposal Title:** Appellate Court Judicial Workload

**Fiscal Summary:**

Fund Source	Proposed JCC Positions	Total Personal Services	Operating Expenses & Equipment	Proposed Total 2020-21	Proposed Total 2021-22	Proposed Total 2022-23
GF	5.0	\$1.065 m	\$182k	\$1.247m	\$1.185m	\$1.185m

**Detailed Funding by Fiscal Year:**

	Proposed Total 2020-21	Proposed Total 2021-22	Proposed Total 2022-23
Ongoing	\$1.185m	\$1.185m	\$1.185m
One-Time	\$62k	\$0	\$0
Total	\$1.247m	\$1.185m	\$1.185m

**Proposal Summary:**

The Judicial Council of California (JCC) requests 5.0 positions and \$1.247 million General Fund (including \$62,000 in one-time funding) beginning in 2020-21 to meet substantial and growing workload demands in Division 2 of the Fourth Appellate District Court of Appeal. This request supports funding for the 1.0 new justice and the necessary chambers staff, including 3.0 senior research attorneys and 1.0 judicial assistant.

**Background Information:**

There are currently 106 courts of appeal justices in California, divided among the six appellate districts. In more than 25 years, only 18 new appellate justice positions have been created: 1 in 2018, 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,

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each justice is a panel member for twice as many cases as he or she is assigned as lead author. Whether 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.

A justice also reviews briefs and drafts 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 (2015-16, 2016-17, and 2017-18), Division Two has an annual average of 1,105 appeals becoming fully briefed. Applying the weighted formula that results in 99 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 slightly below last year's all-time high. Assuming a steady number of fully briefed appeals, the one additional justice would reduce the weighted workload to 88 for each of the nine justices, a point below the 89 optimal number of cases per justice.

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As noted at page 5 in the 1995 Appellate Court Resources Analysis:

[T]here are limits to the workload that any justice can continue to absorb without diminution of the quality of work. ..."[T]he appellate process must be more than simply increasing production goals, improving filings-to-staff ratios, or achieving greater efficiencies. Each case coming before an appellate justice is different. They differ as to the issues to be decided and the area of law from which the appeal arises. The more complex appeals present novel questions of law, lengthy records, or numerous issues for decision. Each requires the individual judgment of the justices. The appellate process is not about producing cost-effective identical units, it is about the business of doing justice in individual cases.

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 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. Overall, from October 2013 through April 2019, 1,164 cases were transferred, with 227 transferred in fiscal year 2018-2019 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 one new justice in this request 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. Government Code section 69104 would need to be amended as follows:

69104: The Court of Appeal for the Fourth Appellate District consists of three divisions. One division shall hold its regular sessions at San Diego and shall have 10 judges. One division shall hold its regular sessions in the San Bernardino/Riverside area and shall have nine judges. One division shall hold its regular sessions in Orange County and shall have eight judges.

### **Fiscal Impact:**

This proposal would increase staffing levels in the 4<sup>th</sup> District Court of Appeal (DCA) by 1.0 Justice Position and appropriate chambers staff. Positions have been calculated at mid-step salary and wages.

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Also included is the cost of standard operating expense and equipment complement for the justices and associated staff.

**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 88, one point below 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:**

<b>Workload Measure A</b>	<b>PY-PY 16-17</b>	<b>PY 17-18</b>	<b>CY 18-19</b>	<b>BY 19-20</b>	<b>BY+1 (20-21)</b>
Number of cases becoming fully briefed in Division 2 of 4DCA	<b>1,140</b>	<b>1,006</b>	<b>1,105</b>	<b>1,105</b>	<b>1,105</b>
Weighted caseload per justice in Division 2 of 4DCA	<b>117</b>	<b>106</b>	<b>99</b>	<b>99</b>	<b>88</b>

**Other Alternatives Considered:**

**Alternative #1:** Provide \$1.247 million General Fund (including \$62,000 in one-time funding) beginning in 2020-21 for one new appellate judgeship and support staff.

**Pros:**

- One new justice 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.
- The transfer of cases to the other divisions would be greatly reduced.
- The cases can be heard in their geographic area.

**Cons:** Additional General Fund resources are required.

**Alternative #2:** Status Quo. Do not approve the funding.

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

**Cons:**

- Without full funding of a 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.

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- As noted above, 227 cases were transferred in fiscal year 2018-19 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.



## 2020-21 Budget Change Proposal Concept

**Requesting Entity:** Administrative Presiding Justices Advisory Committee

**Contact:** Donna Williams, CJCL Director and J. Larson

**Date Prepared:** 4/26/2019

**Budget Services Liaison:** Shirley Mohammed

**Document Tracking Number:** 20-21

**Proposal Title:** Electronic Resources and Collection Rightsizing Adjustment for Appellate Court Libraries

**Fiscal Summary:**

Fund Source	Proposed JCC Positions	Total Personal Services	Operating Expenses & Equipment	Proposed Total 2020-21	Proposed Total 2021-22	Proposed Total 2022-23
General Fund	0	0	100%	\$433,000	\$682,000	\$682,000

**Detailed Funding by Fiscal Year:**

	Proposed Total 2020-21	Proposed Total 2021-22	Proposed Total 2022-23
Ongoing	\$433,000	\$682,000	\$682,000
One-Time	0	0	0
Total	\$433,000	\$682,000	\$682,000

**Proposal Summary:**

The Judicial Council of California requests \$433,000 General Fund in 2020-21 and \$682,000 General Fund in ongoing annual funding beginning in 2021-22 for the California Judicial Center Library and the Courts of Appeal libraries (collectively the “appellate court libraries”). This request is to support 1) increased costs for contractual library services in online legal research resources and 2) increased costs for print collections that are not available in other formats. This request is a total 32% increase to the libraries budget over the course of two years.

**Background Information:**

The appellate court libraries are the part of the appellate court system that manages the information resources and materials used by research attorneys to conduct the research needed to author a complete and accurate case and the materials used by judicial assistants to proofread and check the cases for good law. The patron base for the appellate court libraries also includes the Justices of the Courts of Appeal and in-chambers staff for the entire appellate court system, all writs departments, and other related entities. The mission of the appellate court libraries is threefold: 1) to provide accurate and current legal research and reference materials; 2) to connect those resources with our patrons (i.e., to help patrons find materials and to make the items findable); and 3) to maintain a record of materials used to author opinions so that future courts can reconstruct the logic used in all opinions.

Each appellate court has its own library and a local librarian in charge of their individual print and digital collections. Different appellate district libraries have different subject area needs depending on the district location. For example, coastal districts must have California Environmental Quality Act (CEQA) and



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other coastal regulation materials available to researchers, while the inland districts have other specialized subject areas, such as agriculture and groundwater law and regulation. Each librarian is a specialist in their own district. Consequently, the appellate court libraries need the budget support and maintain print and digital collections while adding resources to keep up with changes in existing law, with increasing complexity resulting from changes in the law, and with emerging fields of jurisprudence, especially in areas like technology.

### **Justification:**

This request is consistent with the constitutional mandate that:

Decisions of the Supreme Court and Courts of Appeal that determine causes shall be in writing with reasons stated. (Constitution of California, Article VI, §14.)

It is impossible to produce written opinions that state the legal basis and the legal reasoning for judicial decisions unless unimpeded access to accurate primary and secondary legal information resources is provided to the justices and judicial research attorneys in the appellate courts. To exercise their constitutionally mandated decision-making authority, justices and their research staffs must consult all relevant resources to ensure that the rule of law is applied consistently and accurately for all who come before the courts, and these resources must be current and accurate. Ensuring that there is complete, current, accurate, and usable information is the responsibility of the appellate court law libraries. These professionals support the justices, researchers, and support personnel at the Supreme Court and Courts of Appeal (comprising over 1,000 individuals) by providing vital, high quality resources that enable the work of the courts to occur.

It has been 10 years since the appellate court libraries have had a budget augmentation. The appellate court libraries submitted BCPs in 2009, 2011, and 2014 to augment print and electronic resource collections, all of which were unsuccessful due to overall budget conditions. Having had no increases approved through the BCP process in the past ten years has resulted in a current critical need for additional resources. A new Westlaw contract has already resulted in increased costs that must be absorbed in the already constrained appellate court libraries' budget; this is an unsustainable increase. The decline in the libraries budget is now approaching a crisis level and threatening to compromise the quality of work necessary for the appellate courts.

This request serves two purposes: 1) to account for price increases in the appellate libraries' online legal research resources, which are necessary for the ethical practice of law and 2) to increase funding for obtaining print materials that are necessary to author judicial opinions.

The online legal research resources portion of the funding request is detailed below:

- **Westlaw:** Westlaw is a critical resource for research attorneys who rely on this service in their daily work responsibilities. The State of California's Appellate Librarians' 10-year contract with Westlaw expired on 9/30/2018. The pricing for the contract's final year—10/1/2017 to 9/30/2018 period—was \$455,652 annually or \$37,971 per month for access to Westlaw's basic black letter law resources and all California research materials. The terms of the contract locked in a beneficial rate for the last 10-year period at a base price plus 3% year-over-year increase. The new contract

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price for Westlaw is \$588,000 annually or \$49,000 per month base price with a 1% year-over-year increase. While a comparable solo practitioner plan would be \$285 per month, the new contract comes to \$43.55 per user per month for the Court of Appeals' 1,125 users. While this is objectively a good deal for this product, it still represents a 29% increase in the overall contract cost to the appellate court libraries, reflecting changes to market prices over the last ten years.

The new Westlaw contract has already resulted in an increased cost of \$132,348 annually that must be absorbed by already strained resources. The increased monthly cost of \$49,490 in Year 2 of the contract will require augmentation in 2020-21 to cover the \$138,228 annual increased cost. An additional augmentation is requested in 2021-22 to cover the 1% annual contractual increase with Westlaw, which will be \$5,998.

- **LexisNexis:** The online research platform which holds the “Official” print contract for Official California Reports, LexisNexis is a service that the courts are required to maintain in order to comply with the California Style Manual’s cite-checking and editing format. This contract expires in 2020. Currently the appellate court libraries are paying \$86,000 for LexisNexis annually or approximately \$76 per user per year. LexisNexis’ current market rate is around \$109 per user per month. LexisNexis has submitted a Freedom of Information Act request for the appellate court libraries’ current Westlaw contract, so even with preferential pricing the appellate courts foresee a comparable percentage increase to the LexisNexis contract of 30% or approximately \$26,000 annually beginning in 2020-21.
- **Other Online Resources (existing subscriptions):** In addition to Westlaw and LexisNexis, the appellate court libraries maintain additional lower-cost online research resources. Increases in all these resources (which include online dictionaries, cataloging software, law journal and archival document access) will increase the libraries spend by \$25,000 annually.

Westlaw and LexisNexis are the first and primary legal research tools used by most justices, judicial research attorneys, and judicial assistants in the California Courts of Appeal. If the judicial research attorneys do not find materials of use on these platforms, they will turn to the print library resources and to their librarians. A print law library is therefore maintained in each appellate court, as well as subscriptions to electronic support resources other than Westlaw or LexisNexis. To maximize efficiency the librarians for the appellate courts have strived to reduce or remove duplicate print items, encouraged shared collections, and increased the use of electronic resources.

However, the libraries have essentially hit the limit of what can be sought in non-print form. New print material must be purchased because many print titles are not available online, are not free through open source venues such as Google Books, are too costly in e-format, or are not formatted correctly in an electronic environment. The following are some examples of print only resources that must be updated and replaced periodically: CEQA Deskbook – Solano Press; Marsh’s California Corporation Law – Wolters Kluwer; Sack on Defamation – Practising Law Institute; and Recovery of Damages for Fraud – Lawpress.

The print publications come from multiple vendors and the price increases vary from publisher to publisher. Two neutral sources from which to determine legal material pricing include the Library

## 2020-21 Budget Change Proposal Concept

Materials Price Index for 2018 from the American Library Association (ALA) and Svengalis, *Legal Information Buyer's Guide*, 2018 (Svengalis). ALA shows that the cost of “Legal Serials Services” (the bulk of law library collections) has increased between 9% to 14% every year since 2013. Svengalis survey of pricing has demonstrated an average 16% annual increase in print legal resources costs. The appellate court librarians therefore chose a 13% midpoint benchmark from these pricing sources to determine budget funding for print collections.

- Print Collection Rebalancing:** Over the past ten years, library budgets have been cut steadily across the court system. However, the cost of the subscription materials has risen over that same period. With the proposed funding increase, the librarians will be able to proactively manage print collections and rebalance collections between print and online resources. The estimated cost of a 13% increase over 2017-18 expenditures is to be \$242,463 annually. The appellate court librarians request an additional 13% or \$242,463 augmentation in 2021-22 to continue right-sizing and rebalancing underfunded print collections.

While the overall spend for print materials has fallen, even in the face of rising prices, these constraints cannot continue indefinitely—there is a limit to the number of print books that can be cut from library collections without impacting the library user’s research and work product. To save money, the appellate court librarians pool resources, negotiate for discounts, and reduce collections as needed. But these strategies only help mitigate price increases, they cannot replace funding entirely. The appellate court libraries have reached the limits of economizing. Any further cuts will impact compliance with the Constitution of California, Article VI, Sec. 14 and will leave libraries at a crisis level.

**Fiscal Impact:**

This funding request of \$433,000 is necessary in 2020-21 for substantial and ongoing increases in the prices of online research resources and print materials. In addition, we request a 13% augmentation to our library purchases and subscriptions and the contracted 1% increase in the Westlaw contract for 2021-22, totaling an additional \$249,000 in additional ongoing funding to support anticipated and continuing annual increases in costs for these necessary resources. This is a targeted request to account for increased prices of print and electronic library resources. Below, you will find a table of the State’s total spend on library purchases and subscription and automated legal research for the California Courts of Appeal for the past three fiscal years:

Court	FY 15/16*	FY 16/17*	FY 17/18*
CJCL (Sup.Ct./1 <sup>st</sup> DCA)	\$728,550	\$743,700	\$750,200
2 <sup>nd</sup> DCA	\$415,600	\$319,650	\$367,550
3 <sup>rd</sup> DCA	\$209,800	\$232,200	\$224,200
4 <sup>th</sup> DCA, Div. 1	\$159,100	\$166,325	\$161,000
4 <sup>th</sup> DCA, Div. 2	\$179,300	\$171,900	\$171,900
4 <sup>th</sup> DCA, Div. 3	\$219,800	\$213,150	\$195,280
5 <sup>th</sup> DCA	\$219,250	\$233,300	\$186,000
6 <sup>th</sup> DCA	\$165,850	\$151,300	\$143,300
<b>TOTAL</b>	<b>\$2,297,250.00</b>	<b>\$2,231,525.00</b>	<b>\$2,199,430.00</b>

## 2020-21 Budget Change Proposal Concept

\*These are the Year-End Actual Expenditures that include Library Purchases and Subscriptions and Automated Legal Research.

The Library Purchases and Subscriptions portion of the budget is broken out below:

### Library Purchases and Subscriptions

Court	FY 15/16*	FY 16/17*	FY 17/18*
CJCL (Sup.Ct./1 <sup>st</sup> DCA)	\$593,500	\$593,700	\$590,200
2 <sup>nd</sup> DCA	\$408,500	\$350,000	\$296,300
3 <sup>rd</sup> DCA	\$184,000	\$205,500	\$196,200
4 <sup>th</sup> DCA, Div. 1	\$135,300	\$138,600	\$135,200
4 <sup>th</sup> DCA, Div. 2	\$184,700	\$170,500	\$186,200
4 <sup>th</sup> DCA, Div. 3	\$169,500	\$170,600	\$175,000
5 <sup>th</sup> DCA	\$196,000	\$209,000	\$160,500
6 <sup>th</sup> DCA	\$140,300	\$134,300	\$125,500
<b>TOTAL</b>	<b>\$2,011,800.00</b>	<b>\$1,972,200.00</b>	<b>\$1,865,100.00</b>

As mentioned previously, neutral sources put the increase in legal print pricing from between 10% (ALA) and 16% (Svengalis). The \$433,000 request for 2020-21 includes a mid-range 13% increase or \$243,000 in library purchases and subscriptions based on the 2017-18 fiscal year expenditure of \$1.865 million in this category. The remaining \$190,000 for 2020-21 is comprised of the following online legal research resources:

Increase in Westlaw contract	\$139,000
Anticipated increase in LexisNexis contract	\$26,000
Increases in other online research tool costs	\$25,000
<b>TOTAL</b>	<b>\$190,000</b>

An additional \$243,000 is requested in 2021-22 to continue to rebalance the print and subscription parts of the library collections that have not had additional budget for 10 years. This represents an additional 13% of 2017-18 fiscal year expenditure. In addition, \$6,000 is requested in 2021-22 to fund the anticipated 1% increase in the Westlaw contract, for an additional request total of \$249,000 in ongoing funds in 2021-22.

#### **Outcomes and Accountability:**

The bulk of this request—\$243,000—will go toward acquisition, replacement and maintenance of print collections at the California state appellate court libraries. These funds will be fundamental to enabling the high level of accuracy and breadth of analysis expected from the judiciary in California’s appellate courts. Without the cornerstone resources that would be funded by this request, including online research tools as well as print collections, it would be difficult for the courts to do their jobs effectively and efficiently.

## 2020-21 Budget Change Proposal Concept

The absence of these tools would result in a marked increase in the amount of time each attorney needs to spend on each individual appellate case. This in turn would require hiring more research attorneys, with associated staffing costs that would be exponentially larger than funding the resources to appropriately support existing library resources. If this proposal is approved, the adverse effects *avoided* would include a drop in the quality of the opinions produced by the California appellate courts, a reduction in the speed of their production and a more frustrating work environment for justices and judicial research attorneys. Instead, the result would be continuing the high quality of justice provided by the state appellate courts.

The changes will be measured by each librarian as they oversee their unique collection. Acquisition of materials will be through approved judicial branch procurement processes and costs will be transparent to the public. In addition, the appellate court librarians will report back to the lead advisory committee (the Appellate Presiding Justices Advisory Committee) on how the budget funds were spent in each court and further address any continuing price increases. And because the appellate court libraries maintain an interlibrary loan resource sharing strategy, the benefit of all new acquisitions will be shared by all libraries.

### **Projected Outcomes:**

The appellate court librarians would like to right-size their collections and proactively and deliberately make choices about what is best accessed in print and what is most usable in electronic format. Because the appellate court libraries have needed to reduce print collections due to budget pressures year-over-year for the past 10 years, this increase is needed to alter our print and electronic balance in order to adequately serve the researchers of the courts.

Without additional ongoing funding the appellate court libraries cannot serve clients to the best of their abilities in both print and electronic formats. This is an ethical obligation as well as a practical obligation for the judicial research attorneys who are employed by the appellate courts. From State Bar of California Formal Opinion No. 2015-193:

Maintaining learning and skill consistent with an attorney's duty of competence includes "keeping abreast of changes in the law and its practice, including the benefits and risks associated with technology."

### **Other Alternatives Considered:**

**Alternative #1:** Provide \$682,000 General Fund increase over the course of two years, \$433,000 ongoing beginning in 2020-2021 and an additional \$249,000 ongoing in 2021-2022 to support increased costs for the Appellate Court Library System for the Supreme Court and Courts of Appeal.

#### **Pros:**

- Provide adequate funding to address increased costs for the Appellate Court Library System needs, and to repurchase cancelled library materials where appropriate and requested.
- Allow for a more comprehensive and proactive rebalancing of the appellate court libraries' resources, giving the appellate court staff and patron base an even more effective blend of print and electronic resources.

## 2020-21 Budget Change Proposal Concept

### Cons:

- Results in higher increase in draw on the General Fund.

**Alternative #2:** Provide \$433,000 in ongoing General Fund increase beginning in 2020-2021 to support increased costs of doing business for Appellate Court Library System in the Supreme Court and the Courts of Appeal Court.

### Pros:

- Provide adequate funding to address increased costs for the Appellate Court Library System needs.
- Allow for a wide-ranging and proactive rebalancing of the appellate court libraries' resources, giving the appellate court staff and patron base a more effective blend of print and electronic resources.

### Cons:

- Results in increased draw on the General Fund.

**Alternative #3:** Do not approve additional funding to support Appellate Court Library System for the Supreme Court and Courts of Appeal.

### Pros:

- No impact to the General Fund.

### Cons:

- The costs for legal materials will continue to go up. As they do so, the courts will have to cut existing resources, regardless of their utility.
- Westlaw and LexisNexis, as the largest databases, would be the last items cut, giving them a complete monopoly over the research of the Courts of Appeal in California—there would be no negotiating position to push back on pricing.
- The courts would lose access to nearly all materials aside from the publishing arms of Westlaw and LexisNexis.
- The individual collections for the appellate court library system would need to be cut to support the increased cost of Westlaw and—when the contract renews—LexisNexis. By cutting the print collections, the appellate court librarians would not be able to retain and maintain superseded copies (which provide a record of the law as it stood, and the references cited by court opinions as they are released). This would undermine the archival and preservation duties of the appellate court libraries.



**2020-21 Budget Change Proposal Concept**

**Requesting Entity:** Administrative Presiding Justices Advisory Committee

**Contact:** Deborah Collier-Tucker and Bob Lowney

**Date Prepared:** 2/27/2019

**Budget Services Liaison:** Shirley Mohammed

**Document Tracking Number:** 20-22

**Proposal Title:** Appellate Court Security

**Fiscal Summary:**

Fund Source	Proposed JCC Positions	Total Personal Services	Operating Expenses & Equipment	Proposed Total 2020-21	Proposed Total 2021-22	Proposed Total 2022-23
General Fund	0	\$0	\$1,221,000	\$1,221,000	\$1,200,000	\$1,200,000

**Detailed Funding by Fiscal Year:**

	Proposed Total 2020-21	Proposed Total 2021-22	Proposed Total 2022-23
Ongoing	\$1,200,000	\$1,200,000	\$1,200,000
One-Time	\$21,000		
<b>Total</b>	<b>\$1,221,000</b>	<b>\$1,200,000</b>	<b>\$1,200,000</b>

**Proposal Summary:**

The Judicial Council of California (JCC) requests \$1.22 million General Fund (including \$21,000 in one-time funding) beginning in 2020-21 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 seven 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.

Approximately \$4.4 million General Fund is allocated annually to support CHP-JPS services. The JCC contracts with CHP on behalf of the Supreme Court and Courts of Appeal for these services.

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 JCC 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

## 2020-21 Budget Change Proposal Concept

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.

As indicated in the table below, the cost for CHP services has increased annually. 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. Table #2 indicates historical expenditures for the Courts of Appeal. The Courts of Appeal are primarily funded from the General Fund and approximately \$240.7 million is included in the 2019 proposed budget. Additionally, approximately \$6.3 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.

As statistics indicate, the need for the effective provision of safety and security to the appellate courts will only become greater in the future. In 2010, the NCSC, via its Center for Judicial and Executive Security (CJES), conducted a study of state court security as it relates to targeted acts of violence within court facilities (Court Targeted Acts of Violence, or CTAV). This survey documented 185 incidents of CTAV occurring between 1970 and 2009 and defined incidents as court-targeted shootings, court-targeted bombings, and court-targeted arson attacks. The CJES initiated a new study that broadened the categories of incidents to include knifings and "other assaults", murder for hire plots, bomb plots, suicides, and other



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incidents of violence that stopped just short of a shooting, bombing or arson attack. This study (titled “Disorder in the Court – Incidents of Courthouse Violence”) found there to be 209 occurrences of this broadened category of CTAV during the time frame of 2005 to 2011. Of the 209 incidents studied, CJES found that “a clear majority of all these types of incidents were case-related.” “[Case-related] Meaning the person(s) committing, attempting, or plotting a violent act was involved in a past, present, or future matter before the Court.”

In addition to the CJES studies, in 2012 the NCSC authored a “Future Trends in State Courts” article which was titled “Courthouse Security Incidents Trending Upward – The Challenges Facing States Courts Today”, which included additional un-reported CTAV data collection conducted after the original 2010 study. This consolidated study resulted in a total of 409 CTAV incidents between 2005 and 2012. NCSC and CJES indicate that “incidents of violence are for the most part on the rise, with the exception of the decrease in the number of incidents from 2011 to 2012” and based on the findings so far, “...it is likely that a relatively high number of other incidents have occurred but have not yet been documented. This probably results from the inconsistency with respect to the official reporting and recording of incidents of this type that still exist today.”

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 2013-14; 158 instances per month in 2014-15; and 145 instances per month in 2015-16. 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.

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- 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 officers 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 \$197,000 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 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:** Provide full funding to support 7.0 CHP-JPS officers.

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**Pros:** 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.

**Cons:** Increased cost to the General Fund.

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

**Pros:** Reduced commitment of ongoing General Fund resources. Partial increase in security coverage for the appellate courts.

**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.

**Alternative 3:** Provide no additional funding to support Appellate Court Security.

**Pros:** No General Fund resources.

**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. 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.

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**Requesting Entity:** Office of Court Research  
**Contact:** Leah Rose-Goodwin  
**Budget Services Liaison:** Mike Sun

**Date Prepared:** 4/10/19  
**Document Tracking Number:** 20-23

**Proposal Title:** Judicial Branch Data Governance

**Fiscal Summary:**

Fund Source	Proposed JCC Positions	Total Personal Services	Operating Expenses & Equipment	Proposed Total 2020-21	Proposed Total 2021-22	Proposed Total 2022-23
General fund	5.0	568,000	108,000 (ongoing); 56,000 (onetime)	732,000	676,000	676,000
General fund-consultant / contractor	n/a		250,000	250,000	0	0

**Detailed Funding by Fiscal Year:**

	Proposed Total 2020-21	Proposed Total 2021-22	Proposed Total 2022-23
Ongoing	676,000	676,000	676,000
One-Time	306,000		
Total	982,000	676,000	676,000

**Proposal Summary:**

The Judicial Council of California (JCC) requests 5.0 positions and \$982,000 General Fund (including \$306,000 in one-time funding) beginning in 2020-21 to establish and implement a branch data governance infrastructure needed to ensure implementation of policies such as the timely submission of data, accuracy of submissions, security, and data access for various JCC data sources. The JCC is undertaking an effort to modernize its data collection methodologies to take advantage of technological advances in data warehousing, compilation, and data analytics and information-sharing. While this effort to modernize data management may take several years to achieve, the branch needs to put in place a data governance strategy immediately to service its current data program as well as to anticipate future needs.

**Background Information:**

The Judicial Council is mandated by law to create and report standards and measures that promote the fair and efficient administration of justice for case processing, the efficient use of judicial resources, and for general court administration. Data reported by the trial courts and JCC administrative data are fundamental to making critical policy decisions. Examples of these types of decisions include: long-range capital planning based on forecasts of judicial workload; the creation and allocation of new judgeships; workload-based funding using estimates of staff workload; and estimating the cost to trial courts of implementing new legislation. All of these policy decisions depend on accurate, reliable, standardized operational data.

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To meet the reporting needs of the courts and offices, data solutions have been implemented as one-offs to meet a particular need and have been limited to existing technology. These solutions tend to be inefficient, and overly burdensome, requiring staff to fill in the gaps of information and processes. This siloed approach increases the technology footprint and the overall cost of support for the courts and the branch.

Currently there are no dedicated resources for the Judicial Branch's data analytics program. Parts of the organization with data needs have utilized existing staff to try to carve out the time and space for data governance and analytics, but these efforts require a much greater investment of time and resources to focus on this work.

Recognizing the criticality of developing better data analytics for the judicial branch, the Information Technology Advisory Committee formed a Data Analytics Workstream in 2018 to further explore this topic. Representatives from the trial courts and appellate courts are represented on the workstream, whose mission is to develop a data analytics strategy for the judicial branch. There are two main areas of exploration: data governance and technology solutions. The workstream aims to capitalize on lessons learned from Orange Superior Court's Innovation Grant for data analytics, and in turn, one of the objectives of Orange Superior Court's Innovations Grant is to design a scalable program for data analytics.

The branch also requested funding in the 2019-20 BCP process for several, related technology projects including data analytics. The focus of that proposal was on the technology needed to implement a data analytics program but did not include a resource request for the data governance component.

If implemented, this proposal would benefit the courts, JCC, legislature, and executive branch by providing better information for data-driven decision making. While the benefits to the courts have been described more fully above, the benefits to the other entities have not been fleshed out as completely.

This proposal will help implement the framework for effective data-driven decision making in the judicial branch. As the policymaking body of the state judicial system, the JCC relies on data to help inform decisions concerning resource allocation and program efficacy. Better data governance will ensure that the decisions made by the Council are done so with the most accurate and complete information possible. For example, the branch's two main workload-based allocation models, the Resource Assessment Study model and the Judicial Needs Assessment, rely on filings data submitted by courts through the Judicial Branch Statistical Information System (JBSIS). Because of the direct tie between branch data collected in JBSIS and the funding models, it is critical that all courts are held to the same standards of data quality and accuracy. A governance framework for data is intended to establish and maintain clear guidance and principles for data submission and accuracy. The same applies to other similarly-situated agency data sources.

As for the legislature and executive branch, a data governance framework will help ensure that the information provided to those entities about branch programs, expenditure outcomes and funding requests is consistent, accurate, and reliable and can be used to report back to the legislature and executive branches about use of funds, program outcomes, and the like.

### **Justification:**

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This request dovetails with 2019-20 BCP funding sought for data analytics/business intelligence. While that request focused more heavily on the technology side, this funding request will put in place the administrative infrastructure at the JCC to institute a governance and an analytics program both for any projects stemming from the 2019-20 funding as well as for other branch data sources. The administrative infrastructure includes things like establishing, maintaining and updating decision rules for the collection, auditing, access and security of various agency data sources. While in some cases these matters will be resolved in a single phase or review, for other data sources that evolve over time, this work will be continuous and ongoing. The requested amount is relatively modest, as the branch intends to implement a phased approach by focusing on a few key data sources, initially, and then expanding that scope to cover additional data resources as resources permit. The goal is to create a sustainable data governance program that represents a new way of doing business.

Five positions are being sought for this BCP:

1 FTE Principal Manager to serve as Chief Data Officer for the judicial branch, responsible for executing the branch's vision and strategy for data analytics, of which data governance is a key component.

1 FTE Senior Analyst, 1 FTE Analyst: these positions will be assigned to create or implement policies for data collection, security, retention, and data auditing for various agency data sources.

1 FTE Senior Applications Analyst: this position will bridge between the Information Technology team and the Analysts to design the technology infrastructure needed to implement the governance models.

1 FTE Attorney I: this position will review laws and legal cases, craft opinions, and design new laws and rules for data access. Also, the JCC fields numerous requests from researchers, the media, and other public entities seeking agency administrative data. The Attorney I will help field and respond to such requests.

If this request is not approved, the branch will not have the necessary controls and protocols in place to fully implement a data analytics program in the JCC. Furthermore, the branch does not have the sufficient numbers and types of personnel that are needed to execute this project successfully.

### **Fiscal Impact:**

Current year salary and complement costs were used to project the general fund need for the position classifications in this request. One-time costs for a consultant or contractor to provide short-term startup services are based on estimates of costs for similar projects. Some examples of those services could be establishing an implementation plan for data governance, producing an inventory or assessment of agency data sources, or conducting an access or security assessment of agency data.

No other government entities or courts must approve or take action in order to implement this proposal.

### **Outcomes and Accountability:**

The branch has a Data Analytics Workstream as well as an internal roadmap to implement a data governance strategy. This funding will be used to fulfill goals and outcomes for both entities. Progress will be measured by:



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1. Policies, rule changes, or new recommendations that are adopted concerning data governance, such as data quality standards, data review standards, security, and information-sharing
2. The number of data sources, data projects, and/or courts enrolled in the data governance program. Additional capacity may be realized if 2019-20 BCP funding for data analytics is approved.

**Projected Outcomes:**

Workload Measure	2017-18 Past Year	2018-19 Past Year	2019-20 Current Year	2020-21 Budget Year
Policies concerning data quality developed	1	1	1	3
Data sources enrolled	0	0	5	5

**Other Alternatives Considered:**

**Alternative 1:** Approve \$250,000 one-time General Fund in 2020-21 for consultant and professional services

**Pros:** Hiring a consultant to implement a data governance strategy is more cost effective in the short term.

**Cons:** A one-time consultant would not provide the long-term infrastructural support for this work. Data governance is not a one-time fix, but rather a structural change in the organization, management, and use of agency data.

**Alternative 2:** Reduce the number of FTE requested, \$113,525 cost savings

The request is fairly modest, making it difficult to pare down the number of FTE requested since at least one of each position type is needed to perform the basic minimum level of work. However, one analyst position could be omitted for a cost savings of \$113,525.

**Pros:** The cost of the project would be reduced by \$113,525 and most of the position types requested would be retained.

**Cons:** This would reduce the amount of work that could be performed and slow the implementation of data governance in the agency.

**Alternative 3:** Phase in the project over two fiscal years

Another option would be to hire the consultant in 2020-21, then fund the FTE in 2021-22 and ongoing. Internal resources could support the consultant to lay the groundwork for the project, then the 5.0 FTE

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could start in the second year as a way of phasing the funding request over time. The cost in 2020-21 would be \$250,000 and the cost in 2021-22 would be \$732,000. The ongoing cost would be \$676,000.

**Pros:** This lowers the first-year costs and preserves all of the staff positions requested over a longer period of time.

**Cons:** Implementation would be slowed.



**2020-21 Budget Change Proposal Concept**

**Requesting Entity:** Advisory Committee for Audits and Financial Accountability

**Contact:** Grant Parks

**Budget Services Liaison:** Michael Sun

**Date Prepared:** 3/20/2018

**Document Tracking Number:** 20-24

**Proposal Title:** Statutory Statewide Trial Court Audit Program – State Controller’s Office

**Fiscal Summary:**

Fund Source	Proposed JCC Positions	Total Personal Services	Operating Expenses & Equipment	Proposed Total 2020-21	Proposed Total 2021-22	Proposed Total 2022-23
General Fund	0	0	\$1,600,000	\$1,600,000	\$1,600,000	\$1,600,000

**Detailed Funding By Fiscal Year:**

	Proposed Total 2020-21	Proposed Total 2021-22	Proposed Total 2022-23
Ongoing	\$1,600,000	\$1,600,000	\$1,600,000
One-Time			
<b>Total</b>	\$1,600,000	\$1,600,000	\$1,600,000

**Proposal Summary:**

The Judicial Council of California (JCC) requests \$1.6 million General Fund beginning in 2020-21 to adhere to Government Code, Section 77206(h) which requires external audit agencies - such as the State Controller’s Office (SCO), State Auditor’s Office, or Department of Finance - to audit every trial court’s revenues, expenditures and fund balance on a four-year cycle. Pursuant to GC 77206(h)(4), the costs of these audits are to be paid from funds of the local trial courts being audited.

**Background Information:**

Government Code, Section 77206(h) requires the SCO to audit every trial court’s revenues, expenditures and fund balance on a four-year cycle. The audit scope includes the review of the revenues, expenditures and fund balances of all material and significant funds within each trial court’s administration and control. State law designates the SCO as the auditing entity to perform this work, unless the JCC determines that either the State Auditor’s Office or the Department of Finance can perform the same scope of work as the SCO (but at a lower cost). The SCO submits its audit reports to the Legislature, and statute requires that “the reasonable and necessary costs of the audit...shall be paid from funds of the local trial court being audited.” State law specifies that these audits shall be in addition to any audit regularly conducted pursuant to any other provision of law.

State law also requires the SCO to complete an initial pilot audit of six trial courts to develop an audit approach and to estimate the costs of the full audit program. The SCO completed its work on the pilot audits in February 2019 and has estimated annual costs of roughly \$1.6 million (i.e. to audit 14-15 courts per year to achieve the four-year audit cycle).

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**Justification:**

As stated previously, Government Code, Section 77206(h) requires the SCO to audit every trial court’s revenues, expenditures and fund balance on a four-year cycle. Trial courts are not currently budgeted to pay for these legislatively-mandated audit costs and doing so would adversely affect a trial court’s operational budget. Trial courts are funded from a workload-based formula that does not include funding for these audits, as they are not a part of a trial court’s workload. Further, without the authority for the Judicial Council to pay for these audits on the trial courts’ behalf, the SCO would need to enter into court-specific contracts with each of the 58 superior courts to bill for and obtain reimbursement. Such an approach would be inefficient and would create greater costs for the SCO to complete its work.

**Fiscal Impact:**

The SCO estimated its annual audit costs to be roughly \$1.6 million each year. This estimate is based on the SCO’s experience in auditing six trial courts (2 large, 2 medium, and 2 small). The courts included in the pilot audit were: Sacramento; San Mateo; Yolo; Sonoma; Amador; and Tehama. The previous Budget Act of 2018 appropriated \$540,000 to conduct trial courts audits pursuant to GC 77206(h). This request would add an additional \$1.06 million to appropriation item 0250-101-0932 (provision #16) on an ongoing basis for a total annual, recurring appropriation amount of \$1.6 million.

**Outcomes and Accountability:**

The audit requirement is established in state law and helps to promote transparency and accountability over trial court fiscal operations. Audit reports are submitted to the Legislature, which further demonstrates accountability for the spending of public funds. The judicial branch’s Advisory Committee for Audits and Financial Accountability (audit committee) also review these reports and make policy recommendations, as needed.

**Projected Outcomes:**

The SCO’s audits will be reviewed by the Judicial Council’s audit committee. Significant audit findings will be shared with the Judicial Council, potentially resulting in policy changes that would implement corrective action in response to reported audit findings. The audit committee will also use the SCO’s audit findings to communicate audit issues and recommend best practices to the trial courts.

Workload Measure	2017-18 Past Year	2018-19 Past Year	2019-20 Current Year	2020-21 Budget Year
SCO Trial Court Audits	6	2	6	15

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### Other Alternatives Considered:

#### Alternative #1 – Seek Partial Funding from State & Seek Statutory Change to Audit Requirement

Under this proposal, the Judicial Council would seek a total appropriation of \$800,000 (or 50% of the total \$1.6 million needed for the entire audit program of 14-15 audits per year). This amount would pay for seven (7) audits per year and would need to coincide with budget trailer bill language to change Government Code, Section 77206(h), reducing the number of audits required each year. Statute would also be changed to specify that the Judicial Council's Advisory Body for Audits and Financial Accountability for the Judicial Branch (audit committee) would select the seven courts to be audited by external audit agencies, based on risk, except that no court could be selected for external audit under this code section more frequently than once every four years.

#### Pros:

- Cheaper option than \$1.6 million cost of 14-15 audits per year, as currently required
- Creates less stress for the SCO or other audit agencies to ramp up and absorb the work
- Courts are selected based on risk and the Judicial Council's audit committee keeps some discretion over the courts to be audited based on prior audit history.
- Partially parallel with Public Contract Code, Section 19210(a) that specifies the State Auditor selects five trial courts for audit (under the Judicial Branch Contract Law) based on risk.

#### Cons:

- Does not comply with current statutory requirements
- Legislature may negatively view the reduction in the number of required audits as an effort to erode public accountability

#### Alternative #2 – Seek Partial Funding from State & Trial Courts Pay A Portion of Audit Costs

Under this scenario, the 14-15 audits per year would remain in statute and the Legislature would provide a total appropriation of \$800,000 (50% of the total request). As a result, trial courts would have to pay the remaining 50% of total audit costs because there wouldn't be sufficient new spending authority. Audits would be selected at the discretion of the external auditor.

#### Pros:

- Audit requirement of 14-15 audits per year and other statutory provisions remain intact.
- Less of a financial "ask" to the Legislature (compared to \$1.6 million)

#### Cons:

- Most of the 58 superior courts are very small and lack the funds necessary to pay \$55K (roughly one-half the total \$110,000 cost of an audit.
- Courts have not previously been asked to pay for these audits

#### Alternative #3 – Reject Funding Proposal & Seek Statutory Change Eliminating Audit Requirement

Under this proposal, the Judicial Council seeks to eliminate the current ongoing appropriation for trial court audits under Government Code, Section 77206(h). The proposal would also seek to eliminate this statute through budget trailer bill language. External audits conducted of the Judicial Council's revenues, expenditures and fund balances would continue per GC 77206(i).

## 2020-21 Budget Change Proposal Concept

### Pros:

- Trial courts are saved from having to pay for audits they cannot easily afford
- Less of a burden placed on trial court staff in facilitating and responding to external audits

### Cons:

- Weakening of audit requirements in statute may be viewed by the Legislature as an attempt to weaken transparency and external accountability.
- Fewer audits mean fewer opportunities to find and fix problems.
- Judicial Council and trial courts treated differently with respect to external audits.

## 2020-21 Budget Change Proposal Concept

**Requesting Entity:** Language Access Subcommittee of the Advisory Committee on Providing Access and Fairness

**Contact:** Don Will/Douglas Denton

**Budget Services Liaison:** Mary Jo Ejercito

**Date Prepared:** 3/20/2018

**Document Tracking Number:** 20-25

**Proposal Title:** Language Access Expansion in the California Courts

**Fiscal Summary:**

Fund Source	Proposed JCC Positions	Total Personal Services	Operating Expenses & Equipment	Proposed Total 2020-21	Proposed Total 2021-22	Proposed Total 2022-23
General Fund	3.0	\$458,000	\$95,000	\$553,000	\$520,000	\$520,000
General Fund			\$17,716,000	\$17,716,000	\$17,400,000	\$17,400,000
Total				\$18,269,000	\$17,920,000	\$17,920,000

**Detailed Funding by Fiscal Year:**

	Proposed Total 2020-21	Proposed Total 2021-22	Proposed Total 2022-23
Ongoing	\$17,920,000	\$17,920,000	\$17,920,000
One-Time	\$349,000		
Total	\$18,269,000	\$17,920,000	\$17,920,000

**Proposal Summary:**

The Judicial Council of California (JCC) requests 3.0 positions and \$18.3 million General Fund (including \$316,000 in one-time funding for video remote interpreting (VRI) equipment and \$33,000 in one-time position costs) beginning in 2020-21 to reimburse trial courts for language access services and to fund VRI equipment for the trial courts for an estimated 15 courthouses. The proposal includes 3.0 positions (Senior Analysts) to enable the launch of a VRI program statewide (1.0 position for the Center for Families, Children & the Courts and 2.0 positions for Information Technology).

**Background Information:**

Comprehensive language access across our system of justice requires resources and funding. The California judicial branch has supported the need for language access services in the courts and adopted a comprehensive plan to provide recommendations, guidance, and a consistent statewide approach to ensure language access for all limited English proficiency (LEP) court users. The Language Access Plan (LAP) consists of eight goals and 75 recommendations, including priorities in three phases. The LAP also aligns with the United States Department of Justice’s (US DOJ’s) recommendations for California to expand its language access efforts. Further, it aligns with recent legislation in California (Assembly Bill 1657; Stats. 2014, Ch. 721) that sets priorities for the provision of court interpreters in civil proceedings.

Several milestones have been reached since the LAP was adopted in 2015, including the launch of a

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web-based Language Access Toolkit, as well as appropriation of \$7 million additional, ongoing funds in 2016-17 for trial courts to continue expanding access to interpreters in civil cases. The 2018 Budget Act allocated an additional one-time funding of \$4 million for the court interpreter fund, bringing the total appropriation for the court interpreter fund to \$108.96 million. The 2018-19 budget also included an ongoing \$2.35 million for trial courts to fund essential infrastructure items such as language access signage and technology. This funding will be distributed to the courts as a grant program beginning in 2019-20. Fundamental to support California's LAP is to provide sufficient and ongoing funds so the expansion of language access services will take place without impairing other court services.

### **Justification:**

With approximately seven million limited-English proficient (LEP) residents and potential court users, speaking more than 200 languages, dispersed across a vast geographic area, California is home to the most diverse population in the country. These Californians continue to face significant obstacles to meaningful access to our justice system, 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 funding has been increased for the courts, the branch is not funded to the level required to provide all the services Californians need.

To better meet the needs of the state's LEP court users and the courts that serve them, the Judicial Council approved the *Strategic Plan for Language Access in the California Courts* (the Language Access Plan or LAP) in 2015. The goal of the council and the Language Access Plan Implementation Task Force, which was formed in March 2015 and sunset in February 2019, was to complete all phases of the plan over a 5-year period (2015-20).<sup>1</sup> Effective March 2019, the Language Access Subcommittee of the Advisory Committee on Providing Access and Fairness will work to ensure the continuation of efforts to achieve and maintain access to justice for California's LEP court users.

While several milestones were reached during the life of the Task Force, continued progress of the next set of LAP recommendations will require additional funding and positions to complete. Much improvement has resulted from the initial launch of the LAP and the council seeks to do more.

There are two initiatives that would help advance the goals of the judicial branch's LAP:

### **1. Expand interpreter services into all civil proceedings and fund interpreter salary increases (\$17.4 million)**

The total appropriation for the court interpreter fund is \$108.96 million. An additional \$17.4 million of ongoing funding is being sought to augment the interpreter fund, which is currently projected to run into deficit in FY 2019-20 due to the ongoing civil expansion and significant interpreter salary increases that were negotiated in 2017 and 2018. Adequate funding for the court interpreter fund is crucial to ensure that recent progress made by the courts in providing interpreter services in all the civil case type categories is maintained.

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<sup>1</sup> 48 of 75 LAP recommendations were completed by the Language Access Plan (LAP) Implementation Task Force (See Final Progress Report at <https://www.courts.ca.gov/documents/LAPITF-20190219-Progress-Report-Final.pdf>). In addition, 10 LAP recommendations were marked as "ongoing," meaning that they will be ongoing work for the judicial branch and have no completion date (Ibid.) Seventeen (17) LAP recommendations are "in progress," meaning that work is in progress on the recommendation, or work on the recommendation has not yet started (Ibid.).

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### 2. Video Remote Interpreting (VRI) equipment and Senior Analyst positions (\$869,000)

Due to the success of a VRI pilot project conducted in 2018 in three superior courts (Merced, Sacramento and Ventura), the Judicial Council voted in March 2019 to establish a new VRI program for the branch to expand LEP court user access to qualified interpreters. The Judicial Council is requesting one-time funding for \$316,000 for the procurement of VRI equipment for courts. This funding will furnish an estimated 15 courthouses with VRI equipment (includes 1 courtroom, 1 defendant station, 1 help desk station, and 1 interpreter station). This funding will help establish VRI as a program and advance VRI into those courts that have expressed critical need for this technology, primarily smaller courts in remote geographic locations that don't have access to enough qualified interpreters in all requested languages (over 200 languages are spoken in the California courts). VRI will allow more efficient use of limited court interpreter resources.

The Senior Analysts will provide support for the courts, helping them with the execution of their individual agreements under Master Agreements with the two approved VRI equipment vendors, providing input and oversight through VRI implementation, and acting as liaison between vendors and the courts to address technical and operational issues.

#### **Fiscal Impact:**

This request will provide \$18.3 million to assist the courts with language access expansion expenditures as detailed below, including higher court interpreter costs due to ongoing civil expansion and recently negotiated interpreter salary increases which increase the cost of interpreter services.

- Court Interpreter Costs: \$17.4 million to support only court interpreter services that will not be utilized for other language access expenditures incurred by the courts and consists of two components: (1) the average cost per interpretation using actuals from FY 2015-16 and FY 2016-17 and (2) funding to cover court interpreter salary increases in order to better serve California's 7 million LEP court users.
- Video Remote Interpreting (VRI): A total of \$869,000 (\$316,000 for VRI equipment for courts, \$553,000 in position costs) to advance VRI into those courts that have expressed critical need for this technology, primarily smaller courts in remote geographic locations.

#### **Outcomes and Accountability:**

The two LAP initiatives contained in this proposal all have measurable and tangible results for the courts and LEP court users. Effective March 2019, the Language Access Subcommittee of the Advisory Committee on Providing Access and Fairness will work to ensure the continuation of efforts to achieve and maintain access to justice for California's LEP court users. The Trial Court Budget Advisory Committee has oversight of the court interpreter fund.

- **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, which make it imperative that courts provide interpreters to all parties who require one, and that both the legislative and judicial branches of government continue in their joint commitment to carry out this shared goal. Courts will continue to report



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on interpreter usage, by case type, and the Judicial Council will continue to more effectively calculate unmet need.

- **Expansion of Video Remote Interpreting Capabilities.** Implementation of VRI equipment in phases is projected to lower interpreter travel time and cost per interpretation. Even partially implemented, the use of VRI will immediately:
  - Increase the number of LEP parties, and case types, courts can serve with qualified court interpreters within existing statewide resources, currently \$108.96 million.
  - Increase access to credentialed (certified and registered) interpreters, especially in language of lesser diffusion (other than Spanish).
  - Help ensure that qualified in-person interpreters are scheduled for high stake or lengthy matters when needed.
  - Decrease the wait time, and number of rescheduled court events, due to difficulty securing the in-person services of a qualified interpreter; preventing additional missed work by LEP parties.

### Other Alternatives Considered:

**Alternative #1:** Approve funding only for augmentation of the court interpreter fund and civil expansion for reimbursement of court interpreters (\$17.4 million).

#### 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.

#### Cons:

- Impact to the General Fund.
- 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.
- The maximized use of existing interpreters will not be realized without the implementation and expansion of VRI.

**Alternative #2:** Approve 50 percent funding for each of the items contained in this proposal (\$9,134,500).

#### 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.
- Courts would at least be provided a minimal amount of relief with expenditures related to the expansion of language access.
- Courts would be marginally supported within the constraints of a reduced allocation for the expansion of VRI.

#### Cons:

- Impact to the General Fund.

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- 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.

**Alternative #3:** Do not approve additional funding to advance the *Strategic Plan for Language Access in the California Courts*.

### **Pros:**

- No impact to the General Fund.

### **Cons:**

- Courts and the Judicial Council will be limited in their ability to expand or continue existing language access services for LEP court users due to lack of funding for other essential language access services to increase access for LEP users.
- The maximized use of existing interpreters will not be realized without the implementation and expansion of VRI.
- Courts will be unable to maintain current service levels as contractually negotiated salary increases continue to erode currently available funding levels.

## 2020-21 Budget Change Proposal Concept

**Requesting Entity:** Habeas Corpus Resources Center (HCRC)

**Contact:** Louis Stanford

**Budget Services Liaison:** Denis Friday

**Date Prepared:** 4/9/2019

**Document Tracking Number:** 20-27

**Proposal Title:** HCRC Case Team Staffing and Establishment of Los Angeles Office

**Fiscal Summary:**

Fund Source	Proposed HCRC Positions	Total Personal Services	Operating Expenses & Equipment	Proposed Total 2020-21	Proposed Total 2021-22	Proposed Total 2022-23
0001	30	\$3.8 million	\$2.7 million	\$6.5 million	\$5.6 million	\$5.6 million
0001	20	\$2.9 million		\$0	\$2.9 million	\$2.9 million
0001	20	\$2.9 million		\$0	\$0	\$2.9 million

**Detailed Funding by Fiscal Year:**

	Proposed Total 2020-21	Proposed Total 2021-22	Proposed Total 2022-23
Ongoing	\$5.6 million	\$8.5 million	\$11.4 million
One-Time	\$900,000	\$0	\$0
Total	\$6.5 million	\$8.5 million	\$11.4 million

**Proposal Summary:**

The Habeas Corpus Resource Center (HCRC) requests 30.0 positions and \$6.5 million General Fund (including \$900,000 in one-time funding and \$5.6 million in ongoing annual funding) beginning in 2020-21, additional 20.0 positions and \$2.9 million General Fund in ongoing annual funding beginning in 2021-22, and additional 20.0 positions and \$2.9 million General Fund in ongoing annual funding beginning in 2022-23 to establish total of 70.0 positions over the course of three years to support the increased workload in HCRC as a result of the enactment of Proposition 66.

This proposal would create up to 15 additional case teams to provide legal representation to inmates on California’s death row and requires an amendment to Government Code § 68661.

Additionally, the HCRC proposes a GF augmentation of \$1.8 million (30,000 sq feet x \$60 per sq ft) in Budget Year to cover lease cost to establish an HCRC office in Los Angeles, and \$900,000 in one-time move-in, set-up and furnishing costs.

**Background Information:**

This proposal is necessary to reduce the 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 24 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.

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### **Justification:**

This proposal is a necessary step to begin to address the change to the processing of capital appeals resulting from the enactment of Proposition 66 and to reduce the overall costs of the death penalty by decreasing the number of inmates on California's death row who lack counsel for state habeas corpus proceedings. As of July 31, 2018, 367 inmates are without counsel, and nearly half of those inmates have waited for counsel for more than 10 years. The current average wait time per inmate is five to ten years.

The HCRC's most recent appointment involves an inmate who waited 20 years on death row for appointment of counsel. Such undue delays result in substantial increases in state costs, including significant increases in litigation costs, and substantial increased costs in housing inmates on death row who, following successful litigation of their state habeas petitions (currently at a rate of approximately 50 percent), should be housed in the general population.

This proposal seeks to address the growing delays in California's death-penalty system by expanding the HCRC's capacity to accept capital habeas corpus representation through measured growth in HCRC staff. The additional staffing will create additional case teams and will increase the number of cases for which the HCRC can provide capital habeas representation.

### **Fiscal Impact:**

Approval of this BCP would add 70 positions to HCRC and would increase ongoing General Fund expenditure by \$11.4 million in three years.

### **Outcomes and Accountability:**

Successful implementation of this proposal will be manifested through prompt hiring and training of new staff members and quantified through the number of new cases appointed to the HCRC each year. The HCRC has a documented track record of promptly and effectively filling new and vacant positions and has mechanisms in place to ensure that complete training is provided so that new cases are developed according to proven protocols and best practices. New staff members receive intensive training and mentorship from senior and other experienced staff members to ensure that these practices are applied in all cases. With the requested increased staff, the HCRC will achieve the proposal's goal by accepting a growing number of cases each year and increasing assistance provided to private counsel, thereby decreasing the backlog in unrepresented death row inmates.

### **Projected Outcomes:**

The proposal phases in teams of attorneys, paralegals, investigators, and case assistants who provide direct representation to inmates on death row. With optimum staffing, the HCRC can process post-conviction proceedings more quickly, thus facilitating the appointment to additional cases. New case teams are critical if the HCRC is to expand the number of capital habeas corpus appointments it can accept every year. In addition to attorneys, paralegals, investigators, and case assistants, this proposal includes four (4) supervisory positions, phased in over a three-year period. These supervisory positions will provide the structure to enable the HCRC to maintain its high quality of representation for a maximum number of cases by ensuring appropriate training, mentoring, and adherence to standards, and will provide the leadership necessary for future growth.

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Workload Measure	2017-18 Past Year	2018-19 Past Year	2019-20 Current Year	2020-21 Budget Year

**Other Alternatives Considered:**

**Alternative 1:** Provide a General Fund Augmentation as Requested Herein.

**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.
- 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.

**Cons:**

- This proposal will require additional appropriations from the General Fund.

**Alternative 2:** Use Contract Attorneys, Paralegals, and Investigators to Address Increased Workload Issues

**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.

**Alternative 3:** Recruit Private Counsel to Accept Appointments in Habeas Corpus Cases

**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.

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### Cons:

- The combined efforts of the HCRC, California Appellate Project, and the California Supreme Court have failed to recruit private counsel willing to accept habeas appointments.

### Alternative 4: No Change in Funding (Status Quo)

### Pros:

- The status quo does not require the provision of additional staff resources; therefore, it does not affect the General Fund.

### Cons:

- The HCRC will be able to accept appointment in fewer capital cases in 2019-2020 and beyond.

## 2020-21 Budget Change Proposal Concept

**Requesting Entity:** Trial Court Facility Modification Advisory Committee (scheduled for approval on May 17)

**Contact:** Karen Baker

**Date Prepared:** 4/11/2019

**Budget Services Liaison:** Mike Sun

**Document Tracking Number:** 20-28

**Proposal Title:** Trial Court Lease Funding

**Fiscal Summary:**

Fund Source	Proposed JCC Positions	Total Personal Services	Operating Expenses & Equipment	Proposed Total 2020-21	Proposed Total 2021-22	Proposed Total 2022-23
General Fund			\$8,000,000	\$8,000,000	\$8,000,000	\$8,000,000

**Detailed Funding by Fiscal Year:**

	Proposed Total 2020-21	Proposed Total 2021-22	Proposed Total 2022-23
Ongoing	\$8,000,000	\$8,000,000	\$8,000,000
One-Time			
Total	\$8,000,000	\$8,000,000	\$8,000,000

**Proposal Summary:**

The Judicial Council (JCC) requests \$8 million General Fund beginning in 2020-21 to support the cost of trial court leases in the JCC portfolio of buildings. The JCC provides portfolio management of the trial court facilities throughout the state. Over the last ten years, there has been no mechanism to fund additional leased space required for the trial courts in the administration of justice. As a result, the trial courts absorbed the burden of funding leased space from their operational budgets. This request provides sufficient funds to cover the cost of existing leases that are currently funded by the trial courts.

**Background Information:**

The Judicial Council’s Facilities Services Office administers a portfolio of 467 facilities. Roughly 45% of these facilities (210) are fully managed by the JCC, 29% (136) are managed by the county; 19% (90) are leased; and 7% (31) are delegated by the JCC to either the county or the court. The portfolio includes a variety of building types: courthouses, jails, offices, parking structures and parking lots. There are a handful of additional facilities that will eventually be transferred to JCC management, as their bond debt is fully paid off.

Facilities were transferred to the JCC from counties beginning in 2007, 10 years after the Trial Court Funding Act began the process of shifting financial responsibility for support of trial courts from the counties to the state. The Court Facilities Trust Fund provides a source of funding for leases that were transferred from the counties to the state due to Senate Bill 1732 (SB1732). However, that funding was not adjusted for inflation and required supplemental General Fund payments to ensure that the judicial



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branch had sufficient funding to cover facility management. Those statutorily required supplements were suspended during the 2008-9 financial crisis and have never been restored.

Courts began using their operating funds for leases because the JCC has had insufficient funding to cover additional leased space. The JCC's funds are limited because payments from counties for facilities - the County Facility Payments (CFPs) - have not been updated since their inception in 2002. Supplemental payments from the General Fund were initially put in place to take into consideration cost escalations, but those supplements were discontinued in 2009, despite statutory requirements for them. This gap in funding has made it difficult to ensure that adequate space is available to each court.

Similarly, delays in the construction of replacement facilities have occurred due to funding issues with the judicial branch's Immediate and Critical Needs Account (ICNA).

Courts are responsible for their own storage and court storage is the only rental cost that should be paid for with a court's operational budget. Nevertheless, courts have been forced to use their operational budgets for additional leased space because their need for courtroom space is so extreme.

### **Justification:**

Providing safe, secure, and functional facilities to ensure access to justice is the responsibility of the JCC Facilities Services Office. Leased facilities are a method by which the JCC accomplishes this goal. Leased facilities encompass 19% of the JCC portfolio, however 60% of those leases are being paid from the trial court operational budgets. Due to inadequate funding for the program, Facilities Services shifted the burden of cost for new lease space to the Trial Courts. Courts in need of lease space are required to budget for lease costs that should be otherwise allocated to other court operational needs.

Courts are paying for leases because the JCC has insufficient funding to cover additional leased space. The JCC receives state County Facility Payments (CFPs) that have not been updated since their inception in 2002. Supplemental payments from the General Fund were initially put in place to take into consideration cost escalations, but those supplements were discontinued in 2009, despite statutory requirements for them.

Construction of replacement facilities has been delayed due to funding issues with the judicial branch's Immediate and Critical Needs Account (ICNA).

Rule of Court Section 10.810 specifically states that court storage is the only rental costs that should be paid for with a court's operational budget, yet courts have been forced to use their operational budgets for additional leased space because they needed courtroom space.

### **Fiscal Impact:**

The \$8 million ongoing General Fund would be exclusively used towards lease expenses for trial court space. Cost projections are calculated off existing leases that are paid from the Trial Court Trust Fund (TCTF), as authorized through a CFR and corresponding IBAs with the Trial Courts. Lease costs incurred by the courts trend close to \$8 million based on prior and existing lease commitments. The JCC does not anticipate a reduction in these costs in the coming years. The number of leases and the lease costs for the trial courts would drop to zero as the JCC assumed that responsibility with the new General Fund appropriation.

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Funding Commitment	2017-18	2018-19	2019-20	2020-21*
Number of leases funded by Trial Courts	50	53	54	0
Value of leases funded by Trial Courts	\$7,376,921	\$7,781,532	\$7,954,983	0

*\*2020-21 numbers are estimates based on existing leases. These numbers may increase as courts require additional space, or as expiring leases need to be renewed*

### Outcomes and Accountability:

The TCFMAC provides ongoing oversight of the Judicial Branch Facilities Program, and is regularly informed of the fund condition for facilities-related costs, inclusive of lease and portfolio management. The Facilities Services Office proposes to continue regular reporting with specifics on the number of leases, lease square footage, and lease cost impact to the portfolio.

The number of leases and the lease costs for the trial courts would drop to zero as the JCC assumed that responsibility with the new General Fund appropriation.

### Projected Outcomes:

Workload Measure	2017-18 Past Year	2018-19 Past Year	2019-20 Current Year	2020-21 Budget Year
Number of leases funded by Trial Court	50	53	54	0
Value of leases funded by Trial Courts	\$7,376,921	\$7,781,532	\$7,954,983	\$0

### Other Alternatives Considered:

**Alternative 1:** Approve \$7 million General Fund beginning in 2020-21 to fund trial court leases within the JCC portfolio of responsibility.

#### Pros:

- Funding of \$7 million would cover most, but not all of the existing need. As a result, the JCC would need to determine an appropriate methodology to determine which leases are funded, and which are not.
- Would provide some courts with relief from funding these leases from their operational budget.

#### Cons:

- Future lease costs would continue to be absorbed by trial court operational budgets.
- Some courts would continue to use their operational budget to fund these leases.

**Alternative 2:** Approve \$5 million General Fund beginning in 2020-21 to fund trial court leases within the JCC portfolio of responsibility.

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### Pros:

- Funding of \$5 million would cover most, but not all of the existing need. As a result, the JCC would need to determine an appropriate methodology to determine which leases are funded, and which are not.
- Would provide some courts with relief from funding these leases from their operational budget.

### Cons:

- Future lease costs would continue to be absorbed by trial court operational budgets.
- Some courts would continue to use their operational budget to fund these leases.

**Alternative 3:** Status Quo: Do not provide a General Fund augmentation for leases currently being funded through trial court operational budgets.

### Pros:

- No additional commitment of General Fund is required.

### Cons:

- This will result in the continued need for trial courts to absorb these costs from their operational budget
- Ignores the responsibility of the JCC to fund all facilities-related costs required to support the administration of justice.

## 2020-21 Budget Change Proposal Concept

**Requesting Entity:** Court Facility Advisory Committee

**Contact:** Pella McCormick

**Budget Services Liaison:** Lisa Crownover

**Date Prepared:** 4/26/2019

**Document Tracking Number:** 20-29

**Proposal Title:** Stanislaus – New Modesto Buildout Two Shelled Courtrooms

**Fiscal Summary:**

Fund Source	Proposed JCC Positions	Total Personal Services	Operating Expenses & Equipment	Proposed Total 2020-21	Proposed Total 2021-22	Proposed Total 2022-23
0660	0	0	\$9.404 m	\$9.404 m		
3138	0	0	\$0.341 m	\$0.341 m		

**Detailed Funding by Fiscal Year:**

	Proposed Total 2020-21	Proposed Total 2021-22	Proposed Total 2022-23
Ongoing			
One-Time	\$9.745 m		
Total	\$9.745 m		

**Proposal Summary:**

The Judicial Council of California (JCC) requests a change in scope and an additional appropriation of \$9.404 million Public Building Construction Fund (PBCF) for the construction phase and \$0.341 million Immediate and Critical Needs Account (ICNA) for the working drawing phase to finish two additional courtrooms and provide a more durable façade in the Stanislaus-New Modesto Courthouse. The authorized project is a new 27-courtroom, with five unfinished courtrooms, approximately 308,964 building gross square feet (BGSF) courthouse in the City of Modesto. This request finishes two of the five unfinished courtrooms and provides precast façade in lieu of high maintenance cement plaster facade. The finished courtrooms will be occupied by the Stanislaus Juvenile Court. The project is in the Working Drawing phase and is scheduled to commence construction in October 2019 and complete in January 2023.

**Background Information:**

From FY 2010-11 through FY 2018-19, there is a total financial commitment of \$279.353 million for the New Modesto Courthouse. (Acquisition \$13.766 million, preliminary plans \$11.026 million, working drawings \$15.252 million and construction \$239.309 million)

The current authorized project is a new approximately 308,964 building gross square feet (BGSF) courthouse in the City of Modesto which replaces and consolidates four existing court facilities, includes 27 courtrooms, five that are unfinished, and court support space.

If approve this proposal will increase the authorized project cost by \$9.745 million for a total project cost estimated to be \$289.098 million. The proposed scope change includes finishing two of the five unfinished courtrooms. The built-out courtrooms will be occupied by the Stanislaus Juvenile Court. The courtrooms are standard configuration court sets that can be used for a variety of court calendar types. The New Modesto Courthouse holding area is already designed to accommodate and separate in-custody classifications including

## 2020-21 Budget Change Proposal Concept

juvenile defendants.

This project will allow consolidation of Stanislaus Juvenile Court in New Modesto Courthouse, which vacates the current leased location.

### **Justification:**

The Juvenile Court department is currently housed in two antiquated courtrooms leased from Stanislaus County. The current court space was built in 1976, few improvements have been made in the 43 years since its construction. The current facility is undersized, lacks basic security features, such as in-custody holding, separation of in-custody defendants/witnesses from the public and court staff, lacks essential program space and is deficient in fire, life, safety, and ADA compliance.

The Stanislaus Court is in immediate need of safe juvenile courtrooms with compliant security features due to recent changes in criminal law that have impacted all juvenile courts. Prior to 2017, the district attorney had discretion to "direct file" the most serious juvenile cases to adult court. Proposition 57 and subsequent caselaw and statutes require that adjudication of all juvenile crime will commence in juvenile court. Offenders under age 16 must be tried in juvenile court, and 16 and 17-year-olds must have their proceedings commence in juvenile court, regardless of the severity of the offense. Many of these cases involve murder, attempted murder, rape, guns, and gangs.

Proposition 57 is retroactive, meaning that all individuals, many who are now adults, whose cases were not final on appeal by the effective date are entitled to a new hearing in juvenile court to decide where they should be prosecuted for crimes that were committed in their youth. The current facility does not have in-custody holding nor an adequate means to maintain separate holding areas for adults and juveniles. Adult and juvenile witnesses and defendants in-custody are required to be held in separate areas. There are no holding facilities for adult witnesses or defendants who may be in-custody. In-custody adults currently wait in one of the Attorney-Client conference rooms, which are small and not secure, a deputy must remain with the in-custody adult until the hearing is over, which may take an entire day.

This project has the lowest construction cost per square foot of any of the SB 1407 courthouse capital projects. Due to budget constraints and unprecedented construction market escalation, the exterior façade of the tower portion of the building would need to utilize cement plaster façade at floor levels 2–8 with precast façade applied only at the first floor to be constructed within the authorized budget. Constructing a high-rise building with cement plaster on the upper floors is rarely used. Cement plaster is less durable than precast requiring regular maintenance and painting and is costlier over a 30-year life cycle.

The judicial branch's budget to maintain existing facilities is unable to afford costs for painting the exterior of court facilities as part of regularly-scheduled maintenance. For this project, and because the costs will also not be afforded in the future, applying a cement plaster system requiring painting every five to ten years should be avoided to prevent early failure of the façade.

### **Fiscal Impact:**

In FY 2010–11, per Chapter 10, Statutes of 2009 (SB12, 2X), \$14.766 million was appropriated for acquisition and \$11.959 million for preliminary plans. On June 30, 2012, \$6.860 million for acquisition and \$11.959 million for preliminary plans reverted. The 2012–13 Budget Act re-appropriated \$6.860 million for acquisition, of which \$1.0 million was requested for reversion in the 2013–14 Budget Act.

In 2014–15, \$11.026 million was appropriated for preliminary plans. In the 2015–16 Budget Act, \$15.252 million was appropriated for working drawings but reverted on June 30, 2016 due to delays. In the 2016-17 Budget Act, \$15.252 million was re-appropriated for working drawings and \$2.066 million was appropriated

## 2020-21 Budget Change Proposal Concept

for pre-construction work. The working drawings funds reverted on June 30, 2017. The 2018-19 Governor's Budget included a \$15.252 million for the working drawings phase and \$237.243 million for the construction phase.

The preconstruction phases were funded from the Immediate and Critical Needs Account (ICNA) and the construction phase will be bond funded with the debt repaid by the General Fund.

### **Outcomes and Accountability:**

The Court Facilities Advisory Committee (CFAC) is responsible for oversight of the Judicial Council Capital Construction Program. Requests for changes to project scope, schedule or budget are presented to the committee for discussion and/or action. To ensure consistent and continuous improvement, Program Management (a process of managing several related projects, with the intention of improving an organization's performance) approach has been implemented by the Capital Outlay program.

The primary tool for the Program Management is a comprehensive program information and control system that has been implemented. This system serves as the central repository of all information and documents for all Capital-Outlay Projects. It also serves as the central resource for all program standards, plans, policies, and procedures so all stakeholders can have easy access to the latest information. Program and project procedures provide practical information and guidance to the project teams to achieve results, with consistency across all projects. Specific success measures have been established for the program and all projects to drive actions that will produce results to meet established goals.

Additionally, on a quarterly basis the Judicial Council staff review capital-outlay project progress with the California Department of Finance to ensure adherence to authorized project scope, schedules, and budget.

### **Projected Outcomes:**

This proposal for scope change and funding will build-out two of the currently shelled courtrooms in the Stanislaus – New Modesto Courthouse project. The proposal will increase the number of finished courtrooms from 22 to 24 in the new project. The proposal consolidates all court operations into one location in Stanislaus County, will eliminate a leased facility and remedies numerous facility deficiencies.

### **Other Alternatives Considered:**

**Alternative 1:** Approve the additional funding for working drawings and construction to finish two additional courtrooms in the Stanislaus-New Modesto Courthouse and to add a more durable finish to the outside of the building.

### **Pros:**

- This option provides two modern and secure courtrooms replacing and consolidating operations from high security risk antiquated leased facility.
- This option mitigates current Juvenile Court deficiencies related to the lack of in-custody holding cells, unsecured circulation; lack of administrative program space for basic juvenile services such as child waiting, corrects limited security screening and provides compliant fire, life, safety and ADA facility.
- This option enhances the court's ability to serve the public, centralizes court services into one location, and enhances court services.
- This option provides safe and secure courtrooms for the administration of juvenile justice.

### **Cons:**

- Additional commitment of \$9.745 million in resources is required.

## 2020-21 Budget Change Proposal Concept

**Alternative 2:** Lease Space for two Juvenile Courtrooms. This option would lease a specialty-built facility for two juvenile courtrooms, administrative and program space, including separated circulation and in-custody holding, and public lobby/waiting area with scanning equipment space.

**Pros:**

- This option provides two modern and secure courtrooms replacing a high security risk antiquated facility.
- This option mitigates current Juvenile Court deficiencies related to the lack of in-custody holding cells, unsecured circulation; lack of administrative program space for basic juvenile services such as child waiting, corrects limited security screening and provides compliant fire, life, safety and ADA facility.
- This option enhances the court's ability to serve the public and enhances court services.
- This option provides safe and secure courtrooms for the administration of juvenile justice.

**Cons:**

- Additional commitment of estimated costs of \$704,500 per year [\$550,000 per year lease cost which is based on current lease for two civil courtrooms; Court Security costs for 1.0 FTE Sheriff's Deputy stationed at weapons screening \$135, 000/year; In-custody transport costs \$19,500.00 per year] is required.

**Alternative 3:** Defer this project

**Pros:**

- No additional resources are required.

**Cons:**

- This is an urgently needed project, the current juvenile courthouse lacks basic security features, such as in-custody holding, separation of in-custody defendants/witnesses from the public and court staff, lacks essential program space and is deficient in fire, life, safety, and ADA compliance.
- Delay of this project eliminates the ability to consolidate existing court operations for enhanced public service and staff efficiency.
- It is likely that the total project cost will be higher if the project is undertaken in the future due, to construction escalation.





## JUDICIAL COUNCIL OF CALIFORNIA

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

Telephone 415-865-4200 • Fax 415-865-4205 • TDD 415-865-4272

### MEMORANDUM

<p><b>Date</b> May 1, 2019</p> <p><b>To</b> Hon. David M. Rubin, Chair Judicial Branch Budget Committee</p> <p><b>From</b> Administrative Presiding Justices Advisory Committee (APJAC)</p> <p><b>Subject</b> APJAC Approval of the Appellate Court Budget Change Proposal Concepts</p>	<p><b>Action Requested</b> Please Review and Consider</p> <p><b>Deadline</b> N/A</p> <p><b>Contacts</b> Laura Speed, Director, Leadership Support Services</p> <p>Deborah Collier-Tucker, Manager Appellate Court Services</p>
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This memo is to provide the Judicial Branch Budget Committee (JBBC), the Administrative Presiding Justices Advisory Committee (APJAC) budget change proposal concepts (concepts) funding requests for the Budget Change Proposals (BCP) for FY 2020-2021. On behalf of the APJAC, staff submits the list below of approved concepts so that the JBBC may consider them when it ultimately reviews and ranks all the potential BCPs for the Judicial Branch.

At its April 26, 2019 open meeting, the APJAC reviewed and approved a total of six Appellate Court related budget change proposal concepts. The order below does not reflect a priority ranking.

Below are the concepts for your consideration:

- Court Technology Manager Positions: Position authority for 7.0 positions and a General

Hon. David Rubin

May 1, 2019

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Fund augmentation of \$1.571 million beginning in 2020-21 and ongoing to fund a Court Technology Manager position for the Supreme Court and each Court of Appeal (together, the Appellate Courts). The Appellate Courts have embraced technology over the last 5 - 7 years, moving to electronic filing, providing remote access to the public, and offering many services online. At the same time, the Judicial Council Information Technology (IT) staff has been reduced and utilized in ways to promote other missions of the judicial branch. The Appellate Courts now find that they are in need of a Technology Manager position to serve as strategic and visionary managers for many of the complex information technology projects occurring in the courts. Similar to each trial court Chief Information Officer (CIO), the Appellate Courts need a position to advance court technology and modernize the services the courts provide to the public.

- **One New Appellate Court Justice Position and Chamber Staff – 4th DCA, Div. 2: New Appellate Court Justice for the Courts of Appeal.** Proposed ongoing General Fund augmentation of \$1.3 million is requested to support a new Appellate Justice and 4.0 FTEs (3.0 Sr. Attorneys and 1.0 Judicial Assistant) in the Courts of Appeal. Funding will support the substantial and growing workload demands in Division 2 – Riverside Court of the Fourth Appellate District Court of Appeal. Division Two has an annual average of 1,105 appeals becoming fully briefed. Applying the weighted formula that results in 113 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. This request supports funding for the two new justices and their necessary chambers staff, including 3 research attorneys and 1 judicial assistant.
- **Appellate Court Appointed Counsel Program (Supreme Court and Courts of Appeal):** Supreme Court and Appellate Courts Court Appointed Counsel Programs. Proposed General Fund augmentation of \$1.63 million to support an increase in the contracts with the five Court of Appeal Court-Appointed Counsel Projects (\$1.3 million) and the Supreme Court Court-Appointed Counsel Project, San Francisco (CAP-SF) (\$0.350 million). These six projects (non-profit organizations) provide assistance and oversight to the panel of private attorneys appointed in criminal court of appeal cases, capital appeals and habeas corpus and clemency proceedings for indigent defendants. California's Court-Appointed Counsel 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 allows the Courts to perform its function efficiently and effectively. CAP-SF is also responsible for assisting 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. The funding would support significant increases in the cost of rent and staff benefits, new staff, salary increases, training, and increased costs for record collection and preservation.

Hon. David Rubin

May 1, 2019

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- Appellate Court Facility Maintenance Program: Appellate Court Facility Maintenance Program. Proposed ongoing General Fund augmentation of \$1.4 million to perform an in-depth building assessment of the three state-owned, court- managed appellate court facilities and to establish and support an Appellate Court Facility Maintenance Program. The facility assessment will document the current condition of the three state-owned, court-managed buildings and create project and cost estimates for identified deficiencies. The Appellate Court Facility Maintenance Program will support facility maintenance requests for the two court-managed facilities, which is based on Building Owners and Managers Association standards and will include preventative and routine maintenance. The request will also provide funding to the remaining seven 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 nine facilities.
- Appellate Court Security Services: Appellate Court Security. Proposed ongoing General Fund augmentation of \$1.2 million (\$1.2 million and a one-time augmentation of \$21,000) to support security services provided by the California Highway Patrol Judicial Protection Section at the Courts of Appeal. CHP-JPS's primary mission is to provide security and protection for the California Supreme Court, the California Courts of Appeal, its personnel and facilities throughout the State.
- Appellate Court Library Services: Appellate Court Library System for the Supreme Court and Courts of Appeal. Proposed ongoing General Fund augmentation of \$682,000 to support the increased costs for contractual library electronic services and materials for the Court of Appeal and the Supreme Court libraries. No new funds for the Appellate Court Library system in the past 10 years. The funding augmentation will support two areas of the library system: 1) To continue funding our online subscriptions, and 2) to complete a re-balance of our print and e-collections, ensuring these resources provide research support in all major legal research areas.

On behalf of the APJAC, we have forwarded the complete concepts to the Judicial Council Budget Services staff, who will conduct a final review of these documents and provide them to your committee.

Please let us know if you require further information from the Judicial Council Administrative Presiding Justices Advisory Committee. Thank you for considering our prioritized ranking.

cc: Judicial Branch Budget Committee  
Administrative Presiding Justices Advisory Committee  
Mr. Martin Hoshino, Administrative Director  
Ms. Millicent Tidwell, Chief Deputy Director



# JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue  
San Francisco, CA 94102-3688  
Tel 415-865-4200  
TDD 415-865-4272  
Fax 415-865-4205  
www.courts.ca.gov

May 1, 2019

Hon. David M. Rubin  
Superior Court of California,  
County of San Diego  
1100 Union Street  
San Diego, California 92101

HON. TANI G. CANTIL-SAKAUYE  
Chief Justice of California  
Chair of the Judicial Council

MR. MARTIN HOSHINO  
Administrative Director,  
Judicial Council

ADVISORY COMMITTEE  
ON AUDITS AND FINANCIAL  
ACCOUNTABILITY FOR THE  
JUDICIAL BRANCH

HON. DAVID ROSENBERG  
Chair

HON. PETER SIGGINS  
Vice-chair

Hon. Mary Ann O'Malley  
Hon. Susan Matcham  
Ms. Sherri Carter  
Mr. Kevin Harrigan  
Mr. Kevin Lane  
Ms. Tania Ugrin-Capobianco  
Mr. Phil Jelichich

COMMITTEE STAFF  
Mr. Grant Parks  
Tel 916-263-1321

AuditCommittee@jud.ca.gov

\*\*Sent via email to Judicial Branch Budget Committee\*\*

Dear Judge Rubin:

The judicial branch's budget process for fiscal year 2020-21 requires advisory committees to approve *Initial Funding Requests* (IFR)—or *Budget Change Proposal Concepts* (BCP Concepts), if completed—prior to their submission to the Judicial Branch Budget Committee and the Judicial Council for further action.

In your role as chair of the Judicial Branch Budget Committee, I wanted to advise you that the Advisory Committee for Audits and Financial Accountability (audit committee) approved, in open session, the IFR titled "Statutory Statewide Trial Court Audit Program" on March 28, 2019. The audit committee supports the continued development of this item into a full budget change proposal for fiscal year 2020-21. Doing so will ensure adequate funding exists to satisfy statutorily mandated external audits of the superior courts. Please feel free to contact the audit committee's lead staff, Mr. Grant Parks, should you need to discuss this item further.

Sincerely,

Hon. David Rosenberg  
Chair

Advisory Committee on Audits and Financial Accountability

May 1, 2019  
Hon. David M. Rubin  
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DR/GP

cc: Ms. Lucy Fogarty, Deputy Director, Budget Services, Judicial Council

**MINUTES OF ACTION BY EMAIL BETWEEN MEETINGS  
MARCH 26, 2019****Email Proposal**

The Court Facilities Advisory Committee (CFAC) was asked to approve an Initial Funding Request (IFR) for consideration by the Judicial Branch Budget Committee (JBBC) at its upcoming meeting in May 2019. The JBBC reviews/approves concepts and recommends funding-request priorities for the judicial branch. This IFR was prepared by Judicial Council staff as a placeholder for future funding requests for trial court capital-outlay projects.

Senate Bill 847 (Committee on Budget and Fiscal Review) revises Government Code section 70371.9 to require the Judicial Council to update its 2008 prioritization methodology as well as to reassess capital projects in its Trial Court Capital-Outlay Plan. The CFAC is overseeing Judicial Council staff's reassessment of capital projects, which is due to the Legislature by December 31, 2019. After the reassessment is complete, the scope of the priority projects will be determined and budgeted so that Capital-Outlay Budget Change Proposals may be submitted during spring 2020 for inclusion in the fiscal year 2020–21 budget process.

The CFAC previously discussed the reassessment of capital projects and the revised prioritization methodology at its meeting on February 21, 2019.

**Notice**

On March 22, 2019, a notice was posted advising that the CFAC was proposing to act by email between meetings under California Rules of Court, rule 10.75(o)(1)(B).

**Public Comment**

In accordance with California Rules of Court, rule 10.75(o)(2), written comments pertaining to the proposed action were accepted before the CFAC acted on the proposal. The written comment period began on March 22, 2019, and ended on March 25, 2019. No comments were received.

**Action Taken**

After the public comment period ended, and on March 26, 2019, CFAC members were asked to submit their votes on the proposal by March 29, 2019. By majority vote, the CFAC has approved the IFR for review and consideration by the JBBC.



# JUDICIAL COUNCIL OF CALIFORNIA

TRIAL COURT BUDGET  
ADVISORY COMMITTEE

[www.courts.ca.gov/tcbac.htm](http://www.courts.ca.gov/tcbac.htm)  
[tcbac@jud.ca.gov](mailto:tcbac@jud.ca.gov)

## TRIAL COURT BUDGET ADVISORY COMMITTEE

### MINUTES OF OPEN MEETING

May 2, 2019

10:00 a.m. – 2:00 p.m.

Boardroom, 455 Golden Gate Avenue, San Francisco, CA 94102

**Advisory Body Members Present:** Judges: Hon. Jonathan B. Conklin (Chair), Hon. Jeffrey B. Barton, Hon. Daniel J. Buckley, Hon. Mark A. Cope, Hon. Kimberly Gaab, Hon. Teri L. Jackson, Hon. Charles Margines, Hon. Brian McCabe (phone), Hon. Gary Nadler (phone), and Hon. B. Scott Thomsen (phone).

Executive Officers: Ms. Rebecca Fleming (Vice Chair), Ms. Kim Bartleson (phone), Ms. Sherri Carter (phone), Mr. Chad Finke, Mr. Kevin Harrigan (phone), Mr. Michael D. Planet, Mr. Michael M. Roddy, Mr. Brian Taylor, Ms. Kim Turner, Ms. Tania Ugrin-Capobianco (phone), and Mr. David Yamasaki.

Judicial Council Staff Advisory Members: Mr. John Wordlaw and Mr. Zlatko Theodorovic

**Advisory Body Members Absent:** Hon. Andrew S. Blum and Hon. Jill C. Fannin

**Others Present:** Ms. Lucy Fogarty, Ms. Brandy Sanborn, Ms. Michele Allan, Ms. Donna Newman, Ms. Melissa Ng, Mr. Jason Haas, Mr. Catrayel Wood, Ms. Charlene Depner, Mr. Don Will, Mr. Douglas Denton, Mr. Eric Schnurpfeil, Mr. Doug Kauffroath, Ms. Audrey Fancy, Ms. Penelope Davis, and Ms. Vida Terry.

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#### OPEN MEETING

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##### Call to Order and Roll Call

The chair welcomed the then called the meeting to order at 10:17 a.m. and took roll call.

##### Approval of Minutes

The advisory body reviewed and approved the minutes of the April 16, 2019 Trial Court Budget Advisory Committee meeting.

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#### DISCUSSION AND ACTION ITEMS (ITEMS 1-7)

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##### Item 1 - 2019-20 AB 1058 Allocations (Action Required)

Consideration of the 2019-20 allocations for the child support commissioner and family law facilitator programs.



Presenter(s)/Facilitator(s): Ms. Anna Maves, Supervising Attorney, Judicial Council Center for Families, Children, and the Courts

**Action:** The Trial Court Budget Advisory Committee unanimously voted to approve the recommendation for funding of child support commissioners for fiscal year (FY) 2019-20, subject to the state Budget Act, and for funding of family law facilitators for FY 2019-20, subject to the state Budget Act.

#### **Item 2 - 2019-20 Court-Appointed Dependency Counsel Allocations (Action Required)**

Consideration of the 2019-20 allocations from the Trial Court Trust Fund (TCTF) for court-appointed dependency counsel.

Presenter(s)/Facilitator(s): Ms. Audrey Fancy, Supervising Attorney, Judicial Council Center for Families, Children, and the Courts

**Action:** The Trial Court Budget Advisory Committee unanimously voted to approve the recommendation of two separate allocations for Court Appointed Counsel funding including \$136.7 million in the event there is no additional funding included in the 2019 Budget Act; and \$156.7 million in the event the \$20 million in proposed additional funding is in the final 2019 Budget Act.

#### **Item 3 - Allocations from the State Trial Court Improvement and Modernization Fund (IMF) for 2019-20 (Action Required)**

Consideration of recommendations of the Revenue and Expenditure (R&E) Subcommittee regarding allocations from the IMF for 2019-20.

Presenter(s)/Facilitator(s): Mr. Jason Haas, Senior Analyst, Judicial Council Budget Services

**Action:** The Trial Court Budget Advisory Committee unanimously voted to approve a recommendation to approve a total of \$80,079,860 in allocations for 2019-20 from the IMF, contingent upon approval of various budget change proposals (BCPs) in the 2019 Budget Act; and to approve an additional allocation value of \$8,367,208, provided the 2019-20 BCPs that shift expenditures to the General Fund are denied.

#### **Item 4 - Allocations from the TCTF and Trial Court Allocations for 2019-20 (Action Required)**

Consideration of recommendations of the R&E Subcommittee regarding allocations from the TCTF for 2019-20, and consideration of 2019-20 trial court allocations from the TCTF and General Fund including the workload formula, criminal justice realignment, self-help, and benefits.

Presenter(s)/Facilitator(s): Ms. Melissa Ng, Senior Analyst, Judicial Council Budget Services

**Action:** The Trial Court Budget Advisory Committee unanimously voted to approve recommendations to approve base, discretionary and non-discretionary programs from the TCTF in the amount of \$2.21 billion; approve a General Fund allocation in the amount of \$68.8 million for employee benefits; and approve a Workload Formula allocation of \$2.032 billion based on methodologies approved by the Judicial Council.

#### **Item 5 - Interpreter Shortfall Methodology (Action Required)**

Consideration of options from the Funding Methodology Subcommittee for recommendation to the Judicial Council to address a projected 2019-20 shortfall and development of a methodology to manage anticipated, ongoing shortfalls.

Presenter(s)/Facilitator(s): Mr. Catrayel Wood, Senior Analyst, Judicial Council Budget Services

**Action:** The Trial Court Budget Advisory Committee voted to approve a recommendation to authorize a one-time allocation of unrestricted fund balance from the TCTF in an amount not to exceed \$13.5 million, with an alternative considered to allocate a reduction to courts up to \$13.5 million via a pro rata reduction to courts based on prior year actuals. The vote was as follows:

- Yes: 20
- No: 1
- Abstain: 0

**Item 6 - Prioritization of Trial Court Budget Change Proposal (BCP) Concepts for 2020-21 (Action Required)**

Review and prioritize trial court BCP concepts, and BCP concept submissions in which the TCBAC 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 Conklin, Chair, Trial Court Budget Advisory Committee; Ms. Rebecca Fleming, Vice Chair, Trial Court Budget Advisory Committee

**Action:** The Trial Court Budget Advisory Committee unanimously approved to prioritize the BCPs identified by the committee in the following order:

1. Trial Court Funding Stabilization, \$390m
2. Trial Court Civil Assessment Backfill, \$56.4m
3. Trial Court Civil Assessment Maintenance of Effort, \$48.3m
4. Trial Court Reserve Cap
5. Funding for 10 of the 50 Judgeships Authorized by AB 159, \$7.4m - \$15.4m

Of the BCPs in which TCBAC was identified as having purview and the opportunity to provide input, the committee unanimously approved to prioritize two in the following order:

1. Language Access Expansion in California, \$18.3m (includes one-time funding)
2. Trial Court Facility Operations and Maintenance Funding, \$51.5m

The remaining BCPs under the committee's purview were unanimously approved without prioritization:

- a. Digitizing Documents Phases 2 and 3, \$6.7m one-time in 2020-21, \$11.1m one-time in 2021-22
- b. Next Generation Hosting Consulting Services for Data Center and Disaster Recovery, \$540k with \$1.3m one-time in 2020-21 and \$624k one-time in 2021-22
- c. Productizing California Court Innovation Grants
- d. Trial and Appellate Court Deferred Maintenance Funding, \$100m one-time
- e. Trial Court Lease Funding, \$8m

**Item 7- Judicial Council Advisory Committee on Audits and Financial Accountability Letter (Action Required)**

Consideration of a recommendation to address inconsistencies in the trial court encumbrance policies as alerted to TCBAC by the Advisory Committee on Audits and Financial Accountability for the Judicial Branch.

Presenter(s)/Facilitator(s): Mr. Doug Kauffroath, Director, Judicial Council Branch Accounting and Procurement

**Action:** The Trial Court Budget Advisory Committee unanimously voted to approve directing the Judicial Council staff responsible for coordinating changes to the Trial Court Financial Policies and Procedures Manual (FIN Manual) to initiate an off-cycle (outside annual update) amendment process to include the encumbrance guidelines as outlined in allowing for editorial updates as proposed by the trial courts, Department of Finance, and the State Controller's Office in their statutorily mandate review of FIN Manual updates.

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**INFORMATION ONLY ITEMS (INFO 1)**

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**Info 1- Budget Update for 2019-20**

Update on the budget for 2019-20.

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

**Action:** 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 12:09 p.m.

Approved by the advisory body on enter date.



# JUDICIAL COUNCIL OF CALIFORNIA

TRIAL COURT FACILITY MODIFICATION  
ADVISORY COMMITTEE

[www.courts.ca.gov/tcfmac.htm](http://www.courts.ca.gov/tcfmac.htm)  
[tcfmac@jud.ca.gov](mailto:tcfmac@jud.ca.gov)

## TRIAL COURT FACILITY MODIFICATION ADVISORY COMMITTEE

### MINUTES OF OPEN SESSION OF MEETING

April 08, 2019  
10:00 AM - 3:00 PM

Judicial Council of California – Sacramento/Teleconference

**Advisory Body  
Members Present:**

Hon. Donald Cole Byrd, Chair  
Hon. Jennifer K. Rockwell  
Hon. Vanessa W. Vallarta  
Mr. W. Samuel Hamrick Jr.  
Ms. Linda Romero Soles  
Mr. Darrel E. Parker (phone)  
Mr. Jarrod Orr

**Advisory Body  
Members Absent:**

Hon. Brad R. Hill  
Hon. Patricia M. Lucas  
Hon. William F. Highberger, Vice-Chair  
Hon. James Stoelker

**Staff Present:**

The following Judicial Council staff were present:  
Mr. John Wordlaw, Chief Administrative Officer, Judicial Council  
Mr. Mike Courtney, Director, Facilities Services  
Ms. Pella McCormick, Deputy Director, Facilities Services  
Mr. Jagan Singh, Principal Manager, Facilities Services  
Mr. Jim Peterson, Principal Manager, Facilities Services  
Ms. Mimi Morris, Principal Manager, Facilities Services  
Ms. Maria Atayde-Scholz, Manager, Facilities Services  
Ms. Peggy Symons, Manager, Facilities Services  
Mr. Andre Navarro, Manager, Facilities Services  
Ms. Karen Baker, Manager, Facilities Services  
Ms. Nanci Connelly, Supervisor, Facilities Services  
Mr. Paul Fitzgerald, Supervisor, Facilities Services  
Ms. Donna Jorgensen, Supervisor, Facilities Services  
Mr. Glenn Mantoani, Supervisor, Facilities Services  
Mr. Randy Swan, Supervisor, Facilities Services  
Mr. Paul Terry, Supervisor, Facilities Services  
Mr. Steve Shelley, Supervisor, Facilities Services (phone)  
Mr. Patrick Treanor, Supervisor, Facilities Services  
Mr. Ed Ellestad, Supervisor, Facilities Services  
Mr. Charles Martel, Supervising Attorney, Legal Services  
Mr. Michael Giden, Principal Managing Attorney, Legal Services  
Ms. Donna Newman, Supervisor, Budget Services  
Ms. Kate Albertus, Facilities Analyst, Facilities Services  
Ms. Akilah Robinson, Associate Analyst, Facilities Services (phone)  
Ms. Sadie Varela, Administrative Specialist, Facilities Services

**Others Present:**

Mr. David Yamasaki, Court Executive Officer, Superior Court of CA, County of Orange  
Mr. Jason Haas, Senior Budget Analyst, Budget Services  
Mr. Zlatko Theodorovic, Director, Budget Services  
Ms. Rose Livingston, Senior Analyst, Judicial Council

**OPEN SESSION OF MEETING****Call to Order, Opening Remarks, and Roll Call**

The chair called the open session of the meeting to order at 10:00 AM, roll was taken, and opening remarks were made.

**Approval of Minutes**

The advisory committee voted to approve the open session minutes of its meeting held on March 8, 2019. (*Motion: Vallarta; Second: Romero-Soles*)

**PUBLIC WRITTEN COMMENTS**

No public comments were received.

**OPEN SESSION - ACTION ITEMS (ITEMS 1-9)****Action Item 1 – List A – Emergency Facility Modification Funding (Priority 1)**

**Summary:** Ratify emergency facility modifications from List A.

**Action:** *Reviewed and approved 14 projects for a total of \$261,755 to be paid from Facility Modification program funds previously encumbered. (Motion: Vallarta; Second: Hamrick)*

**Action Item 2 – List B – Facility Modifications Less than \$100K (Priority 2)**

**Summary:** Ratify facility modifications less than \$100K from List B.

**Action:** *Reviewed and approved 41 projects for a total of \$268,982 to be paid from Facility Modification program funds previously encumbered. (Motion: Romero-Soles; Second: Orr)*

**Action Item 3 – List C – Cost Increases Over \$50K**

**Summary:** Ratify facility modifications requiring cost increases over \$50K from List C.

**Action:** *Reviewed and approved 6 projects for a total cost increase to the Facility Modifications Program budget of \$1,742,993. (Motion: Rockwell; Second: Vallarta)*

**Action Item 4 – List D – Facility Modifications Over \$100K**

**Summary:** Review recommended facility modifications over \$100K from List D and P3 projects.

**Action:** *Reviewed and approved 2 facility modification projects for a total cost to the Facility Modification Program Budget of \$345,000. (Motion: Rockwell; Second: Romero-Soles)*

**Action Item 5 – Court Building Seismic Renovation Studies Project Report(s)**

**Summary:** Review and approve the Court Building Seismic Renovation Studies Project report(s) for release to the public.

**Action:** *Reviewed and approved the release of the seismic report to the public – pending revision to add County designation to the footnotes. (Motion: Vallarta; Second: Rockwell)*

**Action Item 6 – Q3 Trial Court Facility Modification Report for Fiscal Year 2018-19**

**Summary:** Draft of Quarter 3 report to the Judicial Council as an Information-Only items.

**Action:** Reviewed and approved draft for submission to the Judicial Council as an information-only item. (Motion: Romero-Soles; Second: Hamrick)

**Action Item 7 – Reallocation of Funds**

**Summary:** Review and approve reallocation of \$1,000,000 from FMs Less than \$100K Allocation to Priority 1 FM Allocation, and \$750,000 from Unplanned FMs Over \$100K Allocation to Priority 1 FM Allocation.

**Action:** Reviewed and approved reallocation of \$1,000,000 from FMs Less than \$100K Allocation to Priority 1 FM Allocation, and \$750,000 from Unplanned FMs Over \$100K Allocation to Priority 1 FM Allocation. (Motion: Rockwell; Second: Vallarta)

**Action Item 8 – FY 20-21 Budget Change Proposal (BCP) Initial Funding Requests (IFRs)**

**Summary:** Review, prioritize and approve the two FY 20-21 BCP IFRs for submittal in May to the Judicial Branch Budget Committee.

**Action:** Reviewed and approved both FY 2020-21 Initial Funding Requests for submission to the Judicial Branch Budget Committee and prioritized them as follows: (1) Trial Court Facility Operations and Maintenance Funding and (2) Trial and Appellate Court Deferred Maintenance Funding. (Motion: Romero-Soles; Second: Hamrick)

**Action Item 9 – DMF Funding Cost Increase**

**Summary:** Review and approve cost increase for DMF projects.

**Action:** Reviewed and approved cost increase of \$993,410 for roof repair project at North Justice Center in Orange County. (Motion: Romero-Soles; Second: Hamrick)

**Action:** Reviewed and approved cost increase of \$254,485 for roof replacement project at San Bernardino Courthouse Annex in San Bernardino County. (Motion: Vallarta; Second: Rockwell)

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**OPEN SESSION - DISCUSSION ITEMS (ITEMS 1-3)**  
**(NO ACTION REQUIRED)**

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**Discussion Item 1 – Court Facilities Trust Fund (CFTF) Fund Status**

**Summary:** Update on the status of the Court Facilities Trust Fund.

**Discussion Item 2 – List E – Approved Court-Funded Requests (CFRs)**

**Summary:** Review and discuss CFR projects approved by the Facilities Services Deputy Director since the last meeting. 32 CFRs were approved during this period.

**Discussion Item 3 – List F – Funded Facility Modifications on Hold**

**Summary:** Standard list of previously funded FMs on hold.

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**OPEN SESSION – INFORMATION-ONLY ITEMS (ITEMS 1–4)**  
**(NO ACTION REQUIRED)**

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**Information Item 1 – DMF-I Project List Update**

**Summary:** Update on the DMF-I projects.

**Information Item 2 – DMF-II Project List Update**

**Summary:** Update on the DMF-II projects.

**Information Item 3 – Architectural Revolving Fund Projects Update**

**Summary:** ARF projects update.

**Information Item 4 – Facility Modification Budget Reconciliation Report**

**Summary:** FM Budget Reconciliation Projects Update.

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**ADJOURNMENT TO CLOSED SESSION AND ADJOURNMENT**

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There being no further open session business, the open session of the meeting was adjourned at 1:30 PM, and the advisory committee moved to the closed session of the meeting. The closed session of the meeting—which was closed to the public for discussion of security-related items (per Cal. Rules of Court, Rule 10.75(d))—was adjourned at 2:05 PM.

Approved by the advisory body on \_\_\_\_\_





# JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue  
 San Francisco, CA 94102-3688  
 Tel 415-865-4200  
 TDD 415-865-4272  
 Fax 415-865-4205  
 www.courts.ca.gov

HON. TANI G. CANTIL-SAKAUYE  
*Chief Justice of California*  
*Chair of the Judicial Council*

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

## TECHNOLOGY COMMITTEE

HON. MARSHA G. SLOUGH  
*Chair*

HON. GARY NADLER  
*Vice-chair*

*Hon. Kyle S. Brodie*  
*Hon. Ming W. Chin*  
*Hon. Jonathan B. Conklin*  
*Ms. Nancy Eberhardt*  
*Ms. Rachel W. Hill*  
*Ms. Andrea K. Wallin-Rohmann*  
*Hon. Rebecca Wightman*

### Date

February 28, 2019

### 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 the Technology Initial  
 Funding Requests

The purpose of this email is to provide you, in your role as Chair of the Judicial Branch Budget Committee (JBBC), with a prioritization of the technology initial funding requests (IFRs) for the Budget Change Proposals (BCP) for FY 2020-2021, as recommended by the Judicial Council Technology Committee (JCTC). I am submitting this ranking so that the JBBC may consider this when it ultimately ranks all of the potential BCPs for the Judicial Branch.

At its February 26, 2019 meeting, the JCTC reviewed and ranked a total of six technology related BCP IFRs. The committee used the following criteria to rank the BCP IFRs.

- Was it a prior request or deferred?
- Was it tied to an active, next phase, or completed workstream from the Information Technology Advisory Committee (ITAC)?
- Was the item previously funded (i.e., to carry forward)?
- What was the breadth of impact?
- Did it involve security?
- What was the viability for the future?

Using this criteria, the committee evaluated the six concepts. After discussion, the JCTC decided to remove one proposal (Digital Evidence in the Court – Pilot) as it believed that it would benefit from further refinement.

February 28, 2019

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The committee felt that the remaining five proposals would be of great benefit to the branch and ranked them in the following order.

1. Electronic (Intelligent) Judicial Council Forms Solution
2. Productizing California Court Innovation Grants
3. Disaster Recovery Consulting Services Solutions – Pilot
4. Digitizing Documents Phases 2 – 3
5. Next Generation Data Hosting Consulting Services

Judicial Council Information Technology staff will be forwarding the completed IFRs and Concepts to the Judicial Council Budget Services staff, who will do a final review of these documents and provide to your committee. Please know that I am willing and available to attend a meeting of the JBBC to answer any questions or provide additional information.

Please let me know if you require further information from the Judicial Council Technology Committee. Thank you for considering our prioritized ranking.

Sincerely,



Marsha G. Slough, Chair  
Technology Committee

CC: Judicial Council Technology Committee  
Judicial Branch Budget Committee  
Mr. Martin Hoshino, Administrative Director  
Mr. Robert Oyung, Chief Operating Officer



## JUDICIAL COUNCIL OF CALIFORNIA

2860 Gateway Oaks Drive, Suite 400 • Sacramento, California 95833-4336

Telephone 916-263-7885 • Fax 916-263-1966 • TDD 415-865-4272

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### MEMORANDUM

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Date	Action Requested
May 10, 2019	Please Review and Approve
To	Deadline
Judicial Branch Budget Committee Hon. David M. Rubin, Chair	May 14, 2019
From	Contact
Charlene Depner Director, Center for Families, Children & the Courts	Anna Maves, Supervising Attorney/Program Manager 916-263-8624 phone anna.maves@jud.ca.gov
Subject	
Request for Support for Potential California Department of Child Support Services Budget Change Proposal for Increased Funding for AB 1058 Program	

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#### Executive Summary

The Center for Families, Children & the Courts requests that the Judicial Branch Budget Committee make a recommendation to the Judicial Council to support the California Department of Child Support Services' (DCSS) development of a budget change proposal (BCP) to request additional funding to restore program funding for the AB 1058 Child Support Commissioner and Family Law Facilitator Program to "prerecession" funding levels. The additional funding would be allocated to the courts and fund the administration of the Judicial Council's AB 1058 Program, which has been flat-funded for 11 years.

## Background/History

Title IV-D of the Social Security Act (42 U.S.C. § 601 et seq.) provides that each state shall establish a child support program as a condition of receiving federal funding for the Temporary Assistance for Needy Families (TANF) program. States must have a designated single statewide child support agency that prepares the state plan, administers the child support program, and receives federal funding for the program. The California Department of Child Support Services has been designated as the statewide agency for California's child support program. States are also permitted to enter into cooperative agreements to reimburse other government entities such as state courts for costs associated with providing title IV-D child support-related services.

The title IV-D child support program was created in 1975 to establish paternity and collect child support for parents who received welfare benefits in order to reduce the costs of welfare to the states and federal government. Child support collected from noncustodial parents reimbursed the states for the welfare grants. Services were also provided to nonwelfare families that requested child support assistance, with the idea that the collection of child support for those families might help them avoid having to seek public assistance. Title IV-D services include (1) establishment of parentage and child support orders, (2) modifying the support orders when there is a change of circumstances that affects the amount of support that should be paid, (3) enforcing support orders, and (3) distributing support collected to families and to the government entities as reimbursement for welfare payments provided to the children. Each state must meet federally imposed performance-based standards. Failure to maintain these minimum performance standards jeopardizes the continued receipt of federal funding for the program.

In 1996, Assembly Bill 1058 (Stats. 1996, ch. 957) was enacted, which established the Child Support Commissioner and Family Law Facilitator Program. The purpose of this legislatively mandated program was to provide cost-effective, expedited, and accessible process in the courts for establishing and enforcing child support orders in cases being enforced by local child support agencies. This program was also able to leverage federal and state funding for the courts to enable courts to provide these services. AB 1058 requires each superior court to have a child support commissioner to hear title IV-D child support cases and an Office of the Family Law Facilitator to provide legal assistance to litigants who are navigating the court process in title IV-D child support cases.

The two major elements of the AB 1058 program are the child support commissioner (CSC) and family law facilitator (FLF) programs, both of which were established in each court. These programs provide an expedited process in the courts that is both accessible and cost-effective to families involved in child support cases. The CSC component of the program provides judicial officers to hear child support cases, plus court staff to support them. The FLF component assists parents with child support issues by gaining meaningful access to the courts in a timely manner.

The program was intended to make the processing of child support cases in the courts more efficient by making sure that parents obtained all the necessary forms and documentation before the hearing. When parents come better prepared to their hearings, judicial officers can process more cases in the time allotted.

Funds for this program are provided through a cooperative agreement between the DCSS and the Judicial Council. The agreement requires the council to annually approve the funding allocation for each court for the child support commissioners and family law facilitators. Two-thirds of the funds are provided from the U.S. Department of Health and Human Services Administration for Children and Families, Office of Child Support Enforcement, through the 1996 Federal Personal Responsibility and Work Opportunity Recovery Act (PRWORA); one-third of the funds come from the state General Fund non-Trial Court Trust Fund court funding. This funding is commonly referred to as “base funding.”

In fiscal year (FY) 2007–08, during the state’s financial crisis, funding for the state portion of the AB 1058 Program was reduced. In order to assist in covering the cost of maintaining program service levels, the DCSS and the Judicial Council of California provided a mechanism for the courts to voluntarily participate in the federal drawdown option whereby courts could receive two-thirds of federal program funding by paying one-third of program costs from local trial court funds and receiving two-thirds from federal matching funds. This option was intended to be temporary until California’s economy improved and program funding could be restored. During improved financial circumstances, the AB 1058 Program has remained flat-funded since 2008.

The Judicial Council is mandated to establish procedures for distributing funds to the courts for CSCs and FLFs. Funds are allocated to the local courts via standard agreements between the Judicial Council and the courts. The allocation amounts are based on a formula that has been approved by the Judicial Council. Separate contracts are executed for the CSC and the FLF components of the program. Funds allocated to the FLF component may not be transferred to the CSC component and vice versa. The funding and contract cover a state fiscal year, which runs from July 1 through June 30. Under the federal guidelines, any funds left unspent during the fiscal year revert to the state General Fund and cannot be used in subsequent years.

AB 1058 mandates that the Judicial Council establish procedures to distribute funding and offer technical assistance to the courts to ensure the successful implementation and operation of the Child Support Commissioner and Family Law Facilitator Program. The Judicial Council is also required to establish minimum qualifications for commissioners, caseload standards for commissioners, minimum standards for the Office of Family Law Facilitator, and to adopt uniform rules of court.

## Justification

Because DCSS is the designated administrator of the state's child support plan, requests for additional program funds must be made through a BCP by DCSS. Funding available for the AB 1058 Child Support Commissioner and Family Law Facilitator Program are provided via an interagency agreement between the DCSS and the Judicial Council. The funding is 66 percent federal title IV-D funds and 34 percent state general funds included in the DCSS budget, subject to annual budget appropriation. The Judicial Council allocates funding to each court for the operation of the program, and funding is provided to each via a contract for child support commissioner and family law facilitator services through two contracts between the Judicial Council and the courts.

Assembly Bill 1058 funding for both local court operations and the administration of the program has been flat since 2008. Operational costs for the program over the last 10 years, including costs of labor, supplies, training, technology, etc., have continued to rise. Funding made available through the "federal drawdown" option has assisted courts in meeting contractual and federal performance requirements. However, as courts have indicated the need for increased funding due to increased costs, a reduction in funding reserves, and the implementation of a new trial court funding methodology, they have been less able to continue to contribute trial court funds to participate in the federal drawdown option. Courts have been left struggling to continue to provide adequate child support court services.

In addition, in the FY 2019–20 Governor's budget, there is a proposal to increase funding to local child support agencies who have similarly been flat-funded since 2008. Additional funding to local child support agencies will likely cause additional filings that will create increased workload for the courts, including processing filings, increased court calendars, and more parents to assist in navigating the court process. The failure of courts to timely respond to this increased workload creates a real risk that local child support agencies and courts—and therefore California as a whole—will be unable to comply with the minimum federal performance standards required for continued federal funding. Although it is not possible to predict the additional workload the new local child support agency funding will create for the courts and the additional funds the courts will need to meet this workload, increased funding must be requested to ensure courts can be responsive.

The potential BCP would restore the state's share of AB 1058 funding that is currently funded using trial court funds to match the drawdown federal funds. This will allow the courts' AB 1058 Program to be fully funded from federal and state funds as originally intended without the courts needing to use trial court funds to ensure service basic levels.

Funding for the Judicial Council to administer the AB 1058 Program has also been flat-funded since 2008. As a result, the number of staff working on the program has been reduced, thereby reducing technical assistance and training available to local courts. In addition, DCSS audits of local courts' AB 1058 Program show that additional data collection, financial evaluation, compliance review, and technical assistance is needed to ensure that the courts understand the correct methodology for tracking time working on the program and seeking reimbursement for the work provided.

The Center for Families, Children & the Courts requests that the committee make a recommendation to the Judicial Council to support a potential DCSS BCP that would include a request to increase funding to the Judicial Council for the administration of the AB 1058 Program as well as additional funding for the courts. The additional funding for the administration of the program includes full funding for current program administration and funding for a senior analyst. Funding for the courts will potentially fully fund the current match portion of the federal drawdown.

#### Analysis of All Feasible Alternatives

Based on questionnaires received by courts on an annual basis as part of the midyear reallocation process for AB 1058 funding, courts have indicated that although there is a need for additional program funding to meet the federal performance measures and the needs of local communities, courts no longer have sufficient trial court funds to continue to subsidize the AB 1058 Program. Without the courts' ability to contribute matching funds to draw down the federal funds, there will be a substantial reduction in the ability to provide access to AB 1058 courts and services.

If the Judicial Council does not support a potential BCP from DCSS to restore program funding, it is unlikely that DCSS will move forward with a funding request. This would result in the need for courts to use increased trial court funds or reduce services, thereby jeopardizing statewide program funding.

#### Recommendation

The Center for Families, Children & the Courts requests that the Judicial Branch Budget Committee make a recommendation to the Judicial Council to support the California Department of Child Support Services' development of a budget change proposal to request additional funding to restore program funding for the AB 1058 Child Support Commissioner and Family Law Facilitator Program to "pre-recession" funding levels. The additional funding would be allocated to the courts and fund the administration of the Judicial Council's AB 1058 Program, which has been flat-funded for 11 years.