



## JUDICIAL COUNCIL OF CALIFORNIA

520 Capital Mall, Suite 600 • Sacramento, California 95814  
Telephone 916-323-3121 • Fax 916-323-4347 • TDD 415-865-4272

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### MEMORANDUM

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Date	Action Requested
August 9, 2017	Recommend for Judicial Council Approval
To	Deadline
Members of the Policy Coordination and Liaison Committee	N/A
From	Contact
Cory T. Jasperson, Director Governmental Affairs	Cory T. Jasperson Governmental Affairs 916-323-3121 phone 916-323-4347 fax cory.jasperson@jud.ca.gov
Subject	
Judicial Vacancies: Implementation of Assembly Bill 103 (Stats. 2017, ch. 17); Reallocation of Vacant Judgeships	Laura Speed, Supervising Attorney Governmental Affairs 916-323-3121 phone 916-323-4347 fax laura.speed@jud.ca.gov

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#### **Executive Summary**

Assembly Bill 103 (Stats. 2017, ch. 17), adds Government Code section 69614.4, which reallocates two vacant judgeships each from the Superior Courts of Santa Clara and Alameda Counties to the Superior Courts of Riverside and San Bernardino Counties, respectively. The bill requires the Judicial Council to determine which specific vacancies shall be transferred between counties pursuant to this section and take all necessary steps to effectuate each transfer.

Staff recommends that the Policy Coordination and Liaison Committee recommend to the Judicial Council that the positions that have been vacant for the longest period of time in Santa Clara County Superior Court and Alameda County Superior Court be transferred in accordance with Assembly Bill 103.

## **Recommendation**

Staff recommends that the Policy Coordination and Liaison Committee recommend to the Judicial Council that the judicial vacancies, as identified in attachment A, be reallocated pursuant to Assembly Bill 103, as follows:

- Judicial Council position identification numbers 9330 and 9101 from the Superior Court of California, Alameda County to the Superior Court of California, San Bernardino County;
- Judicial Council position identification numbers 5601 and 5039 from the Superior Court of California, Santa Clara County to the Superior Court of Riverside County.

## **Previous Council Action**

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

In 2007, the council secured the second set of 50 new judgeships of the 150 critically needed judgeships. (AB 159 [Jones]; Stats 2007, ch. 722.) Initially, funding for the second set of new judgeships would have allowed appointments to begin in June 2008. However, because of budget constraints, the funding was delayed until July 2009. The delay allowed the state to move the fiscal impact from FY 2007–2008 to FY 2009–2010. The Governor included funding for the second set of judgeships in the proposed 2009 Budget Act, but the funding ultimately was made subject to what has been called the “federal stimulus trigger.” This trigger was “pulled,” and the funding for the new judgeships and the various other items made contingent on the trigger was not provided.

In 2008, the council sponsored Senate Bill 1150 (Corbett) to authorize the third set of new judgeships. SB 1150 was held in the Senate Appropriations Committee. The council also sponsored Senate Bill 377 (Corbett) in 2009 to authorize the third set of judgeships to become effective when funding was provided for that purpose. That legislation was also held in the Senate Appropriations Committee.

In both 2011 and 2012, the council sponsored AB 1405 to establish the third set of 50 judgeships, however, the legislation did not move forward. In 2014, the council sponsored SB 1190 (Jackson), which sought to secure funding for the second set of 50 new judgeships approved in 2007 but not yet funded and to authorize a third set of 50 new judgeships to be allocated consistent with the council’s most recent Judicial Needs Assessment. The bill was held in the Senate Appropriations Committee. In 2015, the Judicial Council sponsored SB 229 (Roth) which would have appropriated \$5 million for the funding of 12 of the 50 previously authorized judgeships. Governor Brown vetoed the bill. The Governor’s veto indicated that

before funding any new positions, he intended to balance the distribution of already funded judgeships. The Governor stated:

I am aware that the need for judges in many courts is acute—Riverside and San Bernardino are two clear examples. However, before funding any new positions, I intend to work with the Judicial Council to develop a more system wide approach to balance the workload and the distribution of judgeships around the state. (Governor’s veto message to Sen. Bill No. 229 (2015–2016 Reg. Sess.).)

In 2016, the council sponsored SB 1023 (Judiciary), which was identical to SB 229—however, SB 1023 was held in the Senate Appropriations Committee.

### **Rationale for Recommendation**

Assembly Bill 103, a budget trailer bill that became effective on June 27, 2017, adding Government Code section 69614.4, reallocates two vacant judgeships each from the Santa Clara Superior Court and the Alameda Superior to the Riverside Superior Court and the San Bernardino Superior Court respectively. The statute also requires that the Judicial Council identify which judicial vacancies shall be transferred between the specified counties and take all steps necessary to effectuate each transfer. Once the vacancies have been approved for transfer, the Governor will be able to appoint new judges into those positions. Staff is recommending the positions that have been vacant for the longest period of time in Santa Clara County Superior Court and Alameda County Superior Court be transferred in accordance with Assem. Bill 103 (see attached listing of all vacancies in both courts). The legislation specifies that the term of the reallocated judgeships shall begin on January 2, 2018.

In 2016, the Judicial Council sponsored Assembly Bill 2341 (Obernolte) for the Legislature to reallocate up to five vacant judgeships from courts with more authorized judgeships than their assessed judicial need, to courts with fewer judgeships than their assessed judicial need. The allocation of the vacant judgeships would be based on a methodology approved by the council and under criteria contained in statute, subdivision (b) of section 69614 of the Government Code. In 2017, Senate Bill 39 and Assembly Bill 414 would have also provided for the reallocation of judgeships. Both bills were stalled in the legislative process.

### **Comments, Alternatives Considered, and Policy Implications**

No alternatives were considered due to the statutory requirement.

### **Implementation Requirements, Costs, and Operational Impacts**

No implementation requirements, costs or operational impacts are expected.

### **Relevant Strategic Plan Goals and Operational Plan Objectives**

The recommendation supports the council’s strategic plan Goal II, Independence and Accountability, by seeking to secure sufficient judicial branch resources to ensure accessible, safe, efficient, and effective services to the public.

## **Attachment**

1. Attachment A: Alameda and Santa Clare Judgeship Vacancies as of July 31, 2017, at page 5

# Attachment A

## Alameda and Santa Clara Judgeship Vacancies as of July 31, 2017

Judicial Council Identification Number	Vacated	No. of Days Vacant	Next Election	Next Term Starts	Latest Occupant (last name)	Entity Name
5540	6/8/2017	53	6/2/2020	1/4/2021	Lott, Jr.	Alameda
101	3/31/2017	122	6/2/2020	1/4/2021	Freedman	Alameda
7024	3/28/2017	125	6/2/2020	1/4/2021	Goodman	Alameda
9330	3/13/2017	140	6/2/2020	1/4/2021	Moruza	Alameda
9101	10/15/2015	655	6/5/2018	1/7/2019	Saunders	Alameda

7015	7/19/2017	12	6/2/2020	1/4/2021	Woodhouse	Santa Clara
9694	5/5/2017	87	6/2/2020	1/4/2021	Johnson	Santa Clara
9331	4/28/2017	94	6/2/2020	1/4/2021	Grilli	Santa Clara
5757	2/3/2017	178	6/2/2020	1/4/2021	Guerrero-Daley	Santa Clara
5582	9/20/2016	314	6/5/2018	1/7/2019	Loftus, Jr.	Santa Clara
5601	5/12/2016	445	6/5/2018	1/7/2019	Del Pozzo	Santa Clara
5039	7/31/2015	731	6/5/2018	1/7/2019	Bernardini	Santa Clara

As of:

7/31/2017