



Judicial Council of California

ADMINISTRATIVE OFFICE OF THE COURTS

JUDICIAL AND COURT OPERATIONS SERVICES DIVISION

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MEMORANDUM

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| Date | Action Requested |
| August 2, 2013 | Please Review |
| To | Deadline |
| Trial Court Budget Advisory Committee | August 14, 2013 |
| From | Contact |
| Court-Appointed Counsel Funding Subcommittee | Corby Sturges |
| Hon. Mary Ann O'Malley, Chair | 415-865-4507 phone corby.sturges@jud.ca.gov |
| Subject | |
| Juvenile Dependency Counsel Collections Program: Amendments to Guidelines | |

Summary

The Court-Appointed Counsel Funding Subcommittee recommends that the Trial Court Budget Advisory Committee approve three amendments to the Juvenile Dependency Counsel Collections Program (JDCCP) Guidelines and submit them to the Judicial Council for adoption. The first of these would specify the timing and procedures under which courts might recover their eligible program implementation costs. The second would establish a transparent, equitable methodology for allocating collected reimbursements to the courts in conformity with statutory requirements. The third would incorporate changes to the authority of the financial evaluation officer made by Senate Bill 75. Other amendments would clarify that the guidelines are not intended to preclude courts from collaborating on efforts to implement the program, update references, and make grammatical and technical changes. The subcommittee commends any remaining issues regarding the allocation and distribution of the funds collected through the JDCCP to the discretion of the committee as a whole.

Background

In Assembly Bill 131 (Stats. 2009, ch. 413), the Legislature required the Judicial Council to establish a program to collect reimbursements from parents and other responsible persons, to the extent they are able to pay, for the court cost of providing legal services to these persons and

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their children in juvenile dependency proceedings. These costs are substantial, as Welfare and Institutions Code section 317 requires the juvenile court to appoint counsel to represent all children in dependency proceedings¹ absent a finding that the particular child will not benefit from the appointment, as well as all indigent parents of children who have been placed out of the home or for whom out-of-home placement is recommended. The court also has the authority to appoint counsel for all other indigent parents. The statute further requires that appointed counsel for a child have a caseload and training that ensures adequate representation. To this end, the Legislature directed the Judicial Council to adopt rules of court that establish caseload standards, training requirements, and guidelines for children's counsel. In 2001, the council amended rule 1438 (now 5.660) of the California Rules of Court to set these standards.

The Judicial Council also directed staff to conduct a study of the workload of dependency counsel appointed to represent both parents and children to determine more precise caseload, compensation, and performance standards. As a result of the workload study, the council further directed staff to begin implementation of a caseload standard of 141 clients per attorney through the voluntary Dependency Representation Administration, Funding, and Training (DRAFT) pilot program.

After three years of evaluating caseloads and practice models in ten volunteer courts, the Judicial Council approved a caseload standard of 188 clients per FTE attorney assisted by support staff, adopted a workload-based funding methodology known as the Caseload Funding Model (CFM), and authorized the expansion of the DRAFT program to a total of 20 courts. Despite the successes of the DRAFT program in promoting more cost-effective representation models, the statewide cost of appointing dependency counsel continued to exceed the available budget. The Legislature has never fully funded the CFM, requiring the court-appointed counsel programs to operate at a structural deficit.

Hoping to tap an alternative source of funds, the Legislature enacted AB 131 in 2009. Over the past two and a half years, several subcommittees of this committee and its predecessor, the Trial Court Budget Working Group (TCBWG), have worked to develop a framework to implement the collections program. After a series of false starts due in part to the difficult economic climate, a joint working group of the Family and Juvenile Law Advisory Committee and the TCBWG developed a set of program guidelines and optional forms that were adopted by the Judicial Council, effective January 1, 2013. These guidelines establish procedures for courts to use to determine the cost of legal services in each dependency case and a responsible person's ability to pay all or part of those costs; to collaborate with counties, private vendors, or other courts in implementing the program; and to report program data.

This subcommittee was charged with resolving the issues that remained after the approval of the initial guidelines. The two principal issues were how and when courts might recover their costs of implementing the JDCCP and how to allocate collected funds equitably to the trial courts in compliance with the statutory mandate that the funds be used to reduce court-appointed attorney caseloads.

¹ Under section 317.5 of the Welfare and Institutions Code, each child "who is the subject of a dependency proceeding is a party to that proceeding." (Welf. & Inst. Code, § 317.5(b).) All further statutory references are to the Welfare and Institutions Code unless otherwise specified.

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While the subcommittee was engaged in this work, the Legislature enacted Senate Bill 75 (Stats. 2013, ch. 31 (effective June 27, 2013)), which modified the authority of the financial evaluation officer to petition for and the court to order reimbursement. Because the legislation required further amendment of the program guidelines, the subcommittee took on this task as well.

Recovery of Eligible Program Implementation Costs

Section 903.47(a)(1) of the Welfare and Institutions Code directs the Judicial Council, as part of the dependency counsel collections program, to “adopt policies and procedures allowing a court to recover[,] from the money collected[,] the costs associated with implementing” the JDCCP. The statute limits costs eligible for recovery to the costs of determining a parent’s ability to pay for court-appointed counsel and of collecting delinquent reimbursements” and requires the policies and procedures to “limit the amount of money a court may recover to a reasonable proportion of the reimbursements collected.”

Process for Recovering Program Implementation Costs

The subcommittee agreed early on that it would be reasonable to permit a court to recover its eligible costs in full to the extent permitted by statute. Development of a process to recover those costs has been more time-consuming. The subcommittee considered two processes for a court to use to recover its eligible program implementation costs.

- **Option 1:** Permit each participating court to recover its eligible program costs from the funds that it alone has collected before remitting the remaining revenue to the state.
- **Option 2:** Require each participating court to remit gross reimbursement revenue collected to the state and only thereafter permit a court to submit a claim to the AOC to recover its eligible program costs.

For the reasons discussed below, the subcommittee unanimously recommends Option 1.

Option 1. The first option, assumed but not expressly stated in the current guidelines, is to permit each participating court to recover its eligible costs from the money it alone has collected before remitting its net collected revenue to the state as required by section 903.47(a)(2).

This option has several advantages. First, it is simple. It would require a court only to submit a report documenting the eligible costs that it has already recovered. The guidelines require a court to submit this report monthly, at the same time it reports its collected reimbursement revenue. The court would already need to have determined its costs before remitting and reporting its net collected revenue; the documentation of costs is anticipated to require only marginally more court staff time. This increase in staff time would be smaller than that required for option 2, and would be amply justified by the resulting promotion of transparency and accountability.

Second, this option is consistent with current trial court cost recovery standards, in particular the recovery of costs incurred through the Enhanced Collections Program under Penal Code section 1463.007. That section expressly authorizes a court to recover its eligible costs before

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distributing any revenue to other governmental entities.² Courts are accustomed to these standards and would not need to develop new processes to implement them for dependency counsel reimbursement collections.

Third, permitting each court to recover its costs from its own collected funds would be consistent with current practice in almost every court. An informal survey of court financial personnel revealed no court that remits funds to the state without first recovering its costs or paying its vendors from the revenue collected. The master agreements negotiated by the state with private collections vendors expressly contemplate payment of vendors before distribution of collected revenue. These agreements require a participating court to pay commissions or fees to vendors within thirty days of receipt of an invoice. That requirement assumes that a court is permitted to pay fees from the revenue collected. As the committee is aware, courts are facing serious cashflow shortages; most cannot absorb the costs of implementing this program into their operations budgets. These shortages would be exacerbated by requiring the courts to wait for reimbursement of their dependency collection costs by the AOC. An informal survey of trial court financial personnel confirms that requiring courts to remit collected funds before recovering their costs would cripple any existing collections efforts and possibly have broader negative ramifications.

Finally, this option should promote efficiency by encouraging a court with unprofitable collection efforts to seek a more cost-effective method, such as combining resources with another court, or to terminate its participation in the collection program. It does not seem desirable or consistent with the legislative intent to require an individual court to engage in collection efforts that cost more than the revenue they generate.

From a different perspective, this same advantage could be seen as the primary disadvantage of this option. Because this option limits recovery to the amount of money an individual court is able to collect, a court that cannot collect enough money to cover its own costs might be forced to stop participating in the JDCCP. Any revenue it might have collected would be lost. However, other solutions to this problem are available. For example, a court that cannot collect enough funds to cover its costs might arrange with another court for the second court to engage in collection efforts on its behalf. Alternatively, several courts, none of which alone could collect enough to cover its costs, might join in a group collection effort to allow each court to cover its share of the program costs. That is, either of these alternatives would allow courts to benefit from economies of scale without necessarily increasing the upfront costs they would need to bear. An amendment to section 10(c) clarifies that clarifies that such collaborative arrangements are permitted under the guidelines.

Option 2. This option would require each court to remit all (gross) revenue collected through the reimbursements program to the state under section 903.47(a)(2) and section 12 of the guidelines.

² In addition to practical consistency, this option would permit a reading of section 903.47(a)(1)'s authorization of a court to recover its program costs "from the money collected" in harmony with Penal Code section 1463.007's authorization of a court to recover its program costs "from the revenue collected." Section 1463.007 and the guidelines adopted under its authority make clear that a court may recover its costs from the revenue it has collected before making required distributions to other governmental entities.

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The court could then submit a claim or invoice to the state to recover its eligible costs from the pool of money remitted to the program by all participating courts.

This option has one principal advantage. It would, if consistent with statute, permit a court to recover its eligible costs even if those costs were to exceed the amount of the reimbursements that it could collect individually. This ability might, in turn, allow those courts to continue participating in the reimbursements program when they could not otherwise afford to do so.³ As discussed above, however, courts with unprofitable collection programs could take advantage of economies of scale by combining efforts or contracting for collections services with another court. Furthermore, this option would not address existing unrecoverable costs and might impose additional unrecoverable costs on the courts.

There are also reasons to believe that this option might not have the desired effect of supporting programs that are not otherwise cost-effective.⁴ First, this option would make it difficult for a court to contract with a third party to implement the program. The court would need to bear the cost of vendor fees or commissions much longer than it would need to if it were allowed to deduct those costs before remitting collected funds. If a court were not permitted to pay these fees from its own collected funds before remitting them to the state, it would be required instead to pay them, if it could, from its operations budget, to delay payments to vendors, or even to withhold payment. Implementation would seem more difficult for any court. As noted above, the current cash flow shortages faced by the trial courts would be exacerbated by requiring them to wait, possibly for months, for the state to approve and issue reimbursement for program costs. A court would be effectively required to lend money to the state until the state was able to process its cost-recovery claim.

Second, this option would lead to additional time and cost for AOC Fiscal Services Office staff. The same staff members who process the distribution of collected funds to reduce appointed counsel caseloads would also need to review and process claims for cost recovery. Third, this extra work, along with the need to temporarily hold some collected funds in reserve in anticipation of future cost recovery claims, is likely to lead to further delay and uncertainty in the distribution of collected funds to the courts to use to reduce appointed counsel caseloads.

Fourth, even if this approach is consistent with the statutory language, permitting each court to recover its eligible costs from, or up to the amount of, the total funds collected statewide would be inconsistent with the legislative purpose of the program, that is, to increase revenue available for reducing attorney caseloads. In a scenario where one or more large courts' program costs exceed the revenue collected, permitting recovery of costs from the total funds collected statewide is more likely to expend all of the collected funds on program costs alone.

The subcommittee also sought to use this option to enhance the transparency and accountability of the cost recovery process. Yet this concern seems equally well addressed by either option, and at a lower cost in option 1. Both options would require courts to verify and document their

³ There is reason to think that the Legislature, by inserting the requirement that a court consider "the cost-effectiveness of the program" in determining ability to pay, intended to discourage courts from implementing the program if doing so would not be cost effective. See § 903.47(a).

⁴ Again, assuming this effect is desirable and permissible under statute. See *id.*

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program costs to the Judicial Council. Court financial services staff suggested that the documentation of costs after remittance would be at least as onerous a burden as the reporting needed if courts were to be permitted to recover their costs before remittance. Court staff further predicted that requiring a court to also submit a claim for its costs would require substantial additional staff time and could provide an incentive for a court to include this ineligible cost in its claim for recovery.

Allocation Methodology

Earlier this year, the subcommittee had provisionally settled on the methodology presented here as Option 1. This method entails allocating a pro rata share of the collected funds to each participating court based, in part, on the relation of its current, historically based funding level to its funding need as estimated by the Caseload Funding Model (CFM) approved by the Judicial Council in 2007 and 2008.⁵ That methodology took a significant step toward allocating funds for court-appointed dependency counsel based on need and workload. Because it allocated any new funding to each court as a pro rata percentage of that court's existing funding, however, it retained a close connection to the historical funding level for court-appointed counsel in each court. Those levels had been determined locally according to a variety of criteria and did not always correspond closely to funding need.

Since then, the Judicial Council, advised by Trial Court Funding Workgroup and the Trial Court Funding Subcommittee of the Trial Court Budget Working Group (now Advisory Committee), approved a new method to allocate funding more equitably among the trial courts based on workload and proportionate need and to loosen the connection between allocation and historical funding decisions. To align the allocation of reimbursements with this approach, the subcommittee considered two additional options using the new methodology to allocate collected reimbursements in proportion to each court's share of the statewide funding need as estimated by the CFM. None of the options considered would lead to a change in any court's base allocation for court-appointed counsel, nor would any court be subject to a reduction of funds through the operation of the JDCCP.

After thorough consideration, the subcommittee unanimously recommends that the committee approve Option 2 and submit it to the Judicial Council for approval.

Option 1: Allocate new funding pro rata, according to historical allocations, to each participating court currently funded at 90% or less of its funding need as determined by CFM. That is, each eligible court would receive the same percentage of available collected funds. See Attachment A. This method is intended to fulfill the statutory mandate to reduce caseloads to the approved level

⁵ The CFM uses data collected in the 2002 Caseload Study to calculate the amount of time a court-appointed attorney would spend working on each stage of a juvenile dependency case. Because the basic elements of a dependency case remain the same, the measures in the CFM remain a valid indicator of attorney per case workload. The variable elements of the CFM—total clients and attorney salaries—are updated periodically to reflect current conditions.

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by allocating funds only to courts funded below their need as determined by the CFM. This method does not, however, fully address the second element of the mandate, to give priority to courts with the highest caseloads. It allocates the same percentage of the court's current funding base to each eligible court, regardless of differences in level of need. This method would, however, increase each eligible court's appointed counsel funding to a level closer to its need.

Option 2: Allocate funds proportionally to each participating court whose current allocation, as a proportion of available funds, is below its proportionate funding need as determined by the CFM. Allocate no funds to courts whose current allocation, as a proportion of available funds, equals or exceeds their proportionate funding need as determined by the CFM. See Attachment B. For example, a court that needs five percent of the aggregate statewide court-appointed counsel funding and currently receives 2.5 percent of the available aggregate base would receive five percent of the collected funds. Another court that also needs five percent of the statewide funding and receives six percent of the available base would not receive an allocation of collected funds, even if, in terms of actual dollars, six percent of the available base is less than five percent of the statewide need. This method is intended to fulfill both aspects of the statutory mandate. It should help to reduce caseloads to the approved level by allocating collected funds only to courts that currently receive a lower percentage of available funds than their proportion of caseload-based need. It gives priority to courts with the highest caseloads by allocating a greater share of the additional funding to those courts with a proportionately greater need.

Option 3: Allocate funds to each participating court, regardless of current allocation level, in proportion to its funding need as estimated by the CFM. See Attachment C. For example, a court that needs five percent of the aggregate statewide court-appointed counsel funding would receive an annual allocation of five percent of any collected funds. This option is intended to give priority to courts with the highest caseloads by allocating a greater share of the collected funds to those courts with greater need. This option may, however, lead some courts that currently receive a percentage of available funds greater than the percentage of their caseload-based funding need to nevertheless receive an allocation of collected funds.

Additional details about each option are provided on the respective attachments. Please note that Attachment B contains two worksheets.

Senate Bill 75

Finally, the subcommittee unanimously recommends amending sections 6(e) and 7(d) of the guidelines to reflect SB 75's amendment of section 903.45(b). Before amendment, that section authorized the financial evaluation officer to determine whether repayment would harm the ability of a parent who had already reunified to support the child and prohibited the officer from petitioning the court for an order of repayment in those circumstances. For parents receiving reunification services but not yet reunified, however, the statute reserved to the court the authority to determine whether repayment would pose a barrier to reunification. SB 75 conferred

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that authority on the financial evaluation officer, too, and prohibited the officer from petitioning the court for an order of repayment in those circumstances or when the court finds that repayment would be unjust.

The Judicial Council proposed this amendment as part of a package of measures designed to promote efficient court operations. It is hoped that permitting the financial evaluation officer to determine whether repayment would be a hardship during as well as after reunification will lead to a faster, more consistent, and less burdensome process for judicial officers, court staff, and families. A copy of the pertinent section of SB 75 is included as Attachment D. The amendments to the guidelines implement the statutory changes.

Appendix F.

Guidelines for the Juvenile Dependency Counsel Collections Program

1. Legal Authority

These guidelines are adopted under the authority of section 903.47 of the Welfare and Institutions Code,¹ which mandates that the Judicial Council “establish a program to collect reimbursements from the person liable for the costs of counsel appointed to represent parents or minors pursuant to Section 903.1 in dependency proceedings.” (Welf. & Inst. Code, § 903.47(a).) As part of the program, the statute requires the council to “[a]dopt a statewide standard for determining [a responsible person’s] ability to pay reimbursements for counsel.” This standard must “at a minimum include the family’s income, their necessary obligations, the number of people dependent on this income, and the cost-effectiveness of the program.” (*Ibid.*) The statute also requires the council to “[a]dopt policies and procedures allowing a court to recover from the money collected the costs associated with implementing the reimbursements program.”² These policies and procedures must, in turn, “limit the amount of money a court may recover to a reasonable proportion of the reimbursements collected and provide the terms and conditions under which a court may use a third party to collect reimbursements.” (*Ibid.*)

Section 903.1 imposes liability on specified persons and estates for the cost of legal services provided to the child and directly to those persons in dependency proceedings. These responsible persons are jointly and severally liable for the cost of the child’s representation. If the petition is dismissed at or before the jurisdictional hearing, though, no liability attaches.

Section 904 authorizes the trial court to determine the cost of dependency-related legal services using methods or procedures approved by the Judicial Council.

Under section 903.47(b), the court may designate a court financial evaluation officer (FEO) or, with the consent of the county, a county financial evaluation officer (FEO) to determine a responsible person’s ability to pay the cost of court-appointed counsel. The court refers any responsible person to the designated FEO at the close of the dispositional hearing under section 903.45(b) unless that referral would not be cost-effective under section 903.47(a)(1)(A). The FEO then determines the responsible person’s ability to pay all or part of the cost of dependency-related legal services under the procedures and within the limits set by section 903.45(b). The statutory scheme, particularly sections 901 and 903, prohibits the assessed amount from exceeding the actual cost of the legal services.

¹ Except as otherwise specified, all statutory references in these guidelines are to the Welfare and Institutions Code.

² This section defines *costs associated with implementing the reimbursements program* as the “court costs of assessing a parent’s ability to pay for court-appointed counsel and the costs to collect delinquent reimbursements.”

1 Sections 903.1(c) and 903.47(a)(2) direct each court to deposit collected reimbursements in
 2 the same manner as it deposits revenue collected under section 68085.1 of the Government
 3 Code. The Administrative Office of the Courts (AOC) must then transfer the remitted
 4 reimbursements to the Trial Court Trust Fund (TCTF).

5
 6 Except as otherwise authorized by law, the Judicial Council must allocate the funds
 7 collected through the reimbursement program to reduce court-appointed attorney caseloads
 8 to the Judicial Council–approved standard. In determining allocations, the council must
 9 give priority to courts with the highest attorney caseloads that also demonstrate the ability
 10 to immediately improve outcomes for parents and children as the result of lower caseloads.

11
 12 **2. Effective Date**

13 These guidelines are effective for all dependency proceedings filed on or after January 1,
 14 2013. Amendments adopted after that date will take effect as specified by the Judicial
 15 Council, but no sooner than 30 days after the council meeting at which they are adopted.

16
 17 **3. Responsible Person—Definition**

18 “Responsible person,” as used in these guidelines, refers to the father, mother, spouse, or
 19 any other person liable for the support of a child; the estate of that person; or the estate of
 20 the child, as made liable under section 903.1(a) for the cost of dependency-related legal
 21 services rendered to the child or directly to that person.

22
 23 **4. No Liability**

24 Under section 903.1(b), a responsible person is not liable for, and the court will not seek
 25 reimbursement of, the cost of legal services under section 903.1(a) if the dependency
 26 petition is dismissed at or before the jurisdictional hearing.

27
 28 **5. Determination of Cost of Legal Services**

29 The court is charged with determining the cost of dependency-related legal services. In
 30 doing so, the court may adopt **one** of the three methods in (a)–(c). In no event will the court
 31 seek reimbursement of an amount that exceeds the actual cost of legal services already
 32 provided to the children and the responsible person in the proceeding. The court may
 33 update its determination of the cost of legal services on an annual basis, on the conclusion
 34 of the dependency proceedings in the juvenile court, or on the cessation of representation of
 35 the child or responsible person.

36
 37 **(a) Actual Cost**

38 The court may determine the actual cost of the legal services provided to a child or
 39 responsible person in a dependency proceeding. The court should base this
 40 determination on the actual cost incurred per event in the proceeding, per hour billed,
 41 or per client represented.

42
 43 **(b) Cost Model**

1 The court may determine the cost of legal services provided to a child or responsible
 2 person in a dependency proceeding by applying the Uniform Regional Cost Model
 3 available on ~~serranus.jud.ca.gov~~ serranus.courtinfo.ca.gov or from jdccp@jud.ca.gov.
 4 Use of the cost model as described in this section will ensure that the court seeks
 5 reimbursement of an amount that most closely approximates, but does not exceed, the
 6 actual cost incurred by the court.

7
 8 **(1) Time Allocated to Each Event per Attorney**

9 The court will calculate the time allocated to each event in a local dependency
 10 proceeding by

11
 12 (A) Dividing the normative caseload of 141 clients per attorney by the actual
 13 caseload reported by the dependency attorneys in the county in which the
 14 court sits, and then

15
 16 (B) Multiplying the result by the number of hours allocated to the type of
 17 event in question by the Dependency Counsel Caseload Study.³

18
 19 **(2) Cost of Each Event per Attorney**

20 The court will then calculate the cost of each type of event by multiplying the
 21 time allocated to the event by

22
 23 (A) The actual hourly rate billed to the court for the provision of dependency-
 24 related legal services, or

25
 26 (B) The lowest actual hourly rate billed for dependency-related legal services
 27 in the region⁴ in which the court is located as reported in the most recent
 28 survey of those rates, or

29
 30 (C) The approved hourly rate for the region in which the court is located as
 31 provided in the Caseload Funding Model approved by the Judicial Council
 32 in October 2007 and June 2008.⁵

33
 34 **(3) Cost of Proceeding per Attorney**

35 The court will then calculate the cost of the services provided by an attorney in
 36 a dependency proceeding by adding together the costs of each event that has
 37 occurred in the proceeding at issue.

³ See Center for Families, Children & Cts., Admin. Off. of Cts. Rep., *Court-Appointed Counsel: Caseload Standards, Service Delivery Models, and Contract Administration* (June 23, 2004), p. 3 & appen.

⁴ California trial courts are grouped into four regions based on parity in cost of living, attorney salaries, and other factors among counties in a given region. See Center for Families, Children & Cts., Admin. Off. of Cts. Rep., *DRAFT Pilot Program and Court-Appointed Counsel* (Oct. 26, 2007), pp. 7–8.

⁵ See *id.* (Oct. 2007), at pp. 7–10; Trial Court Budget Working Group Rep., *Court-Appointed Counsel Compensation Model and Workload-Based Funding Methodology* (June 10, 2008).

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(c) Flat Rate Fee Structure

The court may adopt a flat rate fee structure for the cost of legal services in a dependency proceeding as long as the fees charged do not exceed the actual cost of the services provided in that proceeding up to and including the date of the determination and assessment.

6. Determination of Ability to Pay; Financial Evaluation Officer; Statewide Standard

(a) Referral for Financial Evaluation

At the close of the dispositional hearing, the court will order any responsible person present at the hearing to appear before a designated financial evaluation officer (FEO) for a determination of the responsible person's ability to pay reimbursement of all or part of the cost of legal services for which he or she is liable under section 903.1(a), unless the court finds that, given the resources of the court, evaluation by an FEO would not be a cost-effective method of determining the responsible person's ability to pay.

(1) Responsible Person Not Present at Dispositional Hearing

If a responsible person is not present at the dispositional hearing, the court will issue proper notice and an order for him or her to appear before an FEO for determination of his or her ability to pay reimbursement of all or part of the cost of legal services for which he or she is liable under section 903.1(a) unless the court finds that evaluation by an FEO would not be a cost-effective method of determining the responsible person's ability to pay given the resources of the court.

To issue proper notice to a responsible person not present at the hearing at which appearance for a financial evaluation is ordered, the court should send *Order to Appear for Financial Evaluation* (form JV-131) or the equivalent local form by first-class mail to that person's mailing address of record.

(2) Alternative Methods

If the court finds that evaluation by an FEO is not cost-effective, it may take whatever steps it deems cost-effective to determine the responsible person's ability to pay.

(3) Failure to Appear for Financial Evaluation

If a responsible person is ordered to appear for financial evaluation, has received proper notice, and fails to appear as ordered, the FEO will recommend that the court order the responsible person to pay the full cost of legal services as determined under section 5 of these guidelines unless the next paragraph applies.

1
2 If a responsible person is not present at the hearing at which the order to appear
3 for a financial evaluation is made, has received proper notice and an order to
4 appear, and responds to the order by submitting a declaration that he or she is
5 involuntarily confined and therefore not able to attend or reschedule the
6 evaluation, the FEO or the court may presume that he or she is unable to pay
7 reimbursement and is eligible for a waiver of liability at that time.
8

9 **(4) Proper Notice**

10 Proper notice to a responsible person will contain notice of all of the following:
11

- 12 (A) His or her right to a statement of the costs as soon as it is available;
- 13 (B) His or her procedural rights under section 27755 of the Government Code;
- 14 (C) The time limit within which his or her appearance is required; and
- 15 (D) A warning that if he or she fails to appear before the FEO, the officer will
16 recommend that the court order him or her to pay the full cost of legal
17 services, and that the FEO's recommendation will be a sufficient basis for
18 the court to order payment of an amount up to the full cost.
19

20 **(b) Financial Evaluation Officer**

21 The court may either designate a court FEO to determine responsible persons' ability
22 to reimburse the cost of legal services or, with the consent of and under terms agreed
23 to by the county, designate a county FEO to determine responsible persons' ability to
24 reimburse the cost of legal services.
25

26 **(c) Authority of Financial Evaluation Officer**

27 The designated FEO will conduct the evaluation under the procedures outlined in
28 section 903.45(b). The FEO may determine a referred responsible person's ability to
29 pay all or part of the cost of legal services for which he or she is liable, negotiate a
30 plan for reimbursement over a set period of time based on the responsible person's
31 financial condition, enter into an agreement with the responsible person regarding the
32 amount to be reimbursed and the terms of reimbursement, petition the court for an
33 order of reimbursement according to the terms agreed to with the responsible person,
34 and refer the responsible person back to court for a hearing in the event of a lack of
35 agreement.
36

37 **(d) Standard for Determining Ability to Pay**

38 The FEO will determine the responsible person's ability to reimburse the cost of legal
39 services using the following standard:
40

41 **(1) Presumptive Inability to Pay; Waiver**

42 If a responsible person receives qualifying public benefits or has a household
43 income 125 percent or less of the threshold established by the federal poverty

1 guidelines in effect at the time of the inquiry, then he or she is presumed to be
2 unable to pay reimbursement and is eligible for a waiver of liability.

3
4 (A) *Qualifying public benefits* include benefits under any of the programs
5 listed in Government Code section 68632(a).

6
7 **(2) Further Inquiry**

8 If the court has concluded as a matter of policy that further inquiry into the
9 financial condition of persons ~~presumed eligible for a waiver unable to pay~~
10 would not be warranted or cost-effective, the inquiry may end at this point with
11 a determination that the person is unable to pay.

12
13 If the court has concluded as a matter of policy that further inquiry into the
14 financial condition of a persons ~~presumed eligible for a waiver unable to pay~~ is
15 warranted notwithstanding the presumption, the FEO may proceed to a detailed
16 evaluation under section 6(d)(3).

17
18 **(3) Responsible Person's Financial Condition**

19 The FEO may, at any time following the close of the dispositional hearing,
20 make a detailed evaluation of a referred responsible person's financial condition
21 at that time under section 903.45(b). Based on any relevant information
22 submitted by the responsible person, including but not limited to a completed
23 *Financial Declaration—Juvenile Dependency* (form JV-132) or the equivalent
24 local form, the FEO will assess the responsible person's household income,
25 household needs and obligations (including other court-ordered obligations),
26 and the number of persons dependent on the household income and will
27 determine the person's ability pay all or part of the cost of legal services without
28 using funds that would normally be used to pay for the common necessities of
29 life.

30
31 When calculating a person's household income, the FEO must exclude from
32 consideration any benefits received from a public assistance program that
33 determines eligibility based on need.⁶

34
35 **(e) Circumstances Requiring No Petition or Order for Reimbursement**

36 Under section 903.45(b), the FEO ~~will~~may not petition the court to order
37 reimbursement of the cost of legal services, and the court will not so order, if:

38
39 (1) The responsible person has been reunified with any of the children under a court
40 order and the FEO determines that requiring repayment reimbursement~~reimbursement~~
41 harm his or her ability to support the children;

⁶ *In re S.M.* (Sept. 5, 2012, D0607332012), 209 Cal.App.4th 21, [pp. 8–9]28–31.
www.courts.ca.gov/opinions/documents/D060733.PDF.

1
2 (2) the responsible person is currently receiving reunification services and the court
3 or the FEO determines that requiring repayment will pose a barrier to
4 reunification; or

5
6 (3) the court determines that requiring repayment would be unjust under the
7 circumstances of the case.

8
9 (f) **Amount Assessed**

10 The FEO may, consistent with the responsible person’s ability to pay, assess any
11 amount up to the full cost determined under section 5 of these guidelines, and may
12 recommend reimbursement in a single lump sum or in multiple installments over a set
13 period of time.

14
15 (g) **Agreement; Petition**

16 If the responsible person agrees in writing to the FEO’s written determination of the
17 amount that the responsible person is able to reimburse and the terms of
18 reimbursement, the FEO will petition the court for an order requiring the responsible
19 person to reimburse the court in a manner that is reasonable and compatible with the
20 responsible person’s financial condition.

21
22 (h) **Dispute; ~~Hearing~~Referral**

23 If the responsible person disputes his or her liability for the cost of legal services, the
24 amount of that cost, the FEO’s determination of his or her ability to reimburse all or
25 part of that cost, or the terms of reimbursement, the FEO will refer the matter, with
26 his or her written determination, back to the juvenile court for a hearing.

27
28 7. **Judicial Proceeding Following Determination of Ability to Reimburse Cost**

29 On having made a determination of the responsible person’s ability to reimburse all or part
30 of the cost of legal services, the FEO will return the matter to the juvenile court as follows:

31
32 (a) **Agreement; Order**

33 If the responsible person agrees to reimburse the court as recommended by the FEO,
34 the FEO will prepare an agreement to be signed by the responsible person. The
35 agreement will reflect the amount to be reimbursed and the terms under which
36 reimbursement will be paid. The juvenile court may order the responsible person to
37 pay reimbursement under those terms without further notice to the responsible person.

38
39 (b) **Dispute; Hearing**

40 ~~If the responsible person does not agree with the FEO’s determination with respect to~~
41 ~~liability, ability to pay, amount, or terms of reimbursement, the matter will be is~~
42 deemed in dispute and the FEO ~~will refer~~ has referred the matter back to the juvenile
43 court under section 6(h), the court will ~~to be set and conduct for~~ a hearing as required
44 under section 903.45(b).

(c) Judicial Determination

If, at the conclusion of the hearing, the court determines that the responsible person is able to reimburse all or part of the cost of legal services—including the cost of any attorney appointed to represent the responsible person at that hearing—without using funds that would normally be used to pay for the common necessities of life, the court will set the amount to be reimbursed and order the responsible person to pay that amount to the court in a manner that the court believes reasonable and compatible with the responsible person’s financial condition.

(d) Exclusions

~~The court will not order the responsible person to reimburse the cost of legal services if:~~

~~(1) The responsible person is currently receiving reunification services and the court finds that reimbursement would pose a barrier to reunification because:~~

~~(A) It would limit the responsible person’s ability to comply with the requirements of the reunification plan; or~~

~~(B) It would harm the responsible person’s current or future ability to meet the needs of the child; or~~

~~(2) The court finds that reimbursement would be unjust under the circumstances of the case.~~

8. Reevaluation of Ability to Pay

At any time before reimbursement is complete, a responsible person may petition the court ~~for a modification of~~ to modify or vacate the reimbursement order ~~based on the ground of a~~ change in circumstances affecting his or her ability to pay reimbursement. The court may deny the petition without a hearing if the petition fails to state a change of circumstances. The court may grant the petition without a hearing if the petition states a change of circumstances and all parties stipulate to the requested modification.

9. Frequency of Determination of Ability to Pay and Assessment

The initial evaluation and determination of a responsible person’s ability to pay reimbursement may be conducted at any time following the conclusion of the dispositional hearing. The court may order a reevaluation of a responsible person’s financial condition on an annual basis, on the conclusion of the dependency proceedings in the juvenile court, or on the cessation of court-appointed representation of the child or the responsible person.

If the FEO determines on reevaluation that the responsible person is able at that time to pay all or part of the cost of legal services, the FEO may, consistent with the responsible person’s ability to pay without using funds that would normally be used to pay for the common necessities of life, assess an amount up to the full cost, as determined under

1 section 5, ~~of these guidelines~~ of any legal services provided to the child or the responsible
 2 person and may recommend reimbursement in a single lump sum or in multiple
 3 installments over a set period of time.

4 5 **10. Collection Services**

6 7 **(a) Court-Based Collection Services**

8 To the extent applicable and consistent with sections 903.1 and 903.47, a courts
 9 should administer the collection, processing, and deposit of court-ordered
 10 reimbursement of the cost of dependency-related legal services under the procedures
 11 in policies FIN 10.01 and FIN 10.02 of the *Trial Court Financial Policies and*
 12 *Procedures Manual*.

13 14 **(b) Outside Collection Services Providers**

15 When appropriate and consistent with policy FIN 10.01, a court may use an outside
 16 collection-services provider.

17 18 **(1) Collection Services Provided by County**

19 If collection services are provided by the county, the agreement should be
 20 formalized by a memorandum of understanding (MOU) between the court and
 21 county. AOC staff will provide a sample MOU on request. An electronic copy
 22 of the MOU, including a scanned copy of the completed signature page, ~~must~~
 23 be sent to jdccp@jud.ca.gov.

24 25 **(2) Collection Services Provided by Private Vendor**

26 A court that uses a private collection service should use a vendor has entered
 27 into a master agreement with the AOC to provide comprehensive collection
 28 services. A court that uses such a vendor should complete a participation
 29 agreement and send it to the AOC via e-mail to jdccp@jud.ca.gov. A court may
 30 contract directly with a private vendor only on terms and conditions
 31 substantially similar to those set forth in the master agreements for
 32 comprehensive collection services available at
 33 <http://serranus.courtinfo.ca.gov/programs/collections/mva.htm>.

34 35 **(3) Court Option for AOC Agreement with Collection Services Provider**

36 At a court's request, the AOC may directly enter into an MOU with the county
 37 or an agreement with a private collection-services vendor for ~~dependency~~
 38 ~~counsel reimbursement collection services~~ under this program.

39 40 **(c) Agreements Between Courts**

41 Nothing in this section is intended to preclude a court or courts from establishing an
 42 agreement with another court or courts for one or more courts to perform services

1 under this program on behalf of other courts, or for one or more courts to combine
 2 collection efforts under this program.

4 **11. Recovery of ~~Cost of Program Implementation Costs~~**

5 ~~Courts~~ A court may recover, ~~the~~ from the money it has collected, its eligible program
 6 implementation costs of implementing the reimbursements program before remitting the
 7 balance of the collected funds to the state in the manner required by Government Code
 8 section 68085.1. Recoverable-Eligible costs are limited by statute to the cost of assessing
 9 determining responsible persons' ability to repay for the cost of court-appointed counsel
 10 and to the costs ~~to~~ of collecting delinquent reimbursements. If a court's eligible costs in any
 11 given month exceed the amount of revenue it has collected in that month, the court may
 12 carry the excess costs forward within the same fiscal year until sufficient revenue is
 13 collected to recover the eligible costs in full. Courts may recover these costs before
 14 remitting collected reimbursements to the bank accounts designated under Government
 15 Code section 68085.1. Any program costs recovered by the court ~~should~~ must be
 16 documented by the court and reported monthly by e-mail to jdccp@jud.ca.gov and follow
 17 in a format consistent with the Cost Recovery Template available on
 18 serranus.courtinfo.ca.gov or on request from jdccp@jud.ca.gov.

20 **(a) ~~Limit on Recovery~~ Delinquent Reimbursement Defined**

21 ~~Under section 903.47(a)(1)(B), recovered costs may not exceed a reasonable~~
 22 ~~proportion of the reimbursements collected. For purposes of this section, delinquent~~
 23 ~~reimbursement means any reimbursement payment not received within one business~~
 24 ~~day of the date it is due.~~

26 **12. Remittance and Reporting of Collected Revenue**

27 ~~Courts~~ A court will remit collected revenue, less recovered costs, to the state AOC, less
 28 ~~costs recoverable under section 903.47(a)(1)(B),~~ in the same manner as required under
 29 Government Code section 68085.1 and will report this revenue on row 130 of *Court*
 30 *Remittance Advice* (form TC-145). The AOC will deposit the revenue received ~~under these~~
 31 guidelines through this program into the Trial Court Trust Fund as required by statute.

33 **(a) AOC Collections Agreement Option**

34 Where the AOC has entered into an MOU or an agreement with a county or a private
 35 collection-services vendor under section 10(b)(3) of these guidelines, funds will be
 36 remitted directly to the AOC under the terms of the MOU or the agreement.]

38 **13. Program Data Reporting**

39 Each court should report collections program data to the AOC to ensure implementation of
 40 the Legislature's intent by determining the cost-effectiveness of the program and
 41 confirming that efforts to collect reimbursement do not negatively impact reunification; to
 42 provide a basis for projecting the amount of future reimbursements; and to evaluate the
 43 effectiveness of the reimbursement program at both statewide and local levels.

1
2 **(a) Ongoing Reporting Requirement**

3 To support the amount remitted to the Trial Court Trust Fund, All courts each court
4 will report collections data annually on or before September 30, beginning
5 September 30, 2013. Completed reports should be sent as attachments to an e-mail
6 message to jdeep@jud.ca.gov/~~jdeep@jud.ca.gov~~. The first report should cover the
7 period from January 1, 2013, to June 30, 2013. Each court should submit its
8 completed report attached to an email message to jdccp@jud.ca.gov. Thereafter,
9 reports should reflect data from the entire preceding fiscal year.

10
11 **(1) Collections Reporting Data**

12 ~~To the extent feasible in light of each court's current practices and resources,~~
13 ~~data should be collected in the following categories: The AOC will provide a~~
14 ~~reporting template that solicits the following information:~~

- 15
16 (A) Total number of responsible persons evaluated in the reporting period to
17 determine their ability to pay
18 (B) ~~Total n~~Number of responsible persons in (A) found unable to pay not
19 ordered to pay because of potential impact on reunification
20 (C) ~~Total n~~Number of responsible persons not ordered to pay based on
21 other financial hardship not ordered to pay because of potential
22 interference with reunification
23 Number of persons in (A) found able to pay but not ordered to pay under
24 section 6(e)
25 (D) ~~Number of responsible persons with open collections, start of fiscal year~~
26 accounts at the beginning of the reporting period
27 (E) ~~Dollar amount of in open collections, accounts at the start beginning of the~~
28 fiscal year reporting period
29 (F) ~~Number of responsible persons added in fiscal year new accounts opened~~
30 in the reporting period
31 (G) ~~Dollar amount added in fiscal year in accounts opened during the~~
32 reporting period
33 (H) Total dollar amount collected from all accounts in the fiscal year reporting
34 period
35 (I) ~~Total responsible persons fully paid/closed in fiscal year~~
36 (J) ~~Number of responsible person accounts closed or discharged in the fiscal~~
37 year reporting period
38 (K)(J) ~~Number of responsible persons with open collections, open~~
39 accounts at the end of the reporting period fiscal year
40 (L)(K) ~~Dollar amount of open, in open accounts at the end of the fiscal~~
41 year reporting period.

42
43 **(2) Collections Program Implementation Review**

1 Within two years of the effective date of these guidelines and thereafter as
 2 needed, the Judicial Council will evaluate the progress of the collections
 3 program’s statewide implementation and examine the impact of the program on
 4 court workload and finances. For this purpose, staff may survey the courts about
 5 their financial evaluation processes, including the time and resources needed to
 6 determine responsible persons’ ability to pay, the number of such persons
 7 evaluated, the results of the evaluations as specified in 6(d)–(g), and the number
 8 of judicial hearings necessary under 7(b)–(c).
 9

10 **14. Allocation of Collected Funds to Trial Courts**

11

12 **(a) Eligibility for Allocation**

13 A court that has demonstrated participation in the collections program by, at a
 14 minimum,

15

16 (1) adopting a local rule or policy requiring the juvenile court to inquire at or before
 17 the close of each dispositional hearing about each responsible person’s ability to
 18 pay reimbursement and

19

20 (2) submitting annual reports under section 13

21

22 is eligible to receive an allocation of collected funds to reduce the caseload of its
 23 court-appointed dependency counsel.
 24

25

26 **(b) Allocation Methodology**

27

28 The collected funds will be allocated annually, as part of the court-appointed counsel
 29 budget development process, to each proportionately underfunded participating court
 30 in proportion to its percentage of the estimated statewide court-appointed counsel
 31 funding need. Collected funds will be allocated separately from each court’s base
 32 allocation, and the allocation of collected funds will not affect the amount of any
 33 court’s base allocation.
 34

35 (1) A proportionately underfunded court is a court whose percentage allocation of
 36 the available statewide base funding is lower than its percentage of the
 37 statewide court-appointed counsel funding need as estimated by the Judicial
 38 Council’s caseload funding model (CFM).⁷

⁷ In October 2007, the TCBWG developed and the Judicial Council approved a need-based compensation or caseload funding model (CFM) for court-appointed dependency counsel practicing in courts under the DRAFT program. (See Trial Court Budget Working Group Rep., *supra* note 4.) In June 2008, the council’s Executive and Planning Committee extended that methodology to appointed dependency counsel in all juvenile courts statewide. The CFM uses the number of data-supported clients in a county to determine the number of FTE attorneys needed to serve that population at the Judicial Council–approved caseload standard of 188 clients per FTE attorney. (See *id.*, at p. 4.) It then uses cost of living, county counsel salaries, and other economic factors to assign each court to one of

1 The Judicial Council provides a single funding allocation to the DRAFT program to
 2 support court-appointed counsel in participating courts. This funding is managed by
 3 the Judicial Council as part of the court-appointed counsel budget development and
 4 funding process. Collected reimbursements allocated to the DRAFT program will
 5 also be managed by the council through this process.

6
 7 **(c) Review of Determination of Funding Level**

8 A court that believes that the size of its allocation is due to an error in determining its
 9 funding level may request a review of that determination within 90 days. The request
 10 should clearly state the nature of the error.

11
 12 The review will be conducted collaboratively by the court and the Judicial Council.

13
 14 **14.15. Technical Assistance**

15 AOC staff to the Judicial Council will provide technical assistance on request to courts that
 16 ~~do not yet have a dependency counsel reimbursement program in place~~ have not yet
 17 implemented the collections program or that wish to coordinate collection efforts with
 18 other courts ~~in establishing a regional reimbursement program~~. Courts may send requests
 19 by e-mail to jdccp@jud.ca.gov to receive technical assistance, which can include (but is not
 20 limited to) services such as

- 21 (a) Helping a court ~~establish a~~ implement the reimbursement program within its current
 22 administrative structure;
 23 (b) Advising a court on the application of the Uniform Cost Model under section 5(b) of
 24 these guidelines;
 25 (c) Coordinating a regional reimbursement program among several courts; or
 26 (d) Working with current collection services providers who have entered into master
 27 agreements with the AOC to ensure compliance with the JDCCP reporting
 28 requirements.

four statewide groups. (See *id.*, at p. 5.) To promote equity in attorney compensation, each group of courts is
assigned an attorney salary level based on the prevailing county counsel salary range in that group. Each court's
appointed-counsel salary needs are determined by multiplying the mid-tier salary level by the number of FTE
attorneys needed to serve the client population at the approved caseload. The cost of benefits and overhead,
including support staff, are calculated at assigned percentages of the attorney salaries. Adding these elements
together yields a precise estimate of the funding needed for a court to ensure competent representation of all parties
in juvenile dependency proceedings under sections 317(c) and 317.5, as well as rule 5.660(d) of the California Rules
of Court.

ALLOCATE COLLECTED FUNDS PRO RATA TO EACH COURT FUNDED AT OR BELOW 90% OF FUNDING NEED (CLIENT DATA BASED ON THREE-YEAR AVERAGE NUMBER OF CHILDREN RECEIVING COURT-ORDERED CASE SERVICES) **ACTION ITEM 5** Attachment A

| | A | B | C | D | E | F | H | I | J |
|----|----------------|---|-------------------------|---|--|---|---|-----------------------|----------------------|
| 1 | Court | Funding Need as Estimated by Caseload Funding Model (CFM) June 2013 | Current Funding Level | Current Funding in Proportion to CFM Estimated Need | Pro Rata Allocation of Collected Funds | | | | Effective Supplement |
| 2 | Alpine | \$0.00 | \$0.00 | - | | | 1.66% of Base Funding Level Collected* | \$1,725,000.00 | |
| 3 | Colusa | \$53,045.34 | \$0.00 | - | | | 1.66% applied pro rata to courts at .11 to .90 of CFM | \$1,725,000.00 | 3.04% |
| 4 | Madera | \$470,467.12 | \$53,030.50 | 0.11 | \$1,614.34 | | 0.0% applied to courts .91 or above CFM | \$0.00 | 0.00% |
| 5 | San Benito | \$190,087.72 | \$31,884.50 | 0.17 | \$970.62 | | | 1.66% | |
| 6 | Sutter | \$290,834.22 | \$84,082.75 | 0.29 | \$2,559.62 | | Each eligible court receives a pro rata share equal to 3% of its current funding. | | |
| 7 | Tuolumne | \$216,700.00 | \$63,980.75 | 0.30 | \$1,947.69 | | | | |
| 8 | Tehama | \$317,430.04 | \$93,909.01 | 0.30 | \$2,858.75 | | *Collected over three years; annual collections projected to average \$550,000-\$600,000. | | |
| 9 | Glenn | \$159,673.69 | \$55,250.00 | 0.35 | \$1,681.91 | | | | |
| 10 | Kings | \$594,444.59 | \$199,672.35 | 0.34 | \$6,078.37 | | | | |
| 11 | San Mateo | \$861,103.65 | \$323,021.73 | 0.38 | \$9,833.34 | | | | |
| 12 | Riverside | \$9,960,737.40 | \$4,171,897.50 | 0.42 | \$126,999.80 | | | | |
| 13 | Ventura | \$1,763,823.63 | \$755,357.00 | 0.43 | \$22,994.38 | | | | |
| 14 | Tulare | \$1,486,953.46 | \$658,892.25 | 0.44 | \$20,057.82 | | | | |
| 15 | Calaveras | \$164,425.88 | \$76,519.00 | 0.47 | \$2,329.37 | | | | |
| 16 | San Bernardino | \$7,271,805.86 | \$3,587,297.00 | 0.49 | \$109,203.54 | | | | |
| 17 | Monterey | \$591,586.23 | \$329,570.00 | 0.56 | \$10,032.68 | | | | |
| 18 | Merced | \$988,495.67 | \$593,861.37 | 0.60 | \$18,078.17 | | | | |
| 19 | Kern | \$3,456,745.25 | \$2,023,943.00 | 0.59 | \$61,612.34 | | | | |
| 20 | Yolo | \$539,849.13 | \$333,430.00 | 0.62 | \$10,150.19 | | | | |
| 21 | Napa | \$285,404.82 | \$176,430.00 | 0.62 | \$5,370.84 | | | | |
| 22 | Butte | \$983,443.74 | \$664,759.00 | 0.68 | \$20,236.42 | | | | |
| 23 | Placer | \$655,009.52 | \$418,422.00 | 0.64 | \$12,737.49 | | | | |
| 24 | Shasta | \$861,355.26 | \$569,416.00 | 0.66 | \$17,334.01 | | | | |
| 25 | DRAFT | \$55,818,442.11 | \$41,273,226.00 | 0.74 | \$1,256,428.59 | | | | |
| 26 | Mariposa | \$56,413.30 | \$32,243.00 | 0.57 | \$981.53 | | | | |
| 27 | Mono | \$14,256.58 | \$12,329.00 | 0.86 | \$375.32 | | | | |
| 28 | Trinity | \$92,618.85 | \$83,204.00 | 0.90 | \$2,532.87 | | | | |
| 29 | Modoc | \$17,681.78 | \$16,064.00 | 0.91 | \$0.00 | | | | |
| 30 | Yuba | \$210,997.37 | \$199,732.00 | 0.95 | \$0.00 | | | | |
| 31 | Fresno | \$2,957,067.13 | \$2,958,296.00 | 1.00 | \$0.00 | | | | |
| 32 | DRAFT | \$27,656,399.96 | \$29,022,786.29 | 1.05 | \$0.00 | | | | |
| 33 | Orange | \$6,227,511.20 | \$6,583,082.00 | 1.06 | \$0.00 | | | | |
| 34 | Lassen | \$104,406.70 | \$108,374.00 | 1.04 | \$0.00 | | | | |
| 35 | San Francisco | \$3,101,987.42 | \$3,907,633.00 | 1.26 | \$0.00 | | | | |
| 36 | Contra Costa | \$2,543,025.40 | \$3,120,151.00 | 1.23 | \$0.00 | | | | |
| 37 | Nevada | \$204,344.30 | \$232,799.00 | 1.14 | \$0.00 | | | | |
| 38 | Sierra | \$10,945.86 | \$14,898.00 | 1.36 | \$0.00 | | | | |
| 39 | Humboldt | \$407,522.92 | \$562,460.00 | 1.38 | \$0.00 | | | | |
| 40 | Siskiyou | \$167,555.91 | \$256,552.00 | 1.53 | \$0.00 | | | | |
| 41 | Inyo | \$38,017.54 | \$76,990.00 | 2.03 | \$0.00 | | | | |
| 42 | | \$131,792,616.55 | \$103,725,445.00 | 0.787035327 | \$1,725,000.00 | | | | |
| 43 | | | | | | | | | |
| 44 | | | | | | | | | |

Option 2: Allocate Collected Reimbursements in Proportion to Funding Need to Courts Whose Proportionate Allocation Is Less Than Their Proportionate Funding Need **ACTION ITEM 5** Attachment B

| | A | B | C | D | E | F |
|----|--|--|--|------------------------------------|------------------------------------|---|
| 1 | Court | Estimated Funding Need per Caseload Funding Model (CFM) 1/13 | Proportion of Total CFM Estimated Funding Need | Current Base CAC Budget Allocation | Proportion of Current Base Funding | Option 2: Allocate Share of Collected Funds to Courts with Disproportionately Low Current Allocation† |
| 2 | Alpine | \$0.00 | 0.00% | \$0.00 | 0.00% | \$0.00 |
| 3 | Colusa* | \$53,045.34 | 0.04% | \$0.00 | 0.00% | \$0.00 |
| 4 | Madera | \$470,467.12 | 0.36% | \$53,030.50 | 0.05% | \$9,438.13 |
| 5 | San Benito | \$190,087.72 | 0.14% | \$31,884.50 | 0.03% | \$3,813.39 |
| 6 | Sutter | \$290,834.22 | 0.22% | \$84,082.75 | 0.08% | \$5,834.48 |
| 7 | Tuolumne | \$216,700.00 | 0.16% | \$63,980.75 | 0.06% | \$4,347.26 |
| 8 | Tehama | \$317,430.04 | 0.24% | \$93,909.01 | 0.09% | \$6,368.02 |
| 9 | Glenn | \$159,673.69 | 0.12% | \$55,250.00 | 0.05% | \$3,203.25 |
| 10 | Kings | \$594,444.59 | 0.45% | \$199,672.35 | 0.19% | \$11,925.27 |
| 11 | San Mateo | \$861,103.65 | 0.65% | \$323,021.73 | 0.31% | \$17,274.77 |
| 12 | Riverside | \$9,960,737.40 | 7.56% | \$4,171,897.50 | 4.02% | \$199,824.24 |
| 13 | Ventura | \$1,763,823.63 | 1.34% | \$755,357.00 | 0.73% | \$35,384.41 |
| 14 | Tulare | \$1,486,953.46 | 1.13% | \$658,892.25 | 0.64% | \$29,830.05 |
| 15 | Calaveras | \$164,425.88 | 0.12% | \$76,519.00 | 0.07% | \$3,298.58 |
| 16 | San Bernardino | \$7,271,805.86 | 5.52% | \$3,587,297.00 | 3.46% | \$145,881.08 |
| 17 | Monterey | \$591,586.23 | 0.45% | \$329,570.00 | 0.32% | \$11,867.92 |
| 18 | Merced | \$988,495.67 | 0.75% | \$593,861.37 | 0.57% | \$19,830.41 |
| 19 | Kern | \$3,456,745.25 | 2.62% | \$2,023,943.00 | 1.95% | \$69,346.42 |
| 20 | Yolo | \$539,849.13 | 0.41% | \$333,430.00 | 0.32% | \$10,830.01 |
| 21 | Napa | \$285,404.82 | 0.22% | \$176,430.00 | 0.17% | \$5,725.56 |
| 22 | Butte | \$983,443.74 | 0.75% | \$664,759.00 | 0.64% | \$19,729.06 |
| 23 | Placer | \$655,009.52 | 0.50% | \$418,422.00 | 0.40% | \$13,140.28 |
| 24 | Shasta | \$861,355.26 | 0.65% | \$569,416.00 | 0.55% | \$17,279.81 |
| 25 | DRAFT | \$53,820,131.02 | 40.84% | \$34,064,073.00 | 32.84% | \$1,079,695.89 |
| 26 | Mariposa | \$56,413.30 | 0.04% | \$32,243.00 | 0.03% | \$1,131.71 |
| 27 | Mono | \$14,256.58 | 0.01% | \$12,329.00 | 0.01% | \$0.00 |
| 28 | Trinity | \$92,618.85 | 0.07% | \$83,204.00 | 0.08% | \$0.00 |
| 29 | Modoc | \$17,681.78 | 0.01% | \$16,064.00 | 0.02% | \$0.00 |
| 30 | Yuba | \$210,997.37 | 0.16% | \$199,732.00 | 0.19% | \$0.00 |
| 31 | Fresno | \$2,957,067.13 | 2.24% | \$2,958,296.00 | 2.85% | \$0.00 |
| 32 | DRAFT | \$29,654,711.05 | 22.50% | \$36,231,939.29 | 34.93% | \$0.00 |
| 33 | Orange | \$6,227,511.20 | 4.73% | \$6,583,082.00 | 6.35% | \$0.00 |
| 34 | Lassen | \$104,406.70 | 0.08% | \$108,374.00 | 0.10% | \$0.00 |
| 35 | San Francisco | \$3,101,987.42 | 2.35% | \$3,907,633.00 | 3.77% | \$0.00 |
| 36 | Contra Costa | \$2,543,025.40 | 1.93% | \$3,120,151.00 | 3.01% | \$0.00 |
| 37 | Nevada | \$204,344.30 | 0.16% | \$232,799.00 | 0.22% | \$0.00 |
| 38 | Sierra | \$10,945.86 | 0.01% | \$14,898.00 | 0.01% | \$0.00 |
| 39 | Humboldt | \$407,522.92 | 0.31% | \$562,460.00 | 0.54% | \$0.00 |
| 40 | Siskiyou | \$167,555.91 | 0.13% | \$256,552.00 | 0.25% | \$0.00 |
| 41 | Inyo | \$38,017.54 | 0.03% | \$76,990.00 | 0.07% | \$0.00 |
| 42 | | \$131,792,616.55 | 100.00% | \$103,725,445.00 | 100.00% | \$1,725,000.00 |
| 43 | | | | | | |
| 44 | *County pays for dependency counsel | | | | | |
| 45 | | | | | | |
| 46 | †Assuming participation requirements met | | | | | |

ACTION ITEM 5

| | A | B | C | D | E | F | G |
|----|--|------------------------|---------------------|--|---|---|---|
| 1 | Eligible Court | CFM Allocation | Percentage of total | Allocation of collected repayments to each court | | | |
| 2 | Madera | \$470,467.00 | 0.55% | \$9,438.13 | | | |
| 3 | San Benito* | \$190,088.00 | 0.22% | \$3,813.39 | | | |
| 4 | Sutter* | \$290,834.00 | 0.34% | \$5,834.48 | | | |
| 5 | Tuolumne* | \$216,700.00 | 0.25% | \$4,347.26 | | | |
| 6 | Tehama | \$317,430.00 | 0.37% | \$6,368.02 | | | |
| 7 | Glenn | \$159,674.00 | 0.19% | \$3,203.25 | | | |
| 8 | Kings | \$594,445.00 | 0.69% | \$11,925.27 | | | |
| 9 | San Mateo* | \$861,104.00 | 1.00% | \$17,274.77 | | | |
| 10 | Riverside | \$9,960,737.00 | 11.58% | \$199,824.24 | | | |
| 11 | Ventura | \$1,763,824.00 | 2.05% | \$35,384.41 | | | |
| 12 | Tulare* | \$1,486,953.00 | 1.73% | \$29,830.05 | | | |
| 13 | Calaveras | \$164,426.00 | 0.19% | \$3,298.58 | | | |
| 14 | San Bernardino | \$7,271,806.00 | 8.46% | \$145,881.08 | | | |
| 15 | Monterey* | \$591,586.00 | 0.69% | \$11,867.92 | | | |
| 16 | Merced* | \$988,496.00 | 1.15% | \$19,830.41 | | | |
| 17 | Kern | \$3,456,745.00 | 4.02% | \$69,346.42 | | | |
| 18 | Yolo | \$539,849.00 | 0.63% | \$10,830.01 | | | |
| 19 | Napa* | \$285,405.00 | 0.33% | \$5,725.56 | | | |
| 20 | Butte* | \$983,444.00 | 1.14% | \$19,729.06 | | | |
| 21 | Placer* | \$655,010.00 | 0.76% | \$13,140.28 | | | |
| 22 | Shasta* | \$861,355.00 | 1.00% | \$17,279.81 | | | |
| 23 | DRAFT * | \$53,820,131.00 | 62.59% | \$1,079,695.89 | | | |
| 24 | Mariposa* | \$56,413.00 | 0.07% | \$1,131.71 | | | |
| 25 | TOTAL | \$85,986,922.00 | 100.00% | \$1,725,000.00 | | | |
| 26 | | | | | | | |
| 27 | No report on file | | | | | | |
| 28 | *report filed | | | | | | |
| 29 | | | | | | | |
| 30 | Use \$1,725,000 as hypothetical collected amount. | | | | | | |
| 31 | | | | | | | |
| 32 | Which courts would be eligible to receive an allocation? Participating courts. (§ 14(a).) | | | | | | |
| 33 | A participating court: has adopted or is in the process of adopting a local rule | | | | | | |
| 34 | requiring assessment at dispo and has filed a periodic report with the Judicial Council. | | | | | | |
| 35 | | | | | | | |
| 36 | Then allocate a proportionate share of available collected funds (D25) | | | | | | |
| 37 | | | | | | | |
| 38 | (a) To each participating court whose proportionate funding need exceeds its current proportionate | | | | | | |
| 39 | allocation. | | | | | | |
| 40 | or | | | | | | |
| 41 | (b) To each participating court regardless of relation of funding need to current funding. | | | | | | |
| 42 | | | | | | | |
| 43 | How would each court's allocation be determined? For option 2: | | | | | | |
| 44 | | | | | | | |
| 45 | (1) Determine total CFM funding need of all eligible courts (B25). | | | | | | |
| 46 | (2) Determine each eligible court's proportionate share of that total (Cn=Bn/B25). | | | | | | |
| 47 | (3) Allocate to each eligible court a % of total collected funds equal to | | | | | | |
| 48 | that court's % of need (Dn=D25*Cn). | | | | | | |

Option 3: Allocate a share of available collected funds to each participating court in proportion to its funding need **ACTION ITEM 5** Attachment C

| | A | B | C | D | E | F |
|----|--|--|--|------------------------------------|------------------------------------|--|
| 1 | Court | Estimated Funding Need per Caseload Funding Model (CFM) 1/13 | Proportion of Total CFM Estimated Funding Need | Current Base CAC Budget Allocation | Proportion of Current Base Funding | Option 3: Allocate Share of Collected Funds to Each Court in Proportion to Funding Need† |
| 2 | Alpine | \$0.00 | 0.00% | \$0.00 | 0.00% | \$0.00 |
| 3 | Colusa* | \$53,045.34 | 0.04% | \$0.00 | 0.00% | \$694.30 |
| 4 | Madera | \$470,467.12 | 0.36% | \$53,030.50 | 0.05% | \$6,157.82 |
| 5 | San Benito | \$190,087.72 | 0.14% | \$31,884.50 | 0.03% | \$2,488.01 |
| 6 | Sutter | \$290,834.22 | 0.22% | \$84,082.75 | 0.08% | \$3,806.66 |
| 7 | Tuolumne | \$216,700.00 | 0.16% | \$63,980.75 | 0.06% | \$2,836.33 |
| 8 | Tehama | \$317,430.04 | 0.24% | \$93,909.01 | 0.09% | \$4,154.76 |
| 9 | Glenn | \$159,673.69 | 0.12% | \$55,250.00 | 0.05% | \$2,089.93 |
| 10 | Kings | \$594,444.59 | 0.45% | \$199,672.35 | 0.19% | \$7,780.53 |
| 11 | San Mateo | \$861,103.65 | 0.65% | \$323,021.73 | 0.31% | \$11,270.77 |
| 12 | Riverside | \$9,960,737.40 | 7.56% | \$4,171,897.50 | 4.02% | \$130,373.56 |
| 13 | Ventura | \$1,763,823.63 | 1.34% | \$755,357.00 | 0.73% | \$23,086.24 |
| 14 | Tulare | \$1,486,953.46 | 1.13% | \$658,892.25 | 0.64% | \$19,462.36 |
| 15 | Calaveras | \$164,425.88 | 0.12% | \$76,519.00 | 0.07% | \$2,152.13 |
| 16 | San Bernardino | \$7,271,805.86 | 5.52% | \$3,587,297.00 | 3.46% | \$95,178.82 |
| 17 | Monterey | \$591,586.23 | 0.45% | \$329,570.00 | 0.32% | \$7,743.12 |
| 18 | Merced | \$988,495.67 | 0.75% | \$593,861.37 | 0.57% | \$12,938.17 |
| 19 | Kern | \$3,456,745.25 | 2.62% | \$2,023,943.00 | 1.95% | \$45,244.46 |
| 20 | Yolo | \$539,849.13 | 0.41% | \$333,430.00 | 0.32% | \$7,065.95 |
| 21 | Napa | \$285,404.82 | 0.22% | \$176,430.00 | 0.17% | \$3,735.59 |
| 22 | Butte | \$983,443.74 | 0.75% | \$664,759.00 | 0.64% | \$12,872.04 |
| 23 | Placer | \$655,009.52 | 0.50% | \$418,422.00 | 0.40% | \$8,573.25 |
| 24 | Shasta | \$861,355.26 | 0.65% | \$569,416.00 | 0.55% | \$11,274.06 |
| 25 | DRAFT | \$53,820,131.02 | 40.84% | \$34,064,073.00 | 32.84% | \$704,437.99 |
| 26 | Mariposa | \$56,413.30 | 0.04% | \$32,243.00 | 0.03% | \$738.38 |
| 27 | Mono | \$14,256.58 | 0.01% | \$12,329.00 | 0.01% | \$186.60 |
| 28 | Trinity | \$92,618.85 | 0.07% | \$83,204.00 | 0.08% | \$1,212.26 |
| 29 | Modoc | \$17,681.78 | 0.01% | \$16,064.00 | 0.02% | \$231.43 |
| 30 | Yuba | \$210,997.37 | 0.16% | \$199,732.00 | 0.19% | \$2,761.69 |
| 31 | Fresno | \$2,957,067.13 | 2.24% | \$2,958,296.00 | 2.85% | \$38,704.30 |
| 32 | DRAFT | \$29,654,711.05 | 22.50% | \$36,231,939.29 | 34.93% | \$388,142.96 |
| 33 | Orange | \$6,227,511.20 | 4.73% | \$6,583,082.00 | 6.35% | \$81,510.31 |
| 34 | Lassen | \$104,406.70 | 0.08% | \$108,374.00 | 0.10% | \$1,366.55 |
| 35 | San Francisco | \$3,101,987.42 | 2.35% | \$3,907,633.00 | 3.77% | \$40,601.12 |
| 36 | Contra Costa | \$2,543,025.40 | 1.93% | \$3,120,151.00 | 3.01% | \$33,285.01 |
| 37 | Nevada | \$204,344.30 | 0.16% | \$232,799.00 | 0.22% | \$2,674.61 |
| 38 | Sierra | \$10,945.86 | 0.01% | \$14,898.00 | 0.01% | \$143.27 |
| 39 | Humboldt | \$407,522.92 | 0.31% | \$562,460.00 | 0.54% | \$5,333.96 |
| 40 | Siskiyou | \$167,555.91 | 0.13% | \$256,552.00 | 0.25% | \$2,193.10 |
| 41 | Inyo | \$38,017.54 | 0.03% | \$76,990.00 | 0.07% | \$497.60 |
| 42 | | \$131,792,616.55 | 100.00% | \$103,725,445.00 | 100.00% | \$1,725,000.00 |
| 43 | | | | | | |
| 44 | *County pays for dependency counsel | | | | | |
| 45 | †Assuming participation requirements met | | | | | |
| 46 | How would each court's allocation be determined? For Option 3: | | | | | |
| 47 | (1) Determine total CFM funding need of all participating courts (B42). | | | | | |
| 48 | (2) Determine each court's proportionate share of the total need (Cn=Bn/B42). | | | | | |
| 49 | (3) Allocate to each court a % of total collected funds equal to that court's % of need (Fn=F42*Cn). | | | | | |

Senate Bill 75 (Stats. 2013, ch. 31), effective June 27, 2013.

SECs. 1–25 ***

SEC. 26.

Section 903.45 of the Welfare and Institutions Code is amended to read:

903.45.

(a) The board of supervisors may designate a county financial evaluation officer pursuant to Section 27750 of the Government Code to make financial evaluations of liability for reimbursement pursuant to Sections 207.2, 903, 903.1, 903.2, 903.25, 903.3, and 903.5, and other reimbursable costs allowed by law, as set forth in this section.

(b) In ~~any~~*a* county where a board of supervisors has designated a county financial evaluation officer, the juvenile court shall, at the close of the disposition hearing, order any person liable for the cost of support, pursuant to Section 903, the cost of legal services as provided for in Section 903.1, probation costs as provided for in Section 903.2, or any other reimbursable costs allowed under this code, to appear before the county financial evaluation officer for a financial evaluation of his or her ability to pay those ~~costs; and if costs~~. *If* the responsible person is not present at the disposition hearing, the court shall cite him or her to appear for ~~such~~*a* financial evaluation. In the case of a parent, guardian, or other person assessed for the costs of transport, food, shelter, or care of a minor under Section 207.2 or 903.25, the juvenile court shall, upon request of the county probation department, order the appearance of the parent, guardian, or other person before the county financial evaluation officer for a financial evaluation of his or her ability to pay the costs assessed.

If the county financial evaluation officer determines that a person so responsible has the ability to pay all or part of the costs, the county financial evaluation officer shall petition the court for an order requiring the person to pay that sum to the county or court, depending on which entity incurred the expense.

If the parent or guardian is liable for costs for legal services pursuant to Section 903.1, the parent or guardian has been reunified with the child pursuant to a court order, and the county financial evaluation officer determines that repayment of the costs would harm the ability of the parent or guardian to support the child, then the county financial evaluation officer shall not petition the court for an order of repayment, and the court shall not make that order. *In addition, if the parent or guardian is currently receiving reunification services, and the court ~~finds~~*finds, or the county financial officer determines*, that repayment by the parent or guardian will pose a barrier to reunification with the child because it will limit the ability of the parent or guardian to comply with the requirements of the reunification plan or compromise the parent's or guardian's current or future ability to meet the financial needs of the child, or in any case in which the court finds that the repayment would be unjust under the circumstances of the case, ~~the court then the county financial evaluation officer shall not petition the court for an order of repayment, and the court~~ shall not order repayment by the parent or guardian.* In evaluating a person's ability to pay under this section, the county financial evaluation officer and the court shall take into

consideration the family's income, the necessary obligations of the family, and the number of persons dependent upon this income. ~~Any~~ A person appearing for a financial evaluation ~~shall have~~ *has* the right to dispute the county financial evaluation officer's determination, in which case he or she ~~shall be~~ *is* entitled to a hearing before the juvenile court. The county financial evaluation ~~officer~~ *officer*, at the time of the financial ~~evaluation~~ *evaluation*, shall advise ~~such a~~ *the* person of his or her right to a hearing and of his or her rights pursuant to subdivision (c). At the hearing, ~~any a~~ person ~~so~~ responsible for costs ~~shall be~~ *is* entitled to have, but shall not be limited to, the opportunity to be heard in person, to present witnesses and other documentary evidence, to confront and cross-examine adverse witnesses, to disclosure of the evidence against him or her, and to receive a written statement of the findings of the court. The person ~~shall have~~ *has* the right to be represented by counsel, and, ~~when if~~ the person is unable to afford counsel, the right to appointed counsel. If the court determines that the person has the ability to pay all or part of the costs, including the costs of any counsel appointed to represent the person at the hearing, the court shall set the amount to be reimbursed and order him or her to pay that sum to the county or court, depending on which entity incurred the expense, in a manner in which the court believes reasonable and compatible with the person's financial ability.

If the ~~person or persons,~~ *person*, after having been ordered to appear before the county financial evaluation officer, ~~have~~ *has* been given proper notice and ~~fail~~ *fails* to appear as ordered, the county financial evaluation officer shall recommend to the court that ~~he, she, or they~~ *the person* be ordered to pay the full amount of the costs. Proper notice to ~~him, her, or them~~ *the person* shall contain all of the following:

- (1) That ~~he, she, or they~~ *the person has* a right to a statement of the costs as soon as it is available.
- (2) ~~His, her, or their~~ *The person's* procedural rights under Section 27755 of the Government Code.
- (3) The time limit within which ~~his, her, or their~~ *the person's* appearance is required.
- (4) A warning that if ~~he, she, or they~~ *the person fails* to appear before the county financial evaluation officer, the officer will recommend that the court order ~~him, her, or them~~ *the person* to pay the costs in full.

If the county financial evaluation officer determines that the person ~~or persons~~ *have* ~~has~~ the ability to pay all or a portion of these costs, with or without terms, and ~~he, she, or they~~ *concur* ~~the person concurs~~ in this determination and ~~agree~~ *agrees* to the terms of ~~payments,~~ *payment*, the county financial evaluation officer, upon his or her written evaluation and the person's ~~or persons'~~ written agreement, shall petition the court for an order requiring ~~him, her, or them~~ *the person* to pay that sum to the county or the court in a manner ~~which~~ *that* is reasonable and compatible with ~~his, her, or their~~ *the person's* financial ability. This order may be granted without further notice to the ~~person or persons,~~ *person*, provided a copy of the order is served on ~~him, her, or them~~ *the person* by mail.

However, if the county financial evaluation officer cannot reach an agreement with the person ~~or persons~~ with respect to either the liability for the costs, the amount of the costs, ~~his, her, or their~~ *the person's* ability to pay the ~~same,~~ *costs*, or the terms of payment, the matter shall be

ACTION ITEM 5

Attachment D

deemed in dispute and referred by the county financial evaluation officer back to the court for a hearing.

(c) At any time prior to the satisfaction of a judgment entered pursuant to this section, a person against whom the judgment was entered may petition the rendering court to modify or vacate the judgment on the basis of a change in circumstances relating to his or her ability to pay the judgment.

(d) Execution may be issued on the order in the same manner as on a judgment in a civil action, including any balance remaining unpaid at the termination of the court's jurisdiction over the minor.