

JUDICIAL COUNCIL OF CALIFORNIA  
BUDGET SERVICES  
Report to the Trial Court Budget Advisory Committee  
Revenue and Expenditure Subcommittee

**(Action Item)**

**Title:** 2019-20 Allocation for the Trial Court Audit Program from the Trial Court Trust Fund (TCTF)

**Date:** 4/23/2019

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**Issue**

Consider adopting a recommendation for a 2019-20 allocation of \$540,000 for the Trial Court Audit Program from the TCTF for consideration by the Trial Court Budget Advisory Committee at its May 2, 2019 meeting and for Judicial Council consideration at its July 18-19, 2019 business meeting.

The Revenue and Expenditure (R&E) Subcommittee previously adopted recommendations for allocation of specific programs from the TCTF Expenses on Behalf of the Trial Courts appropriation at its April 8, 2019 meeting. At the time, no allocation was requested for the Trial Court Audit Program due to a pending Budget Change Proposal (BCP) requesting \$1.6 million for 2019-20. Due to this BCP being deferred to the 2020-21 Governor's Budget, the JCC is requesting an allocation of \$540,000 in 2019-20 for the Trial Court Audit Program to proceed with a contract to bridge to the full request of \$1.6 million in 2020-21.

**2019-20 Preliminary Allocations previously adopted by R&E on April 8, 2019**

***Proposed 2019-20 Allocation for Expenses on Behalf of the Trial Courts (Program 0150095)***  
***Total: \$9,474,999***

1. Children in Dependency Case Training - \$113,000
2. Sargent Shriver Civil Counsel Pilot Program - \$7,490,937
3. Civil, Small Claims, Probate and Mental Health (V3) Case Management System - \$564,000
4. California Courts Technology Center (CCTC) - \$688,800
5. Interim Case Management System - \$62,200
6. Other Post-Employment Benefits Valuation Contract - \$556,062

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**New Allocation for consideration by R&E**

***New Proposed 2019-20 Allocation for Expenses on Behalf of the Trial Courts (Program 0150095) Total: \$10,014,999***

1. Children in Dependency Case Training - \$113,000
2. Sargent Shriver Civil Counsel Pilot Program - \$7,490,937
3. Civil, Small Claims, Probate and Mental Health (V3) Case Management System - \$564,000
4. California Courts Technology Center (CCTC) - \$688,800
5. Interim Case Management System - \$62,200
6. Other Post-Employment Benefits Valuation Contract - \$556,062
7. External Audit – Trial Court Audit Program- *Approve \$540,000, no change from 2018-19 allocation.*

**Recommendation**

Approve the additional \$540,000 for the Trial Court Audit Program, for a total of \$10,014,999 in preliminary allocations for Expenses on Behalf of the Trial Courts (Program 0150095) in 2019-20 from the TCTF for consideration by the Trial Court Budget Advisory Committee at its May 2, 2019 meeting and for Judicial Council consideration at its July 18-19, 2019 business meeting.

**Attachments**

**Attachment A:** TCTF Judicial Council Staff and Expenses on Behalf of the Trial Courts Allocations

**Attachment B:** TCTF Judicial Council Staff (0140010); Expenses on Behalf of the Trial Courts (0150095) Narrative

TCTF Judicial Council and Expenses on Behalf of the Trial Courts Appropriations Allocations

#	Project and Program Title	2018-19 JC- Approved Judicial Council (Staff) (0140010)	Expenses on Behalf of the Trial Courts (0150095)	2018-19 Approved Total Allocation	TCBAC R&E Subcommittee 2019-20 Recommended Preliminary Allocations			Program Allocation Increase/ (Decrease)
					Judicial Council (Staff) <sup>1</sup> (0140010)	Expenses on Behalf of the Trial Courts (0150095)	Total	
					Col. D	Col. E	Col. F (Col. D + E)	
1	Children in Dependency Case Training	-	113,000	113,000		113,000	113,000	-
2	Sargent Shriver Civil Counsel Pilot Program	500,000	6,433,142	6,933,142	500,000	7,490,937	7,990,937	1,057,795
3	Equal Access Fund	246,000	-	246,000	246,000		246,000	-
4	Court-Appointed Dependency Counsel Collections	260,000	-	260,000	260,000		260,000	-
5	Statewide Support for Collections Programs	625,000	-	625,000	806,000		806,000	181,000
6	<b>Programs Funded from Courts' TCTF Allocations</b>			-				
7	Civil, Small Claims, Probate and Mental Health (V3) CMS	-	564,000	564,000		564,000	564,000	-
8	California Courts Technology Center	-	1,045,943	1,045,943		688,800	688,800	(357,143)
9	Interim Case Management System	-	361,000	361,000		62,200	62,200	(298,800)
10	Phoenix Financial Services	107,000	-	107,000	72,500		72,500	(34,500)
11	Phoenix HR Services	1,404,676	-	1,404,676	1,401,400		1,401,400	(3,276)
12	Other Post Employment Benefits Valuations		118,000	118,000		556,062	556,062	438,062
13	Statewide E-Filing Implementation	491,000		491,000	630,000		630,000	139,000
14	External Audit - Trial Court Audit Program per GC 77206 (h)(4)		540,000	540,000		540,000	540,000	-
15	<b>Total, Program/Project Allocations</b>	<b>3,633,676</b>	<b>9,175,085</b>	<b>12,808,761</b>	<b>3,915,900</b>	<b>10,014,999</b>	<b>13,930,899</b>	<b>1,122,138</b>
16	<b>Department of Motor Vehicles Amnesty Program service charges</b>	<b>250,000</b>		<b>250,000</b>	-	-	-	N/A
17	<b>Estimated State Controller's Office services charges</b>	<b>303,000</b>		<b>303,000</b>		-	-	N/A
19	<b>Estimated Budget Act Appropriation and Changes Using Provisional Language Authority<sup>1</sup></b>	N/A	N/A	N/A	<b>3,957,000</b>	<b>11,325,000</b>	<b>15,282,000</b>	N/A
20	<b>Appropriation Balance</b>	N/A	N/A	N/A	<b>41,100</b>	<b>1,310,001</b>	<b>1,351,101</b>	N/A

1. Provisional language in the 2018 Budget Act allows the Judicial Council appropriation authority to be increased for support to the Sargent Shriver Civil Counsel Pilot, Equal Access Fund, and Court-Appointed Dependency Counsel Collections. Provisional language also allows up to \$11.274 million to be transferred to the Judicial Council appropriation authority for the recovery of costs for administrative services provided to the trial courts.

## **Judicial Council and Trial Court Operations Program/Projects**

### **Trial Court Trust Fund (TCTF) Judicial Council (0140010)**

#### **OPERATIONS AND PROGRAMS DIVISION**

#### **Center for Families, Children, and the Courts**

##### ***Sargent Shriver Civil Counsel Pilot Program***

This directed funding implements a pilot program required by Government Code section 68651 (AB 590-Feuer). Project funds come from a restricted \$10 supplemental filing fee on certain post judgment motions. The funding supports six pilot programs, which are each a partnership of a legal services' nonprofit corporation, the court, and other legal services providers in the community. The programs provide legal representation to low-income Californians (at or below 200 percent of the federal poverty level) in housing, child custody, probate conservatorship, and guardianship matters. Since not all eligible low-income parties with meritorious cases can be provided with legal representation, the court partners receive funds to implement improved court procedures, personnel training, case management and administration methods, and best practices.

Pilot programs were selected through a competitive request for proposal process and approved by the Judicial Council. The current projects are in Fresno, Kern, Los Angeles, San Diego, San Francisco, Santa Barbara, and Yolo counties. Government Code 68651 provides that the “participating projects shall be selected by a committee appointed by the Judicial Council with representation from key stakeholder groups, including judicial officers, legal services providers, and others, as appropriate... Projects approved pursuant to this section shall initially be authorized for a three-year period, commencing July 1, 2011, subject to renewal for a period to be determined by the Judicial Council, in consultation with the participating project in light of the project's capacity and success....” The programs are currently in their second year of 3-year funding.

Most administrative funds are being used for the evaluation of the pilot project. An initial report was made to the Governor and Legislature on January 31, 2016. An additional report was submitted in July 2017 to address the statutory requirement that “[t]he study shall report on the percentage of funding by case type and shall include data on the impact of counsel on equal access to justice and the effect on court administration and efficiency, and enhanced coordination between courts and other government service providers and community resources. This report shall describe the benefits of providing representation to those who were previously not represented, both for the clients and the courts, as well as strategies and recommendations for maximizing the benefit of that representation in the future. The report shall describe and include data, if available, on the impact of the pilot program on families and children. The report also shall include an assessment of the continuing unmet needs and, if available, data regarding those unmet needs.” Evaluation continues in order to identify useful information for all courts on effective ways on handling these cases.

The pilots focus on providing representation in cases where one side is generally represented and the other is not. These are typically the most difficult cases for both the litigants and the courts. The intent is not only to improve access to the courts and the quality of justice obtained by those low-income individuals who would otherwise not have counsel, but also to allow court calendars that currently include many self-represented litigants to be handled more effectively and efficiently. The legislature found that the absence of representation not only disadvantages parties but has a negative effect on the functioning of the judicial system. “When parties lack legal counsel, courts must cope with the need to provide guidance and assistance to ensure that the matter is properly administered, and the parties receive a fair trial or hearing. Such efforts, however, deplete scarce court resources and negatively affect the courts’ ability to function as intended, including causing erroneous and incomplete pleadings, inaccurate information, unproductive court appearances, improper defaults, unnecessary continuances, delays in proceedings for all court users and other problems that can ultimately subvert the administration of justice.”

### *Equal Access*

Commencing in 1999, the state Budget Act has contained a provision for the allotment of \$10 million to an Equal Access Fund “to improve equal access and the fair administration of justice.” That amount was supplemented by \$5 million in 2016-17, and then by an additional \$5 million in 2017-18. That additional \$10 million has been incorporated into the budget, and thus, the total amount of general funds allocated are \$20 million. In 2005, the Uniform Civil Fees and Standard Fee Schedule Act was approved by the Legislature and the Governor. That act established a new distribution of \$4.80 per filing fee to the Equal Access Fund in the TCTF. The estimated revenue from filing fees for the fund is \$4.8 million per year.

The Budget Act provides that 90% of the funds are to support agencies providing civil legal assistance for low-income persons. The Business and Professions Code sets forth the criteria for distribution of those funds. 10% of the funds support partnership grants to eligible legal services agencies providing self-help assistance at local courts. Organizations must complete specific applications for these funds and have the approval of their courts. The Budget Act allocates up to 5% for administrative costs. Two thirds of the administrative costs go to the State Bar and one third to the Judicial Council.

Judicial Council administrative funds cover the costs of staffing to distribute and administer the grants, provide technical assistance and training support for the legal services agencies and courts, as well as the cost of Commission expenses, accounting and programmatic review. It further provides staff support to develop on-line document assembly programs and other assistance for partnership grant projects.

The program serves all 58 courts by providing support to legal services programs which assist litigants with their legal matters. 42 partnership grant programs operate self-help centers in their partner courts. Parties who receive legal services – either fully or partly represented or helped in self-help centers – generally save the court valuable time and resources by helping litigants have

better prepared pleadings, more organized evidence, and more effective presentation of their cases. Legal services programs also save significant time for courts by helping litigants understand their cases and helping them to settle whenever possible. Often a consultation with a lawyer is helpful for potential litigants to understand when they do not have a viable court case.

The administrative funds also provide the staff support to develop on-line document assembly programs and other instructional materials developed in partnership grant programs which are available to courts throughout the state.

### ***Court-Appointed Dependency Counsel Collections***

Welfare and Institutions Code section 903.47 mandates the collections program. This funding provides staffing for administration of the statewide collections program and the overall dependency counsel program. Collections program staff assists trial courts in implementing the program in a variety of ways. A dedicated Judicial Resources Network webpage, maintained by staff, provides quick access to the guidelines, optional forms, and other program resources. Staff also administers a listserv for judicial officers and court staff to share questions and information with program staff and each other. The program analyst guides courts in completing the required implementation reports, receives and processes the reports, and follows up with individual courts as required. Staff hosts conference calls as required to field implementation questions from the courts and provide courts with another forum for sharing information.

## **ADMINISTRATIVE DIVISION**

### **Budget Services**

#### ***Statewide Support for Collections Programs***

The Judicial Council Revenue and Collections Unit represents the only centralized professional and technical assistance team available to courts and counties statewide regarding issues relating to the collection and distribution of court-ordered debt and associated revenue. Support provided ranges from assistance with annual reporting requirements, collections master and participation agreements, operational reviews of individual collection programs, as well as daily assistance with policy and statutory guidance. The unit also responds to trial court revenue distribution inquiries and leads the planning and execution of related statewide training in partnership with the State Controller's Office and Franchise Tax Board.

Under Penal Code 1463.010, the Judicial Council was tasked with developing performance measures and benchmarks to review the effectiveness of the cooperative superior court and county collection programs. The newly enacted Government Code 68514 (June 2017) required the data submitted by the collection programs to be separated into current period and prior periods. This change had a substantial impact to the calculation for the benchmarks. Thus, creating a need to revisit the benchmarks established over 11 years ago. An outside consultant is needed to assist Budget Services in revisiting these benchmarks which results in an increased need for 2019-20.

## **Branch Accounting and Procurement**

### ***Phoenix Financial and Human Resources Services***

The Judicial Council has sought to establish an administrative infrastructure at the state and local levels to provide appropriate accountability for the legally compliant, effective, and efficient use of resources; to provide the necessary information to support policymaking responsibilities; and consistently and reliably provide the administrative tools to support day-to-day operations.

The Phoenix Program supports this goal effectively by implementing a system that provides for uniform processes and standardized accounting and reporting and provides human capital management and payroll services to the courts in a cost-effective and efficient manner.

The program is primarily funded by the General Fund. The funding allocated from the TCTF is fully reimbursed by the courts that use the Phoenix Payroll System (\$1,401,400) and the Phoenix Virtual Buyer program (\$72,500). The Payroll System is currently supporting 15 courts. Approximately 23 courts are participating in the Virtual Buyer Program. Because these services are not utilized by all courts, these courts are asked to reimburse the TCTF for the services they receive.

## **Information Technology**

### ***Statewide e-Filing***

The Statewide e-filing program will provide services designed to promote, enable, and assist full court participation in e-filing. The program, staffed by three positions (Supervisor, Sr. Developer and Sr. Analyst) will enable:

- Integration with an Identity and Access Management systems.
- Establishment of standards management, certification, and support services for statewide e-filing managers (EFMs) and e-filing service providers (EFSPs).
- Support for superior court e-filing implementations leveraging the established e-filing environment.

When the funding was initially approved for 2017-18, the program was scheduled to begin in 2017, but has been delayed. The delay is primarily related to the additional time needed to negotiate Master Agreements with the three selected EFM vendors. To date, Master Agreements have been executed with two of the three vendors. Final negotiations are currently occurring with the third vendor. All three vendors will be required to be present when the program is initiated. This will ensure the standards-based approach planned for the program is accepted and adhered to by all three vendors, as well as solidify their roles and responsibilities for the program going forward.

Funding for the initial program was provided through a loan of \$1,162,000 (\$671,000 in 2017-18 and \$491,000 in 2018-19) with loan repayment in the first two years based on cost recovery fees

## Attachment B

collected through filing fees. The loan payback period is through June 30, 2021. Due to the delay in executing Master Agreements with three EFM vendors, the request for 2019-20 will extend the \$792,000 in unexpended funds of the loan one additional year.

California law authorizes both direct e-filing and e-filing through an EFSP (See Code Civ. Proc, §1010.6(d)(1)(B); Cal. Rules of Court, rule 2.253(a).) In most instances, parties or their attorneys file through an EFSP. A party or attorney sends the documents through a user interface to the EFSP for filing. The EFSP handles the actual filing, including compliance with any technical requirements. After filing, the EFSPs also provide feedback to the parties about the case; and can offer additional services, such as the service of documents on all parties in the case. Under current law, a court can institute mandatory e-filing only if it has more than one EFSP or direct e-filing. This requirement fosters competition and provides the public with a choice.

California has a variety of innovative EFSPs based or operating in the state. While some of the courts in California have realized a degree of success and innovation in e-filing, progress has been limited. This partial adoption of e-filing has been influenced by the actions of e-filing vendors who have created a difficult economic environment by:

- Focusing on high volume courts almost to the exclusion of the smaller courts;
- Creating monopolies through the use of proprietary designs;
- Creating barriers to entry and operation for innovative EFSPs; and
- Extracting higher fees for filing and payment processing.

Currently, courts that have implemented e-filing have an EFM provided by the same vendor as their case management system (CMS) and are deploying e-filing as a local county event. While this model satisfies many of the needs of the individual court, it creates challenges for attorneys that file in multiple counties and creates uneven services from county to county. Further, the majority of courts do not have any e-filing capability. Those courts that do have e-filing rely on either a single EFSP or EFM to provide identity management and financial gateway integration. The EFSP is analogous to the attorney service firm or couriers in a paper world; it provides the interface to the court filer, collects filing data, fees and may provide educational and other value-added services (e.g., process serving, billing assistance). The EFM is analogous to the counter clerk; it interacts with the EFSP by electronically accepting the filing, settling the payment, and presents the filing for clerical review and, upon approval, helps electronically move the data into the court's case and document management systems.

Fundamental to the multiple EFM-EFSP model is a statewide identity management capability. The filer ultimately has their relationship with the court in which their case is heard, but may want to interact with the court (or multiple courts) through different EFSPs on the same or different cases. To ensure seamless access to their case, the branch should manage filer identities across courts, EFMs and EFSPs. To improve access the program enables a statewide identity management capability that will be used by all EFMs, EFSPs and courts in support of e-filing.



Lastly, establishing an EFM-EFSP certification process, providing ombudsman support, and facilitating issue resolution are necessary to ensure the statewide model is operational. Thus, to adequately support adoption of standards-based, statewide e-filing, the Judicial Council will need responsibilities in relation to EFMs, payment processors, identity management authority, and a certification authority. The program anticipates cost recovery for EFSP certification to be funded via fees to vendors; and following the initial two-year period, support for any ongoing positions will be funded via court e-filing/digital court cost recovery fees that will increase as more courts adopt the statewide e-filing model.

## **Expenses on Behalf of the Trial Courts (0150095)**

### **OPERATIONS AND PROGRAMS DIVISION**

#### **Center for Families, Children, and the Courts**

##### ***Children in Dependency Case Training***

The program provides training designed to improve the trial and appellate advocacy skills of juvenile dependency court-appointed attorneys. All trial courts are eligible to send attorneys to this training. These funds are used to hire expert faculty and to support attendees' travel. Attorneys educated in advanced trial skills save court costs by improving hearing efficiency, avoiding continuances, and adhering to federal standards for timeliness. If they are educated in establishing an adequate record, identifying issues for appeal, and meeting the appropriate timelines for writs and appeals, attorneys save the appellate courts considerable time by providing thorough and timely filings.

##### ***Sargent Shriver Civil Counsel Pilot Program***

See TCTF Judicial Council (0140010) description for detail of program. Funds have been allocated by the Judicial Council on a three-year grant cycle in the amount of \$7,490,937 per year, based on the recommendations of the Sargent Shriver Civil Counsel Implementation Committee, which is charged with this duty by the Government Code 68651, the legislation authorizing this program. These are dedicated funds which roll-over from year to year. There are sufficient funds to maintain the current funding level through 2019-20. Funding levels for the next cycle of three-year grants will be reviewed in 2020-21.

#### **Information Technology**

##### ***Civil, Small Claims, Probate and Mental Health (V3) Case Management System***

The Civil, Small Claims, Probate and Mental Health Case Management System (CMS V3) is deployed at the California Court Technology Center (CCTC) for two Superior Courts: Sacramento and Ventura. It is hosted locally by two Superior Courts: Orange and San Diego. V3 processes about 25 percent of all civil cases statewide. V3 functionality enables the courts to process and administer their civil caseloads, automating activities in case initiation and maintenance, courtroom proceedings, calendaring, work queue, payment and financial processing. All V3 courts are now using the latest version of the V3 application. This model

allows for a single deployment and common version of the software, avoiding the cost of three separate installations.

The TCTF V3 program costs are fully reimbursed by the participating hosted courts. Courts reimburse the TCTF via the annual Schedule C process, where the V3 courts confirm agreed upon technical charges. Once V3 charges are confirmed by the courts, their monthly distributions are reduced over the year in the amount of the charges.

The V3 Courts are migrating off of CMS V3 and 2019-20 is the last year of funding from the TCTF or IMF for V3.

### ***California Courts Technology Center (CCTC) – Operations***

In alignment with Judicial Council directives to affirm development and implementation of statewide technology initiatives, the CCTC program provides a Judicial Branch Technology Center for use by all courts.

Funding is utilized for maintaining core services and court requested services. Services include: operational support; data network management, desktop computing and local server support; tape back-up and recovery; help desk services; email services; and a dedicated service delivery manager. These services allow the courts to rely on the skills and expertise of the maintenance and support within the CCTC to remediate defects, implement legislative updates, configure and install software and hardware upgrades, and address other minor and critical issues.

The TCTF CCTC program costs are fully reimbursed by the participating courts. Courts reimburse the TCTF via the annual Schedule C process, where the courts confirm agreed upon technical charges. Once charges are confirmed by the courts, their monthly distributions are reduced over the year in the amount of the charges.

### ***Interim Case Management System***

The Interim Case Management System (ICMS) unit provides program support to trial courts using Sustain Justice Edition (SJE) case management. Currently, there are nine courts using SJE. Two of these nine courts are hosted at the CCTC and support provided to these courts include project management and technical expertise for maintenance and operations activities, such as implementation of legislative updates, application upgrades, production support, CCTC infrastructure upgrades, and patch management. It is anticipated that the remaining two courts will no longer have SJE hosted at the CCTC as of September 30, 2019, which is reflected in the proposed allocation reduction of \$314,500 for 2019-20.

The TCTF ICMS program costs are fully reimbursed by the participating courts. Courts reimburse the TCTF via the annual Schedule C process, where the courts confirm agreed upon technical charges. Once charges are confirmed by the courts, their monthly distributions are reduced over the year in the amount of the charges.

## Budget Services

### *Other Post-Employment Benefits (OPEB) Valuation Contract*

This funding supports the Governmental Accounting Standards Board (GASB) 75 federally and state mandated annual reporting requirements for government entities to report on their OPEB liabilities and assets in irrevocable trusts set-aside for the payment of future OPEB expenses. The Judicial Council has centrally managed this effort on behalf of trial courts for the past four two-year reporting cycles.

The current actuary contract's two-year renewal term will begin September 1, 2019, and end August 31, 2021. During the first year of the current two-year term, the valuation as of June 30, 2020 for 2019-20 will be completed at a not-to exceed cost of \$556,062, followed by the valuation as of June 30, 2021 for 2020-21 at a not-to exceed cost of \$122,645. These current contract costs have been increased by an inflation adjustment over the prior two-year contract term in accordance with the terms of the renewal.

The actuarial services performed during 2019-20, at a total cost of \$556,062, will include data gathering and development of actuarial valuation reports for each of the 58 trial courts. The actuary also provides a valuation of the trust assets for each of the 38 trial courts that have made contributions to their irrevocable OPEB trust. The cost for the same actuary work performed during the first year of the prior two-year reporting cycle for 2017-18 was \$535,000.

The allocation of \$556,062 for 2019-20 is substantially greater as compared to the prior year's allocation of \$118,000 because, during this first year of the contract's current two-year cycle, a very detailed review of each trial court's OPEB plan participants must be completed to comply with GASB 75 reporting requirements. The allocation for the following 2020-21 is much smaller at \$122,645 because the valuation is based on information developed during the prior year, without the need for extensive data gathering. The cost for the same actuary work performed during the second year of the prior two-year reporting cycle for 2018-19 was \$118,000.

### ***External Audit – Trial Court Audit Program***

Government Code, section 77206 (h)(2) requires certain designated external governmental audit agencies—the State Controller's Office, The State Auditor's Office, or the Department of Finance—to audit each court's compliance with state rules pertaining to the revenues, expenditures and fund balances under its control. State law requires these audits to occur at each court on a four-year cycle, and further specifies that these audits are in addition to any other audit prescribed by law. The annual budget act appropriates specific spending authority to fund the costs of these external audits from the Trial Court Trust Fund. The reasonable and necessary contracted costs of these audits are ultimately paid from the funds of the local court being audited pursuant to Government Code Section 77206(h)(4).