

AGENDA**ASSEMBLY BUDGET SUBCOMMITTEE NO. 5
PUBLIC SAFETY****ASSEMBLYMEMBER SHIRLEY N. WEBER, PH.D., CHAIR****MONDAY, APRIL 17, 2017
2:30 P.M. – CALIFORNIA STATE CAPITOL ROOM 437**

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ITEMS TO BE HEARD

0820 DEPARTMENT OF JUSTICE

ISSUE 1: LAW ENFORCEMENT CONTACT PROCESS TRAILER BILL LANGUAGE

The Department of Justice (DOJ) and Department of Finance (DOF) will provide an overview of the proposed trailer bill language pertaining to the Law Enforcement Contact Process.

PANELISTS

- California Department of Justice
- Department of Finance
- Legislative Analyst's Office
- Public Comment

BACKGROUND

AB 1993 (Irwin, Chapter 514, Statutes of 2016), requires electronic communication service providers to maintain a specific process that would allow law enforcement to contact them. The bill also requires that providers report their specific process to DOJ by July 2017. Any subsequent changes to the process would also need to be reported to DOJ. DOJ, in turn, is required to consolidate all of this information and regularly provide this information to local law enforcement agencies.

The proposed language would make the Attorney General's duty described above effective only upon appropriation of sufficient funds by the Legislature to the Attorney General.

LAO ASSESSMENT AND RECOMMENDATION

As this bill was being discussed by the Legislature, one-time costs potentially in excess of \$250,000 and ongoing costs of less than \$100,000 from the General Fund were identified for DOJ to implement this legislation. It was also indicated that workload costs would depend on the number of service providers reporting to DOJ.

Given the relatively low cost identified above, the Legislature could consider rejecting the trailer bill and directing DOJ to absorb full implementation costs within existing resources. As part of its deliberation, the Legislature could direct DOJ to report (1) how they would implement this bill, (2) whether the implementation costs previously identified as the bill was being discussed have changed, and (3) what activities, if any, would no longer be conducted if DOJ was directed to absorb this cost.

Additionally, the Legislative Analyst's Office (LAO) notes that the most recent version of this trailer bill language ("TBL 214 v2") could still result in DOJ incurring some costs that they would need to absorb. This is because the new language would only exempt DOJ responsibilities to consolidate the information and make it regularly available to local law enforcement. DOJ could incur some costs related to receiving and storing information from service providers who are still required to report their processes to DOJ.

STAFF COMMENT

This trailer bill is one of many examples this budget year that the Administration has sought to undo deals made in the previous legislative session. DOF approved other funding requests related to implementation of bills, but this particular piece was not approved. The Subcommittee may wish for DOF to provide justification as to why the relatively low cost for implementation of this bill was not approved.

Additionally, the Administration has proposed an unallocated \$5 million General Fund reduction. The Subcommittee may wish to use some of that funding towards implementation of bills that were previously negotiated.

Staff Recommendation: Hold open.

ISSUE 2: IMPLEMENTATION OF RECENT PROPOSITIONS

The Department of Justice will provide an overview of proposed changes resulting from recently approved Propositions.

PANELISTS

- California Department of Justice
- Legislative Analyst's Office
- Department of Finance
- Public Comment

BACKGROUND

Proposition 56. In November 2016, voters approved Proposition 56, which increases excise taxes on tobacco products by \$2. The measure also prescribes how to distribute the revenues from the increased tax. In some cases, Proposition 56 requires the new revenue to supplement existing spending on the programs. The measure dedicates the bulk of the new revenue to Medi-Cal. The Proposition 56 revenues dedicated to Medi-Cal are required to supplement, not supplant, the existing spending on the program.

The Administration allocates \$45 million for local law enforcement grants (\$37.5 million through the Department of Justice and \$7.5 million through the Department of Public Health, respectively) to prevent illegal sales of tobacco products. In addition, the Administration allocates \$7.5 million to DOJ for tobacco law enforcement activities, particularly enforcing compliance with tax obligations.

Of the revenues, \$36 million is to be distributed annually to DOJ: \$6 million to enforce laws that regulate the sale and distribution of tobacco products and \$30 million for the Department to distribute to local law enforcement agencies for the support and hiring of peace officers for various activities, including investigations intended to reduce the illegal sale of tobacco products to minors. The measure specifies that this revenue cannot be used to supplant state or local funds currently used for these purposes.

Proposition 63. In November 2016, voters approved Proposition 63, which requires background check and DOJ authorization to purchase ammunition, prohibits possession of large-capacity ammunition magazines, establishes procedures for enforcing laws prohibiting firearm possession by specified persons and requires DOJ's participation in federal National Instant Criminal Background Check System. The Proposition also creates a new court process to ensure the removal of firearms from prohibited persons after they are convicted of a felony or certain misdemeanors.

Additionally, Proposition 63 states that the Legislature can change its provisions if such changes are "consistent with and further the intent" of the measure. Such changes can only be made if 55 percent of the members of each house of the Legislature passes them and the bill is enacted into law.

There is a one-time loan of \$25 million General Fund to the Department in order to implement data systems and improve technology for the purpose of implementation of this initiative. It is expected that by the 2019-20 Budget Year, there would be enough funding from the purchase of licenses for the Department to pay back the General Fund loan and be self-sufficient.

LAO ASSESSMENT AND RECOMMENDATION
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Proposition 56 Assessment. The LAO states that, absent specific details on how DOJ plans to allocate the \$45 million in Proposition 56 funds, it is difficult for the Legislature to ensure that the funds will be used in accordance with the measure's provisions and legislative priorities. It is unclear whether the Department will use the \$7.5 million for the enforcement of tobacco-related laws to expand upon the activities of the Tobacco Litigation and Enforcement Section. It is also unclear whether DOJ will require additional position authority to hire new employees to assist with the enforcement of tobacco-related laws.

According to DOJ, it is currently in the process of developing a methodology for determining how the \$37.5 million for local law enforcement will be allocated and administered. Until the Department develops such a methodology, the Legislature cannot assess whether the funds will be distributed fairly, effectively, and for activities it prioritizes. It is also unclear how the Department plans to ensure the monies provided to local law enforcement are used in accordance with the requirements of Proposition 56.

The LAO also notes that the annual allocation to DOJ could potentially be adjusted if it is determined that there has been a reduction in revenues due to lower consumption of tobacco products due to the measure.

Proposition 56 Recommendation. The LAO recommends that the Legislature require DOJ to report by April 1 on how it plans to (1) use the \$7.5 million for the enforcement of tobacco-related laws (including how such enforcement will coordinate with the Tobacco Litigation and Enforcement Section and whether the department will need additional position authority), (2) allocate the \$45 million to local law enforcement, and (3) provide sufficient oversight to ensure that the funds are used in accordance to the requirements of Proposition 56. Based on this information, the Legislature would be able to determine the extent to which it needs to provide statutory guidance to the Department. At a minimum, we recommend that the Legislature adopt budget trailer legislation requiring DOJ distribute the monies to local law enforcement through a competitive grant program, consistent with best practices. Such best practices include developing (1) clear criteria for evaluating and comparing applications for funding and (2) specific performance or outcome reporting requirements for recipients that can be used to ensure accountability.

STAFF COMMENT

Although the LAO's recommendation for an April 1 report dates has come and gone, the Subcommittee may wish to have DOJ report back to this Subcommittee during May Revision hearings on how it plans to use the enforcement funding, allocated funding to local law enforcement, and provide sufficient oversight to ensure proper implementation of Proposition 56.

Staff Recommendation: Hold open.

ISSUE 3: UNALLOCATED GENERAL FUND REDUCTION

The Department of Justice and Department of Finance will review the proposed unallocated General Fund reduction.

PANELISTS

- California Department of Justice
- Legislative Analyst's Office
- Department of Finance
- Public Comment

GOVERNOR'S PROPOSAL

The Governor's 2017-18 budget includes a one-time unallocated \$5 million General Fund reduction to DOJ in order to achieve General Fund savings. The proposal would allow DOJ to decide how to accommodate the reduction.

BACKGROUND

The Administration has categorized this reduction as a budget balancing tool. DOJ's preliminary thoughts are that the reduction would come from the legal division, which could lead to suspension of trainings and less utilization of retired annuitants. Additionally, this could lead to a slow hiring process for new attorneys.

**LAO ASSESSMENT AND
RECOMMENDATION**

Impact of Proposed Reduction Is Unclear. The proposed reduction does not appear to result from reduced workload or costs. As such, this one-time reduction could potentially impact DOJ operations. Absent a specific plan on how this reduction would be achieved, it is difficult for the Legislature to weigh the trade-offs of the proposed reduction, including how it could impact legislative priorities. For example, the reduction could have minimal impact on programs that are a legislative priority to the extent that DOJ can absorb the reduction through savings from routine staff vacancies or delaying one-time expenditures. Alternatively, DOJ could choose to reduce or eliminate activities that are a legislative priority. Without a specific plan from the department, the Legislature has no way to ensure that this would not occur.

LAO Recommendation. Withhold Action on Proposed Reduction. In view of the above, the LAO recommends that the Legislature withhold action on the Governor's proposed one-time \$5 million unallocated reduction to DOJ, pending specific information from the Administration and DOJ on how the reduction would be accommodated. Specifically, the LAO recommends the Legislature require the administration and DOJ to report at budget hearings this spring on the specific actions it plans to take to achieve \$5 million in General Fund savings in 2017-18. Based on this information, the Legislature would be able to weigh the proposed reduction against its other General Fund priorities, as well as assess whether the Department's plan to address the reduction is aligned with its priorities.

To the extent that the Legislature decides to reduce DOJ's budget, the LAO recommends that the Legislature considers making targeted reductions - rather than an unallocated reduction that would give the Department full discretion to implement - in order to ensure that legislative priorities are maintained.

STAFF COMMENT

The Subcommittee may want the reduction to be targeted within another division of DOJ that will not directly affect services for consumers. As such, this Subcommittee may wish for DOF and the Administration to respond to the following:

- How does DOJ plan to address this reduction without affecting services for consumers? What is the anticipated impact of this proposal?

Alternatively, the Subcommittee may wish to utilize this \$5 million General Fund to fund other priorities as it sees fit.

Staff Recommendation: Hold open.

ISSUE 4: FIREARMS: IDENTIFYING INFORMATION BUDGET CHANGE PROPOSAL

The Department of Justice will present on the proposed increase of \$1,368,000 Dealers' Records of Sale (DROS) Funds in 2017-18, in order to support eight additional positions.

PANELISTS

- California Department of Justice
- Legislative Analyst's Office
- Department of Finance
- Public Comment

GOVERNOR'S PROPOSAL

The California Department of Justice, Division of Law Enforcement, Bureau of Firearms, requests an increase of \$1,368,000 in FY 2017-18, \$1,022,000 in FY 2018-19, \$866,000 in FY 2019-20 and \$820,000 ongoing in Dealers' Record of Sale (DROS) Special Fund spending authority to support 8.0 positions. The funding will be loaned to the DROS fund from the Firearms Safety and Enforcement (FS&E) fund, and will be repaid no later than June 30, 2021. The positions and funding will be utilized by the Bureau and the Division of California Justice Information Services (CJIS) in order to implement and maintain the new requirements of AB 857 (Cooper, Chapter 60, Statutes of 2016).

BACKGROUND

Existing law authorizes the Department to assign a distinguishing number or mark of identification to any firearm whenever the firearm lacks a manufacturer's number or other mark of identification.

Commencing July 1, 2018, any person or entity who manufactures or assembles a firearm is required to first apply to the Department for a unique serial number. Within 10 days of manufacturing or assembling the firearm, the unique serial number shall be engraved or permanently affixed to the firearm. After the unique serial number is engraved, the person shall notify the Department with sufficient information to identify the owner of the firearm, the unique serial number, and the firearm in a manner and time period prescribed by the Department.

By January 1, 2019, any person who, as of July 1, 2018, owns a firearm that does not bear a serial number shall apply to the Department for a unique serial number. Within 10 days of receiving the unique serial number, the person shall have the number engraved or permanently affixed to the firearm. After the unique serial number is

engraved, the person shall notify the Department with sufficient information to identify the owner of the firearm, the unique serial number, and the firearm in a manner and time period prescribed by the Department. The bill allows the Department to charge a fee to recover the costs associated with issuing a distinguishing number or mark to qualified applicants.

Additionally, AB 857 prohibits any person who is prohibited from possessing a firearm, from aiding in the manufacture or assembly of a firearm. Any violation of these provisions is a misdemeanor. By creating a new crime, AB 857 imposes a state-mandated local program.

In order to implement the new requirements of AB 857, the Department will need to design, develop and implement enhancements to the California Reporting Information System (CRIS), the Consolidated Firearms Information System (CFIS) database, the Dealer Record of Sale (DROS) application, the Automated Firearms System (AFS), and the California Firearms Information Gateway (CFIG) for the Bureau.

STAFF COMMENT

Staff notes no concerns with this proposal at this time.

Staff Recommendation: Hold open.

ISSUE 5: ASSAULT WEAPONS BUDGET CHANGE PROPOSAL

The Department of Justice will present the proposal for \$2,588,000 and 27 positions in order to implement provisions of Senate Bill 880 (Hall, Chapter 48, Statutes of 2016) and Assembly Bill 1135 (Levine, Chapter 40, Statutes of 2016). The requested DROS funding will be loaned from the Firearms Safety and Enforcement Special Fund, and will be repaid no later than June 30, 2021.

PANELISTS

- California Department of Justice
- Legislative Analyst's Office
- Department of Finance
- Public Comment

GOVERNOR'S PROPOSAL

The California Department of Justice (Department), Division of Law Enforcement, Bureau of Firearms (Bureau) requests an increase of \$2,588,000 and 27.0 positions in FY 2017-18 in Dealers' Record of Sale (DROS) Special Fund spending authority to implement the provisions Senate Bill (SB) 880 (Hall) and Assembly Bill (AB) 1135 (Levine).

BACKGROUND

Existing law generally prohibits the possession or transfer of assault weapons, except for the sale, purchase, importation, or possession of assault weapons by specified individuals, including law enforcement officers. Under existing law, "assault weapon" means, among other things, a semiautomatic center-fire rifle or a semi-automatic pistol that has the capacity to accept a detachable magazine and has any one of specified attributes, including, for rifles, a thumbhole stock, and for pistols, a second handgrip.

Existing law requires that, with specified exceptions, any person who, prior to January 1, 2001, lawfully possessed an assault weapon prior to the date it was defined as an assault weapon, and which was not specified as an assault weapon at the time of lawful possession, register the firearm with the Department.

SB 880 and AB 1135 require that any person who, from January 1, 2001 to December 31, 2016, inclusive, lawfully possessed an assault weapon that does not have a fixed magazine, as defined, and including those weapons with an ammunition feeding device that can be removed readily from the firearm with the use of a tool, register the firearm with the Department before January 1, 2018, but not before the effective date of specified regulations.

SB 880 and AB 1135 require the registrations to be submitted electronically via the Internet utilizing a public-facing application made available by the Department. SB 880 and AB 1135 require the registration to contain specified information, including, but not limited to, a description of the firearm that identifies unique and specified information about the registrant. These bills permit the Department to charge a fee of up to \$15 per person for registration through the Internet, not to exceed the reasonable processing costs of the Department to be paid and deposited, as specified, for purposes of the registration program.

SB 880 and AB 1135 revise the definition of "assault weapon" to mean a semi-automatic center-fire rifle or semi-automatic pistol that does not have a fixed magazine but has any one of the specified characteristics. These bills also define "fixed magazine" to mean an ammunition feeding device contained in, or permanently attached to, a firearm in such a manner that the device cannot be removed without disassembly of the firearm action.

These bills also require the Department to adopt regulations for the purpose of implementing those provisions and makes exempt those regulations from the Administrative Procedure Act (APA).

STAFF COMMENT

The \$15 fee associated with assault weapons is assessed per person rather than per weapon, meaning that an individual could come in with several assault weapons at one time and only be assessed a \$15 fee. However, if an individual were to register an assault weapon on one day, and come back at a later date with additional weapons to be registered, DOJ has stated that the individual would be responsible for an additional \$15 fee on all subsequent visits.

The Subcommittee may wish for DOJ to provide further detail as to whether or not the \$15 fee would be reduced for individuals who only register one weapon as the actual costs may be lower than \$15 per transaction. Alternatively, if an individual were to come in to register multiple weapons, the current fee may be insufficient to cover administrative costs.

Staff Recommendation: Hold open.

9285 TRIAL COURT SECURITY
9286 TRIAL COURT SECURITY - JUDGESHIPS**ISSUE 6: OVERVIEW OF FUNDING AND INCREASES PROPOSED FOR BUDGET YEAR 2017-18**

The Department of Finance will provide an overview of the increased costs to the General Fund as a result of trial security costs in counties that have built new courthouses as well as the additional funding proposed to offset the security costs related to the proposal to transfer four judgeships.

PANELISTS

- Department of Finance
- Legislative Analyst's Office
- Public Comment

GOVERNOR'S PROPOSAL

The Governor's proposed budget includes \$7 million General Fund to offset the costs of trial court security in counties that have built new courthouses. Additionally, the budget proposes providing Riverside and San Bernardino counties with \$280,000 in on-going General Fund to offset the security costs of those four judgeships.

BACKGROUND

2011 Realignment of Trial Court Security. As part of the 2011-12 budget plan, the Legislature enacted a major shift, or "realignment," of state criminal justice, mental health, and social services program responsibilities and revenues to local government. This realignment shifted responsibility for funding most trial court security costs (provided by county sheriffs) from the state General Fund to counties. Specifically, the state shifted \$496 million in tax revenues to counties to finance these new responsibilities. State law also requires that any revenue from the growth in these tax revenues is to be distributed annually to counties based on percentages specified in statute. Due to this additional revenue, the amount of funding provided to counties to support trial court security has grown since 2011-12 and is expected to reach nearly \$558 million in 2017-18, an increase of \$61 million (or 12 percent). This additional revenue is distributed among counties based on percentages specified in statute.

Additional General Fund Recently Appropriated for Greater Levels of Trial Court Security. The California Constitution requires that the State bear responsibility for any costs related to legislation, regulations, executive orders, or administrative directors that increase the overall costs borne by a local agency for realigned programs or service levels mandated by the 2011 realignment. As part of the annual budget act, the State

provided \$1 million in additional General Fund support in 2014-15, \$2 million in 2015-16, and \$7 million in 2016-17 above the tax revenue provided through the 2011 realignment to provide counties with funding to address increased trial court security costs. Eligibility for these funds was limited to counties experiencing increased trial court security costs resulting from the construction of new courthouses occupied after October 9, 2011 (around the time of implementation of the 2011 realignment). Counties are required to apply to the DOF for these funds and only receive funding after meeting

certain conditions - including that the county prove that a greater level of service is now required from the county sheriff than was provided at the time of realignment.

Of the additional funds provided, DOF allocated \$713,000 in 2014-15, \$1.9 million in 2015-16, and currently estimates the allocation of about \$2.7 million to qualifying counties in 2016-17. The Governor's budget proposes continuing to provide \$7 million in General Fund to augment trial court security funding.

Current Trends and Concerns. The state's trial courts have faced significant cuts in recent years which have resulted in the closing of courtrooms throughout the state and a reduction in court-related services. As courtrooms are closed, the need for trial court security is reduced. However, despite a reduction in workload, the revenue provided to counties for trial court security has continued to grow under the realignment formula. In addition, according to the Judicial Council and the Administration, one of the benefits of the new court construction is that they generally require less security than the older courthouses that have multiple entrances.

The Legislature expressed concern with providing the \$1 million in 2014, because of the potential that the General Fund commitment for realigned trial court security would continue to increase year after year; similar concerns were expressed when the funding was doubled in 2015. Increasing the funding to \$7 million in 2016, with the potential for an additional \$10 million increase in this year's May Revise, suggests that those concerns had merit.

LAO ASSESSMENT AND RECOMMENDATION
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The LAO recommended rejecting the initial proposal during the May Revision process in 2014. They acknowledged that some courts may be experiencing an increased trial court security need; they were unable to determine whether there was a statewide net increase in the cost of court security. For example, they noted that a number of trial courts closed courtrooms and/or courthouses to address their ongoing budget reductions, thereby reducing the trial court security need and generating cost savings that could be redirected to courts with increased costs. In addition, the 2011 realignment legislation did not envision the state providing each county funding based on its actual court security costs. As such, they argued, the proposal is not consistent with the original intent of the legislation.

Security for Transfer of Judgeships. According to the LAO's findings, the Administration has not shown that additional trial court security funding resources are needed. Accordingly, they recommend that the Legislature reject the Governor's proposal for a \$280,000 General Fund augmentation for increased trial court security costs.

STAFF COMMENT

Over the last few years, the Legislature has expressed concerns due to the growth of the General Fund augmentation. The Subcommittee may wish to have DOF elaborate on the cost containment measures currently implemented, and detail any anticipated future increases to the General Fund augmentation.

Staff Recommendation: Hold open.

0250 JUDICIAL BRANCH**ISSUE 7: IMPLEMENTATION OF RECENT PROPOSITIONS**

The Judicial Council will provide an overview of recently approved Propositions and impacts to the Judicial Branch's Budget.

PANELISTS

- Judicial Council
- Legislative Analyst's Office
- Department of Finance
- Public Comment

GOVERNOR'S PROPOSAL

The Governor's proposed budget does not contain funding related to the trial courts' implementation of Proposition 63, Background Checks for Ammunition Purchases and Large Capacity Ammunition Magazine Ban (2016).

The Governor's budget proposes a total of \$51.4 million from Marijuana Control Fund (MCF) in 2017-18 in order to implement Proposition 64 across four departments: Department of Consumer Affairs, the Department of Public Health, the California Department of Food and Agriculture, and the Board of Equalization. The budget also requests about 190 positions in 2017-18 across these departments.

The proposed budget, however, does not contain any funding for the judicial branch to assist with the requirement.

PROPOSITION 63

On November 8, 2016, Proposition 63, the Background Checks for Ammunition Purchases and Large-Capacity Ammunition Magazine Ban (2016), was approved by a wide margin with over 63 percent of voters voting "yes." The proposition establishes a regulatory process for ammunition sales, creates a new court process to ensure the removal of firearms from prohibited persons after they are convicted of a felony or certain misdemeanors, and tightens the restrictions around the ownership and use of large capacity magazines. Additionally, Proposition 63 states that the Legislature can change its provisions if such changes are "consistent with and further the intent" of the measure. Such changes can only be made if approved by 55 percent of the members of each house of the Legislature and the bill is enacted into law.

New Court Process for Removal of Firearms. As noted previously, Proposition 63 created a new court process to ensure that individuals convicted of offenses that prohibit them from owning firearms do not continue to have them. Beginning in 2018, the measure requires courts to inform offenders upon conviction that they must (1) turn over their firearms to local law enforcement, (2) sell the firearms to a licensed firearm dealer, or (3) give the firearms to a licensed firearm dealer for storage. The measure also requires courts to assign probation officers to report on what offenders have done with their firearms. If the court finds that there is probable cause that an offender still has firearms, it must order that the firearms be removed. Finally, local governments or state agencies could charge a fee to reimburse them for certain costs in implementing the measure (such as those related to the removal or storage of firearms).

Currently, local law enforcement agencies are provided monthly information regarding the armed and prohibited persons in the agency's jurisdiction. Given this access, once the armed and prohibited person is identified, DOJ and local agencies could coordinate to confiscate the weapons. However, at the present time, many agencies are relying on assistance from DOJ's criminal intelligence specialists and special agents to work these cases. This proposition shifts the burden from DOJ to local law enforcement and the courts by requiring probation officers to report to the court on the disposition of the firearms owned by prohibited persons.

The Judicial Branch currently estimates increased costs of approximately \$11.5 million per year for the workload associated with the proposition. The Governor's budget does not contain any funding for this workload.

PROPOSITION 64

In 1996, voters approved Proposition 215, which legalized the use of medical cannabis in California. However, the measure did not create a statutory framework for regulating or taxing it at the state or local level. In June 2015, Governor Brown signed the Medical Marijuana Regulation and Safety Act, comprised of Assembly Bill 243 (Wood, Chapter 688, Statutes of 2015); Assembly Bill 266 (Bonta, Chapter 689, Statutes of 2015); and Senate Bill 643 (McGuire, Chapter 719, Statutes of 2015). The act was later renamed the Medical Cannabis Regulation and Safety Act (MCRSA). Together, these bills established the oversight and regulatory framework for the cultivation, manufacture, transportation, storage, and distribution of medical cannabis in California.

In November 2016 voters approved Proposition 64, the Adult Use of Marijuana Act (AUMA). AUMA legalized nonmedical, adult use of cannabis in California. Similarly to MCRSA, the act creates a regulatory framework for the cultivation, manufacture, transportation, storage and distribution of cannabis for nonmedical use.

Change in Penalties for Future Cannabis Crimes. The measure changes state cannabis penalties. For example, possession of one ounce or less of cannabis is currently punishable by a \$100 fine. Under the measure, such a crime committed by someone under the age of 18 would instead be punishable by a requirement to attend a drug education or counseling program and complete community service. In addition, selling cannabis for nonmedical purposes is currently punishable by up to four years in

state prison or county jail. Under the measure, selling cannabis without a license would be a crime generally punishable by up to six months in county jail and/or a fine of up to \$500. In addition, individuals engaging in any cannabis business activity without a license would be subject to a civil penalty of up to three times the amount of the license fee for each violation. While the measure changes penalties for many cannabis-related crimes, the penalties for driving a vehicle while under the impairment of cannabis would remain the same. The measure also requires the destruction, within two years, of criminal records for individuals arrested or convicted for certain cannabis-related offenses.

Individuals Previously Convicted of Cannabis Crimes. Under the measure, individuals serving sentences for activities that are made legal or are subject to lesser penalties under the measure would be eligible for resentencing. For example, an offender serving a jail or prison term for growing or selling cannabis could have their sentence reduced. (A court would not be required to resentence someone if it determined that the person was likely to commit certain severe crimes.) Qualifying individuals would be resentenced to whatever punishment they would have received under the measure. Resentenced individuals currently in jail or prison would be subject to community supervision (such as probation) for up to one year following their release, unless a court removes that requirement. In addition, individuals who have completed sentences for crimes that are reduced by the measure could apply to the courts to have their criminal records changed.

STAFF COMMENT

As previously stated, the Governor's Budget does not include appropriations for costs associated with Propositions 63 or 64. Staff recommends holding this item open pending any updates at May Revision.

Staff Recommendation: Hold open.

ISSUE 8: JUDGESHIP TRANSFER TRAILER BILL LANGUAGE

The Judicial Council will present the Trailer Bill Language, which requests to shift vacant judgeship positions.

PANELISTS

- Department of Finance
- Legislative Analyst's Office
- Public Comment

GOVERNOR'S PROPOSAL

The proposed budget includes statutory language shifting four vacant superior court judgeship positions in the state. Specifically, the Governor proposes shifting two vacancies from Alameda County, and two from Santa Clara County to Riverside and San Bernardino counties.

BACKGROUND

Each year, the Judicial Council is required to conduct a judicial needs assessment to determine whether or not the State has enough judges. For the last decade, California has had a shortage of judges. The most recent report, released in October of 2016, found a shortage of 189 judgeships statewide. The greatest need is in Riverside and San Bernardino counties, which have a shortage of 47 and 48 judgeships, respectively.

STAFF COMMENT

Other than the trial court security funding, which was discussed in Issue 6 of this agenda, there is no additional funding associated with this proposal. Funding for the judge will be transferred internally by the Judicial Council, and the local courts will be responsible for covering staffing costs from their existing trial court allocation.

Senator Roth has proposed language to suspend the four vacant judgeships (as opposed to transferring the judgeships permanently) in superior courts with more authorized judgeships than their assessed judicial need, and would require the allocation of four judgeships to superior courts with fewer authorized judgeships than their assessed judicial need.

Staff Recommendation: Hold open.

ISSUE 9: DRIVER'S LICENSE SUSPENSION TRAILER BILL LANGUAGE

The Department of Finance will present the Trailer Bill Language, which proposes to remove the ability for court's to hold or suspend a driver's license based on failure to pay.

PANELISTS

- Department of Finance
- Legislative Analyst's Office
- Public Comment

BACKGROUND

Under existing law, courts can suspend or place a hold on an individual's driver's license for failing to pay court-ordered fines and fees or failing to appear in court. The Governor proposes to eliminate the ability to use driver's license holds and suspensions as a sanction for an individual's failure to pay their court-ordered fines and fees.

If an individual does not pay a court-ordered fine or fee on time, the debt becomes delinquent. Under state law, after a minimum of a 20-day notification of delinquency, collection programs can utilize sanctions against an individual who either fails to pay their fines and fees (FTP) or fails to appear in court without good cause (FTA). Typically, collection programs progressively add sanctions to gradually increase pressure on debtors to make payment. While the same sanctions are available to all collection programs, each program can vary in how it uses these sanctions and when it leverages these sanctions.

Under current law, courts can notify the Department of Motor Vehicles (DMV) to place a hold on a driver's license for an FTA or FTP. A driver's license hold generally only prevents an individual from obtaining or renewing a license until the individual appears in court or pays the owed debt. A hold placed for FTA may be added and removed at the court's discretion. Thus, courts use a hold for FTA as a tool to encourage individuals to contact the court. In contrast, a hold for FTP for a specific debt may only be placed once for that debt—thereby resulting in most courts leaving the hold in place until an individual pays off the debt in full. Additional holds for FTA or FTP for other criminal offenses can then result in the suspension of the license. Holds will be removed by the court once an individual appears in court or makes payment to address his or her debt.

As required under current law, DMV will suspend an individual's license (1) if there are two or more holds or (2) if notification is received to suspend the license immediately. Individuals whose driver's license will be subject to suspension receive notice from the

DMV that their license will be suspended by a specified date if they do not address all specified holds. Individuals whose driver's licenses are suspended are no longer legally allowed to drive. Once all holds are removed, the suspension is lifted. Individuals must then pay a fee to have their license reissued or returned.

LAO ASSESSMENT AND RECOMMENDATION
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Repeal Could Provide Relief to Individuals Who Fail to Pay. Eliminating the ability of courts to use driver's license holds and suspensions as a collection sanction would provide relief to individuals who fail to pay. For many individuals, driving is a basic necessity as it allows individuals to commute to work, pick up children from school, and conduct other daily business. Thus, many continue to drive even if they lack a valid driver's license. This can result in additional fines and fees being assessed—significantly increasing the total amount owed by an individual. For example, individuals who cannot afford to pay their debt in full to lift a suspension could be subject to: a misdemeanor violation for driving on a suspended license, the impounding of their vehicle, and an increase in their insurance rate. This can make it very difficult for an individual with modest means to fully address their debt. Under the Governor's proposal, individuals with FTP would no longer be subject to such additional penalties as their license would no longer be held or suspended.

Repeal Could Negatively Impact Collections. While the repeal would provide relief to individuals who fail to pay, it could negatively impact the ability of collection programs to collect fines and fees. This is of concern because this debt was levied by the courts as punishment for violating criminal offenses. Thus, collection programs effectively enforce court orders through their collection activities. The proposed repeal would likely make collection programs less effective as agencies would have one less tool at their disposal.

While no data has been collected that would allow a precise estimate of the magnitude of the impact, collection entities report that they routinely interact with individuals seeking to make payments in order to have their driver's license reinstated. Additionally, while a comprehensive statewide evaluation of the effectiveness of driver's license holds and suspensions has not been conducted, the experiences of specific collection programs suggests that the repeal could potentially reduce total statewide collections by the tens of millions of dollars annually. For example, several trial courts that recently stopped using driver's license holds each reported a decline in revenue in the millions of dollars.

Raises Larger Questions About Appropriate Sanctions for FTP. The Governor's proposal implies that driver's license holds and suspensions are inappropriate consequences or sanctions for failing to pay fines and fees. On the one hand, this may be true for certain individuals—such as those who are generally careful drivers who simply lack sufficient means to pay their debt or whose offense has no connection to driving. For these individuals, the suspension may be inappropriate as it is too severe of

a consequence for a minor infraction or has no relation to whether or not they should be allowed to drive. However, this may not be true in all FTP cases. For example, holds and suspensions could be appropriate consequences for individuals who deliberately choose not to pay their debt even though they have sufficient means or for individuals who frequently violate traffic laws. Thus, the Governor's proposal raises larger questions about what consequences are appropriate punishments for failing to pay fines and fees imposed by the state as punishment for violating law.

LAO Recommendation. In considering the Governor's proposal, the Legislature will want to weigh the relative trade-offs in repealing the driver's license hold and suspension sanction for failure to pay court-ordered fines and fees. While this repeal would provide relief to such individuals, it would also negatively impact the ability of collection programs to enforce court-ordered fines and fees. The Legislature could also consider alternatives to the Governor's proposal in balancing these trade-offs. In addition, the LAO continues to recommend the Legislature require a comprehensive evaluation of collection practices and sanctions, as well as reevaluate the overall structure of the criminal fine and fee system.

STAFF COMMENT

Advocates throughout the state have written to the Subcommittee in support of the Governor's proposal. The Subcommittee may wish to direct the Judicial Branch and Department of Finance to do a comprehensive evaluation of collection practices and sanctions in order to identify whether or not this proposal would have impacts on the revenue collected by the courts.

Staff Recommendation: Hold open.

ISSUE 10: SUSTAIN JUSTICE EDITION CASE MANAGEMENT SYSTEM REPLACEMENT BUDGET CHANGE PROPOSAL

The Judicial Council will present on the proposed increase of \$4.1 million General Fund to replace the Sustain Justice Edition Case Management System in the Superior Courts of California - Humboldt, Lake, Madera, Modoc, Plumas, Sierra, San Benito, Trinity and Tuolumne Courts.

PANELISTS

- Judicial Council
- Legislative Analyst's Office
- Department of Finance
- Public Comment

GOVERNOR'S PROPOSAL

The Judicial Council requests \$4.1 million General Fund in 2017-18 and \$896,000 General Fund in 2018-19 to update the Sustain Justice Edition Case Management System in the Superior Courts of California - Humboldt, Lake, Madera, Modoc, Plumas, Sierra, San Benito, Trinity and Tuolumne Courts. This request supports the transition to modern commercial off-the-shelf case management systems.

BACKGROUND

In December 2015, the nine SJE courts, with limited options for acquiring a new case management system, came together to form a consortium, designed to leverage their buying power to procure a new system. Through collaboration, they designed, developed and issued a RFP for a new modern Court Management System. Recognizing the benefits to be derived by selecting a single vendor - the opportunity for economies of scale, they chose the eCourt system produced by Journal Technologies Incorporated (JTI). SJE consortium members conducted negotiation sessions with the vendor, JTI, and achieved favorable pricing based on their procurement as a nine-court consortium. To move forward and take advantage of this opportunity, the courts in the SJE consortium need additional one-time funding. While the RFP analyzed current system compatibility with eCourts to ensure successful transition, to the extent there are discrepancies found during the fit gap analysis, an alternative approach may be identified.

The Judicial Council of California Information Technology (JCC-IT) office provides project management and technical oversight primarily for the SJE courts hosted at the California Courts Technology Center. The judicial branch spends approximately \$3 million annually to maintain and support the Sustain Justice Edition (SJE) case management system for the Superior Courts of Humboldt, Lake, Madera, Modoc,

Plumas, San Benito, Sierra, Trinity, and Tuolumne. The SJE system is currently used to process all case types (e.g. criminal, civil and traffic) for eight of the nine courts represented in this BCP. The Sierra Court shares the Plumas Court's SJE instance to process their traffic cases while using a legacy CMS to process their criminal and civil case types.

This request supports the transition to modern commercial off-the-shelf case management systems. The nine SJE courts worked collaboratively to issue a Request for Proposal (RFP) for a case management system (CMS) to replace their aging SJE system. Three vendors responded to the RFP and resulted in the eCourt CMS from Journal Technologies, Inc. as the successful vendor for each of these courts. While the RFP analyzed current system compatibility with eCourts to ensure successful transition, to the extent there are discrepancies found during the fit gap analysis, an alternative approach may be identified. The requested funding will be used to purchase the eCourt software, related software licenses, hardware, and professional services. Funding will also be used for implementation, system configuration, and the conversion of existing case data and electronic documents to the new system.

LAO ASSESSMENT AND RECOMMENDATION
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Only Approve Funding for Fit-Gap Analysis. The LAO finds that it is premature to consider approving funding to replace the case management systems for nine trial courts without a fit-gap analysis. Accordingly, they recommend that the Legislature modify the Governor's proposal to only approve funding for the judicial branch to conduct a more detailed fit-gap analysis to ensure that the cost estimates for replacing the existing systems with the newer eCourt systems are accurate. The LAO estimates that the cost of such an analysis is not likely to exceed several hundred thousand dollars. This would ensure that the Legislature has adequate information to assess the proposed project in its future budget deliberations. This is particularly important as the judicial branch has historically had difficulty successfully implementing case management systems and does not go through the state's regular IT review process.

Direct Judicial Branch to Revise Cost-Benefit Analysis. The LAO also recommends that the Legislature direct the judicial branch to revise its cost-benefit analysis of the proposed project to accurately reflect the estimated costs and benefits, including any changes due to the fit-gap analysis recommended above. This would help the Legislature and the judicial branch determine whether the new eCourt systems are the most cost-effective alternative to the existing systems.

STAFF COMMENT

The Subcommittee may wish for the Judicial Council to describe any efforts it has undertaken to perform a more detailed account of cost estimates for replacing existing systems.

Staff Recommendation: Hold open.

ISSUE 11: IMPLEMENTATION OF THE LANGUAGE ACCESS PLAN AND SUPPORT FOR COURT INTERPRETERS

The Judicial Council will present on the proposed funding for implementation of the Language Access Plan and Support for Court Interpreters.

PANELISTS

- Judicial Council
- Legislative Analyst's Office
- Department of Finance
- Public Comment

GOVERNOR'S PROPOSAL

The Governor's 2017-18 budget provides \$352,000 from the Improvement and Modernization Fund (IMF) and two positions on an ongoing basis for the video remote interpreting (VRI) spoken language pilot. Specifically, these resources would be used to support various activities related to the implementation and evaluation of the pilot, such as project management and the development of training materials. Upon completion of the pilot, the judicial branch indicates that these resources will be used to expand VRI to interested trial courts, monitor the implementation of VRI, manage statewide agreements for purchasing VRI equipment, and provide subject matter expertise.

In addition, the Governor's 2017-18 budget provides a \$490,000 one-time appropriation from the Court Interpreters' Fund to support various activities to benefit the court interpreters program. This funding will support six activities including: expanding the interpreter testing program to include American Sign Language, providing training to help individuals become certified court interpreters, and conducting outreach to recruit individuals to become certified court interpreters.

BACKGROUND

On January 22, 2015, the Judicial Council approved a comprehensive Strategic Plan for Language Access in the California Courts, which includes eight strategic goals and 75 detailed recommendations to be completed in three distinct phases." Fundamental to the plan is the principle that the plan's implementation will be adequately funded so the expansion of language access services will take place without impairing other court services. The Judicial Council created Language Access Plan Implementation Task Force charged with turning the Language Access Plan (LAP) into a practical roadmap for courts by creating an implementation plan for full implementation in all 58 trial courts.

The annual funding for court interpreter services had historically been limited primarily to constitutionally-mandated cases, including criminal cases and juvenile matters.

Funding was not sufficient to support growth and expansion of interpreter services into domestic violence, family law, guardianship and conservatorship, small claims, unlawful detainers and other civil matters. The 2016 budget included an augmentation of \$7 million General Fund to expand language interpreter services to all civil proceedings. This augmentation allowed the courts to continue to provide court interpreter services in civil matters, and assure all 58 trial courts that increased funding for expanded court interpreter services for limited English proficient court users in civil is available.

Due to concerns raised by the Legislature related to the growing use of video remote interpreters, the budget contained language specifying that the \$7 million augmentation was required to be used on in-person interpreters whenever possible.

The Judicial Branch began its work on the VRI pilot project in March 2016. The purpose of the VRI pilot is to measure the effectiveness of various available technologies and identify potential challenges with using VRI. To date, the branch has funded the pilot using existing staff and fiscal resources, including one-time funding from operational savings. The judicial branch will also be contracting with San Diego State University to help evaluate the VRI pilot. The judicial branch currently estimates that courts will test the use of VRI for six months in 2017-18 and that the evaluation will be complete by the summer of 2018.

Currently, three vendors of remote interpreter equipment and three courts (Merced, Ventura, and Sacramento Superior Courts) have been selected for the pilot. The vendors have agreed to provide the equipment at no cost to the trial courts for the purpose of this pilot. The pilot courts are currently in the process of determining which courtrooms will test the vendor equipment and which case types will make use of the equipment during the pilot.

LAO ASSESSMENT AND RECOMMENDATION

The LAO recommends that the Legislature reject the Governor's proposed \$352,000 and two positions to complete the VRI pilot project. The Judicial Branch initiated the project on its own last year with existing resources, which suggests that it would be willing to use existing funding on a one-time basis in 2017-18 to complete the project. The LAO also recommends that the Legislature direct Judicial Council to submit a report evaluating the pilot upon its completion.

Additionally, the LAO recommends the Legislature approve the proposed \$490,000 in one-time funding from the Court Interpreters' Fund for various activities to improve the provision of the state's court interpreter services as the request appears reasonable.

STAFF COMMENT

Staff finds the LAO recommendation reasonable and recommend that the Subcommittee direct the Judicial Council to respond to LAO's recommendations.

Staff Recommendation: Hold open.

ISSUE 12: APPELLATE COURT APPOINTED COUNSEL PROJECTS

The Judicial Council will present on the proposed increase of \$1.04 million General Fund to support increased contract costs in the Supreme Court's Court-Appointed Counsel Project and the Courts of Appeal Court Appointed Counsel Project offices.

PANELISTS

- Judicial Council
- Legislative Analyst's Office
- Department of Finance
- Public Comment

GOVERNOR'S PROPOSAL

The Judicial Council requests an ongoing augmentation of \$1.04 million General Fund to support increased costs for contractual services in the Supreme Court's Court-Appointed Counsel Project (\$255,000) and the Courts of Appeal Court Appointed Counsel Project offices (\$786,000) beginning in 2017-18.

BACKGROUND

Under the United States Constitution, indigent defendants convicted of felony crimes have a right to a court-appointed attorney for the initial appeal of their convictions. California has six appellate projects that manage the court-appointed counsel system in that district and perform quality control functions. The projects are responsible for working with the panel attorney to ensure effective assistance is provided, reviewing claims for payment for the work performed by the panel attorneys to ensure consistency and controls over the expenditure of public money, and training attorneys to provide competent legal counsel.

These appeals court appointed attorneys are paid hourly for their duties. Statewide, there are currently 890 attorneys have been appointed by the court of appeal to represent indigent defendants. Currently, these attorneys are paid between \$95 and \$115 per hour for their work.

The 2016 budget included an on-going augmentation of \$4.3 million General Fund to provide a \$10 per hour rate increase for panel attorneys appointed by the Courts of Appeal. However, the proposal did not include funding for the projects themselves that oversee the attorneys.

In 2016, the Judicial Council requested a \$2.2 million increase for California's six appellate projects, in order to allow them to continue providing competent representation in criminal and juvenile cases in the Courts of Appeal and death penalty cases in the Supreme Court. This included funding of \$1.4 million combined for the five Court of Appeal appellate projects working on non-death penalty cases and \$800,000 for the Supreme Court appellate project working on death penalty cases. Funding for that request was not included in the final budget. However, as noted above, the Governor's proposed budget includes a portion of the funding that was requested last year.

STAFF COMMENT

Staff notes no concerns with this proposal at this time.

Staff Recommendation: Hold open.

ISSUE 13: TRIAL COURT CAPITAL OUTLAY PROJECTS

The Judicial Council will present its Capital Outlay projects.

PANELISTS

- Judicial Council
- Legislative Analyst's Office
- Department of Finance
- Public Comment

GOVERNOR'S PROPOSAL

Various Reappropriations. The Governor's budget proposes a reappropriation from the Public Buildings Construction Fund to extend the liquidation period of the construction phase until June 30, 2018, for each of the following four projects:

- Riverside County: New Riverside Mid-County Courthouse
- San Bernardino County: New San Bernardino Courthouse
- Tulare County: New Porterville Courthouse
- Calaveras County: New San Andreas Courthouse

This extension will allow for the Judicial Branch to make the final payments (totaling approximately \$7.9 million) and close out these four projects. Unforeseen construction delays resulted in outstanding payments being due past the expiration of the liquidation period on June 30, 2016.

Santa Clara Capital Outlay Project Funding Plan. The Governor's budget proposes a transfer of \$5,237,000 in 2017-18, which includes a catchup payment for 2016-17, and \$3,200,000 annually beginning in 2018-19 from the Court Facilities Trust Fund (CFTF) to the Immediate and Critical Needs Account (ICNA) to support the financial plan for the construction of the Santa Clara County - New Santa Clara Family Justice Center. The funds being transferred consist of the county facility payments (CFPs) for the six facilities being replaced by the new courthouse, less the amount required to offset ongoing facility operations of the new courthouse.

The transfer would not begin until the termination of the existing leases for the six replaced facilities after project completion as the CFP is currently being used to fund these leases. It will be in place annually until the debt service from the bonds sold to finance the new courthouse is retired in 2037- 38.

BACKGROUND

The Santa Clara County - New Santa Clara Family Justice Center project in the City of San Jose was originally authorized in the 2009-10 budget act. This project is on the list of projects to be funded by Senate Bill 1407 (Perata, Chapter 311, Statutes of 2008), as adopted by the Judicial Council in October 2008. Construction of the project began in August 2013, and was estimated to be completed by August 2016.

This project creates operational efficiencies through consolidation of six facilities into one consolidated courthouse that will serve the families of Santa Clara County. The six leased facilities that will be replaced are the probate investigators facility, two different superior court administration facilities, Terrains Courthouse/Juvenile Dependency and Drug Court, Family Courthouse/Park Center and Notre Dame Courthouse.

STAFF COMMENT

As mentioned earlier in this agenda, Members have expressed concern regarding increased costs to the General Fund as a result of trial court construction. As such, staff recommends that the Subcommittee request Judicial Council and DOF to provide further detail and an assessment of the impact of the Santa Clara courthouse on trial court security costs.

Staff Recommendation: Hold open.

ISSUE 14: SPRING FINANCE LETTERS

The Judicial Council will present its Spring Finance Letter proposals.

PANELISTS

- Judicial Council
- Legislative Analyst's Office
- Department of Finance
- Public Comment

**STATEWIDE ELECTRONIC FILING
IMPLEMENTATION**

The Judicial Council requests a General Fund loan of \$671,000 in 2017-18 and \$491,000 in 2018-19 to the Trial Court Trust Fund to support 3.0 positions to develop and maintain a standards-based statewide e-filing environment that will promote, enable, and assist full court participation in e-filing. The loan will be repaid no later than June 30, 2021.

The positions requested in this proposal would support the following key areas:

1. Integration with an Identity and Access Management system.
2. Integration with the preferred financial gateway where the Judicial Council has secured favorable rates.
3. Establishment and initial (2 year) operations of standards management, certification, and support services for statewide e-filing managers (EFMs) and e-filing service providers (EFSPs).
4. Support for superior court e-filing implementations leveraging the established e-filing environment.

This proposal also includes provisional language to be added to specify that funding is to be used for the Statewide Electronic Filing Program.

According to Judicial Council, upon implementation of a statewide e-filing solution, courts and court users will experience lower/more transparent e-filing costs and streamlined e-filing services. The Judicial Council positions will promote, enable, and assist full court participation in e-filing.

DOCUMENT MANAGEMENT SYSTEM FOR THE APPELLATE COURTS
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The Judicial Council requests an augmentation of \$5.3 million Appellate Court Trust Fund (\$1.4 million in 2017- 18, \$873,000 in 2018-19, \$973,000 in 2019-20 and 2020-21, \$833,000 in 2021-22, and \$240,000 in 2022-23 and ongoing) for the purchase, deployment, and ongoing maintenance of a Document Management System (DMS) for the Appellate Courts.

By transitioning to a DMS, Appellate Courts will capture, manage, store, share, and preserve essential case documents and administrative records. Electronic management and retention of court filings and other court documents have become critically important for us as we seek efficiencies in an era of severely constrained resources.

Electronic filing can provide cost savings and efficiencies for the courts by providing:

- Speedier processes by eliminating the time required for mailing or personal delivery of pleadings and other documents.
- Greater efficiency from the instantaneous, simultaneous access to filed court documents for participants in the case, for judges and court staff, and members of the public (to publicly available court documents) from any internet capable location.
- Fewer delays caused by lost or misplaced paper documents and files.
- Fewer personnel involved in receiving, processing, filing, and storage of paper files.
- Reduction or elimination of costs for archival record storage.
- The DMS will improve efficiency, reduce costs associated with record storage and retrieval, and improve customer service to the public. Electronic record keeping will significantly improve the ability of the appellate courts to efficiently process, review, and analyze often voluminous trial court and appellate records, perform administrative tasks more efficiently, organize data and will improve the quality of justice rendered to the court and the public by providing increased access to case records.

Implementing the E-Filing proposal previously mentioned without a DMS makes it almost impossible to fully realize all of the benefits of the technology.

CAPITAL OUTLAY PROPOSALS

New Yreka Courthouse. The Judicial Council requests an appropriation of \$664,000 from the Immediate and Critical Needs Account (Fund 3138) to cash fund the demolition (Construction phase) of the existing structures on the acquired site for the new Siskiyou—New Yreka Courthouse, a five-courtroom, approximately 68,000 building gross square feet (BGSF) courthouse in the city of Yreka. This pre-construction demolition cost will be deducted from the total construction phase estimate. When fully constructed, this project will relieve the current space shortfall, increase security, and replace inadequate and obsolete buildings in Siskiyou County. The total project cost is estimated at \$66,019 million. The total cost of the project will be funded by Senate Bill (SB) 1407 (Ch. 311, Statutes of 2008) revenues.

New East County Hall of Justice Courthouse (Data Center). The Judicial Council requests an appropriation of \$1,576,000 from the Immediate and Critical Needs Account (ICNA, Fund 3138) for the Preliminary Plans (\$1,000), Working Drawings (\$52,000) and

Construction (\$1,523,000) phases of the Alameda County - New East County Hall of Justice Courthouse Data Center. This project was initiated in fiscal year 2014-15 with an acquisition appropriation that allowed the Court to enter into a project delivery agreement with Alameda County, who is constructing the courthouse. The courthouse is almost complete with an anticipated move-in date of June 2017. The agreement did not include construction of the data center. However, the County has agreed to transfer existing courthouse construction funds to the Judicial Council to pay for the data center project. The data center is necessary to operate information technology portions of the new courthouse.

In addition, the Court currently pays \$540,000 per year to lease data center space from an outside party. Therefore, the completion of the data center will significantly offset court costs in the long run. The new courthouse, located in Dublin, is approximately 147,000 square feet and will provide 13 criminal courtrooms. The new five-story facility replaces the six-courtroom Gale-Schenone Hall of Justice and the seven-courtroom Allen E. Broussard Courthouse.

**LAO ASSESSMENT AND
RECOMMENDATION**

The LAO will provide statements at the hearing regarding any concerns with the proposals above.

STAFF COMMENT

Staff recommends holding this item open in order to give adequate time for the LAO and the public to weigh in.

Staff Recommendation: Hold open.

ISSUE 15: CHIEF JUSTICE'S BUDGET PRIORITIES

The Chief Justice will give an overview of the Judicial Council's funding priorities, which were not included in the Governor's Budget.

PANELISTS

- Judicial Council
- Legislative Analyst's Office
- Department of Finance
- Public Comment

GOVERNOR'S BUDGET

The Governor's budget proposes \$3.7 billion from all state funds (General Fund and state special funds) to support the judicial branch in 2017-18, an increase of \$13 million, or 0.3 percent, above the revised amount for 2016-17. (These totals do not include expenditures from local revenues or trial court reserves.) Of this amount, roughly three-fourths would support state trial courts.

BACKGROUND

Each year, after reviewing the Governor's proposed budget, California's Chief Justice develops a list of funding priorities for the judicial branch. This year's list includes the following priorities:

- **\$158.5 million funding shortfall.** The Chief Justice argues that providing \$158.5 million General Fund to the judicial branch would help close the current funding shortfall of over \$400 million.
- **\$22 million for dependency counsel.** An augmentation of \$22 million General Fund per year would reduce the dependency counsel caseloads from 225 cases per attorney to 188 cases per attorney.
- **\$560 million for court construction and facilities.** The Chief Justice notes that since 2009, the state has removed \$510 million in General Fund each year from the court budget and has continued to redirect \$50 million for court operations. These funds are used for construction and maintenance, which will be discussed in detail at a later hearing.

- **Judgeships.** While the Chief Justice supports the Governor's proposal to redirect four judgeships (discussed in detail in a later item), she notes that their current judicial needs assessment demonstrates the statewide need for 188 new judges.

Prior Budget Actions. Over the last several years, the Legislature has included augmentations in the trial court budget in an attempt to begin reducing the funding shortfall and to ensure that the gap does not continue to grow. In the 2014-15 budget, the Legislature approved an increase of \$60 million General Fund for trial court funding, for a total General Fund increase of \$160 million. Specifically, the budget included a five percent increase in state trial court operations, for a total increase of \$86.3 million. In addition, the budget provided an increase of \$42.8 million General Fund to reflect increased health benefit and retirement adjustment costs for trial court employees. Finally, the Legislature authorized a General Fund increase of \$30.9 million to account for an estimated shortfall in the Trial Court Revenue Trust Fund.

In 2015-16 the state's overall trial court budget provided an increase of \$168 million, or 9.7 percent, from the 2014-15 amount. This augmentation included \$90.6 million General Fund in on-going additional funding to support trial court operations; \$42.7 million General Fund for increases in trial court employee benefit costs; and \$35.3 million General Fund to backfill reductions in fine and penalty revenue in 2015-16. In addition, the budget provided the following:

- **Trial Court Trust Fund Revenue Shortfall.** \$15.5 million General Fund to cover the revenue shortfall in the trial court budget. This brought the total General Fund transfer for the shortfall to \$66.2 million.
- **Dependency Counsel.** Increased funding for dependency court attorneys in 2015-16 and on-going by \$11 million in General Fund. In addition, the budget shifted all dependency counsel funding to a separate item within the trial courts budget to insure that it remains dedicated to funding attorneys who represent children and their parents in the dependency court system.

The 2016-17 judicial branch budget included the following augmentations:

- **Trial Court Employee Costs.** \$16.1 million General Fund to cover increased employee benefit costs.
- **Trial Court Augmentation.** \$20 million (or one percent) General Fund base augmentation for trial court operations.
- **Trial Court Emergency Reserve.** \$10 million General Fund on a one-time basis to establish a state level reserve for emergency expenditures for the trial courts.
- **Proposition 47.** A one-time General Fund augmentation of \$21.4 million to address the increased workload associated with Proposition 47 (The Safe Neighborhoods and Schools Act) passed by voters in 2014. In addition, the budget anticipates the trial courts will save \$1.7 million General Fund a year as a result of the reduced workload associated with Proposition 47.

- Innovation Grants. \$25 million one-time for innovative programming (\$10 million General Fund and a transfer of \$15 million from deferred maintenance to Innovation Grants program).

Role of Dependency Counsel. When a child is removed from his or her home because of physical, emotional, or sexual abuse, the State of California assumes the role of a legal parent and local child welfare agencies are entrusted with the care and custody of these children. County child welfare works in partnership with the courts, attorneys, care providers, and others to meet desired outcomes of safety, permanency, and well-being for foster children. Through the dependency court, critical decisions are made regarding the child's life and future – i.e., whether the child will return to his or her parents, whether the child will be placed with siblings, and what services the child will receive.

Every child in the dependency court system is assigned an attorney who represents the child's interests. Budget reductions over the years have increased the caseloads of children's attorneys. Children's attorneys represent, on average 250 clients per year, far above the recommended optimal standard of 77 clients and maximum of 188 clients per attorney. Inadequate funding can impede services to children and families and may result in delays in court hearings, all of which undermines county child welfare's efforts for improved outcomes for children, such as reunifying children with their families, placing children with siblings, and finding a permanent home through adoption or guardianship.

For several years, the Legislature has worked to increase funding for dependency counsel but has remained largely unsuccessful. In the 2015-16 budget, the Legislature included \$11 million General Fund augmentation to reduce the overall funding need from \$33 million to \$22 million. In addition, the Legislature shifted dependency counsel funding into its own budget item to ensure that those funds would remain dedicated to dependency counsel and could not be shifted to other funding priorities. The final 2016 budget act did not include additional funding for dependency counsel.

At the urging of the Administration, the Judicial Council was asked to develop a new funding methodology to determine the appropriate caseload and funding level for dependency attorneys. In addition, the Judicial Council was asked to begin redistributing funding among the courts to create a more equitable attorney-client caseload ratio throughout the different courts. The Judicial Council has completed the first phase of a three-phase redistribution process.

STAFF COMMENT

Staff recommends holding this item open pending any May Revision updates.

Staff Recommendation: Hold open.

ISSUE 16: INCREASING ACCESS TO JUSTICE – MEMBER PROPOSALS

Assemblymember Mark Stone will present three funding request proposals to the Subcommittee. The first is a request to increase the Equal Access Fund by \$30 million, the second is to increase Dependency Counsel funding by \$22 million and the third is a request of \$18 million to fund Court Reporters in Family Law Proceedings.

PANELISTS

- Assemblymember Stone and Advocates
- Legislative Analyst's Office
- Department of Finance
- Public Comment

EQUAL ACCESS FUND

The following statement was provided by Assemblymember Mark Stone:

Immediately after the President signed Executive Order 13769 in 2017, immigrants and refugees bound for the United States became stranded. Some were stuck at the gate; others were barred from boarding American-bound flights. Many who had just left their homes, their jobs, and their families and sold all their possessions were told to turn around. In these chaotic and harrowing moments, hundreds of volunteer lawyers descended on our nation's airports to fight for justice. Fortunately, legal services organizations were there and were prepared. They managed in-take centers and telephone hotlines, and orchestrated the placement of lawyers and interpreters. They scrambled and helped ensure that families received the legal protections they so desperately needed.

But these stories don't end at the terminal. After they arrive, many immigrants and refugees may require legal help accessing housing, healthcare, and education assistance for their children. And that's where legal services steps in. Every year, legal services programs assist over 300,000 Californians with issues ranging from housing, health and long-term care, to income maintenance, immigration, disability rights, and family law. Indeed, in just a six-month period in 2016, over 20,000 immigrants received assistance from legal aid nonprofits on issues ranging from preventing deportation and obtaining citizenship, to helping with employment eligibility. Essentially, legal aid nonprofit organizations have become the state's invisible legal safety net for California's immigrants as well as all low-income Californians.

And yet, far too many Californians who need legal services can't get them. Currently, California legal aid organizations rely on \$10 million in state General Fund dollars to support their work—a funding amount that provides support for less than one-third of California's poorest residents. This lack of legal access harms California families and impedes our courts. Many indigent Californians who are desperate for assistance are unable to successfully navigate the court system or present meritorious legal arguments on their own. As a result, these self-represented litigants consume significant court resources and create delays in court calendars and fail to adequately represent themselves.

This lack of access to legal services will likely be exacerbated in the next four years. The Trump Administration has signaled its plans to speed-up deportations and potentially cut funding to the Legal Services Corporation - actions that will have a devastating impact on immigrant and low-income families. Indeed, California legal services programs rely on about \$75 million in federal funds that is at-risk for being withdrawn.

For these reasons, additional funding for the Equal Access Fund in the amount of \$30 million would ensure real access to the courts for all Californians. The Equal Access Fund, a partnership between the courts and legal aid, offers funding to local legal aid organizations to provide direct legal services to low-income Californians in civil matters. California needs to be the steward of progressive values punctuated with prudent sensibilities. Supporting legal aid achieves both of these goals. Studies have shown that for every one dollar spent on legal aid, there is a return of six dollars to the State.

And yet, California has not increased funding to the Equal Access Fund since its creation in 1999 (other than \$5 million in one-time funding this year). Embarrassingly, California is no longer the leader in general fund support for legal aid and ranks 22nd in state support of legal services. If there is no increase, California will continue to leave money on the table and leave vulnerable Californians, including immigrant families, without access to our courts.

Support of this proposal would ensure that our immigrants and refugees do not become stranded and that all Californians have access to justice.

DEPENDENCY COUNSEL

Dependency Counsel was discussed in the previous item in the agenda, as this proposal is also a priority of the Chief Justice.

The following statement was provided by Assemblymember Stone:

When children are removed from their homes for abuse or neglect and are placed in the juvenile dependency system, counsel is almost always appointed to represent both the children and their parents. These specially-trained dependency attorneys provide representation at every stage of the dependency case, representing over 154,900 parents and children each year.

Unfortunately, today, dependency counsel across the State have staggeringly high caseloads. In fact, attorneys, on average, represent over 225 child clients at one time, with some attorneys having at least 250 clients. With these high numbers, it is extremely difficult to provide even the most basic representation to abused children who have suffered significant trauma, and their families. Indeed, reducing the caseload for these attorneys will improve the outcomes for abused or neglected children.

Accordingly, an increase of \$22 million for court-appointed dependency counsel for neglected children and their parents is necessary to reduce caseloads from the current average ratio of unacceptably high 225 clients per attorney to a still very large load of 188 clients per attorney. According to the Judicial Council, which also makes this funding request a high priority, a \$22 million augmentation increases the courts' ability to process cases more timely, promote fully informed judicial decisions, speed family reunification and permanent placement, and limit families' reentry into dependency. This modest funding increase will ultimately result in savings for both the trial courts and county child welfare agencies.

COURT REPORTERS IN FAMILY LAW PROCEEDINGS
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The following statement was provided by Assemblymember Stone:

The impact of family law cases on children and families cannot be underestimated. These cases involve such important issues as domestic violence, child custody, child support, and the division of a family's assets and debts and can affect families for a lifetime. Unfortunately, today, as the result of budget cuts and shifting priorities, most family law courts do not provide court reporters to provide a court record of these proceedings in which approximately 70 percent of family law litigants are unrepresented. If parties want—and can afford—to have a record of their proceedings, they must bring (and pay for) their own court reporters. Consequently, there is no record in many, and perhaps most, family law proceedings today.

Lack of court-provided reporting services can substantially frustrate the goals of California's system of justice. Without a transcript of court proceedings, litigants are: (1) unable to appeal decisions; (2) unable to draft orders effectively; and (3) unable to accurately recount what actually happened during proceedings. Additionally, the Commission on Judicial Performance has stated that lack of court reporters seriously hampers its efforts to investigate and prove judicial misconduct. A recent dissolution case highlights the need for court reporters in family court. In that case, an appellant was unable to provide an accurate record because there was no court reporter present at the trial court. The appellate court wrote, in a footnote:

We are deeply troubled by the trial court's policy of conducting all family law matters without a reporter unless a reporter is engaged by one or both parties at their own expense. This policy is actually codified in a local rule stating, "The family court does not provide a court reporter in family law matters, except when possible a reporter will be provided for DCSS [Department of Child Support

Services] and restraining order matters. If you would like to have a court reporter present you will need to hire and pay all costs associated with the reporter." (Super. Ct. Santa Cruz County, Local Rules, rule 3.7.01.)

As illustrated by this case, the absence of a verbatim record *can preclude effective appellate review, cloaking the trial court's actions in an impregnable presumption of correctness regardless of what may have actually transpired. Such a regime can raise grave issues of due process as well as equal protection in light of its disparate impact on litigants with limited financial means. . . .* [W]e believe the right to effective appellate review cannot be permitted to depend entirely on the means of the parties. [In re Marriage of Obrecht (2016) 245 Cal. App. 4th 1, 11, footnote 3 (emphasis added).]

Accordingly, an investment of \$18 million to provide court reporters in family law matters is requested. A record of court proceedings is critical for true access to justice for all Californians. It should not be available only to those who can afford to pay for it. Instead, a record should be available to every family in every family law courtroom in the state.

STAFF COMMENT

The Subcommittee is in receipt of numerous letters from organizations and individuals throughout the State in support of each of these proposals. Staff recommends holding these items open for consideration with other reinvestment proposals from Assemblymembers.

Staff Recommendation: Hold open.
