

# AGENDA

## ASSEMBLY BUDGET SUBCOMMITTEE NO. 5 ON PUBLIC SAFETY

ASSEMBLYMEMBER MIA BONTA, CHAIR

MONDAY, FEBRUARY 27, 2023  
2:30 P.M., STATE CAPITOL – ROOM 437

*We encourage the public to provide written testimony before the hearing. Please send your written testimony to: [BudgetSub5@asm.ca.gov](mailto:BudgetSub5@asm.ca.gov). Please note that any written testimony submitted to the committee is considered public comment and may be read into the record or reprinted. All are encouraged to watch the hearing from its live stream on the Assembly's website at <https://www.assembly.ca.gov/todaysevents>.*

*The hearing room will be open for attendance of this hearing. Any member of the public attending the hearing in person is encouraged to wear a mask at all times while in the building.*

*A moderated telephone line will be available to assist with public participation. The public may provide comment by calling the following toll-free number: [877-692-8957](tel:877-692-8957), access code: [131 54 37](tel:1315437)*

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**0250 JUDICIAL BRANCH****ISSUE 1: OVERVIEW OF THE BRANCH, PRIORITIES AND UPDATE ON COURT BACKLOGS**

The Judicial Council will provide an overview of the Judicial Branch and its priorities and an update on court backlogs.

**PANELISTS**

- Robert Oyung, Acting Chief Deputy Director, Judicial Council
- Rebecca Fleming, Court Executive Officer of Santa Clara Superior Court
- Anita Lee, Legislative Analyst's Office
- Department of Finance

**BACKGROUND**

The Judicial Branch is responsible for the interpretation of law, the protection of individuals' rights, the orderly settlement of all legal disputes, and the adjudication of accusations of legal violations. The branch consists of statewide courts (the Supreme Court and Courts of Appeal), trial courts in each of the 58 counties, and statewide entities of the branch (Judicial Council, Judicial Council Facility Program, and Habeas Corpus Resource Center). The Judicial Branch receives revenues from several funding sources including the General Fund, civil filing fees, criminal penalties and fines, county maintenance-of-effort payments, and federal grants.

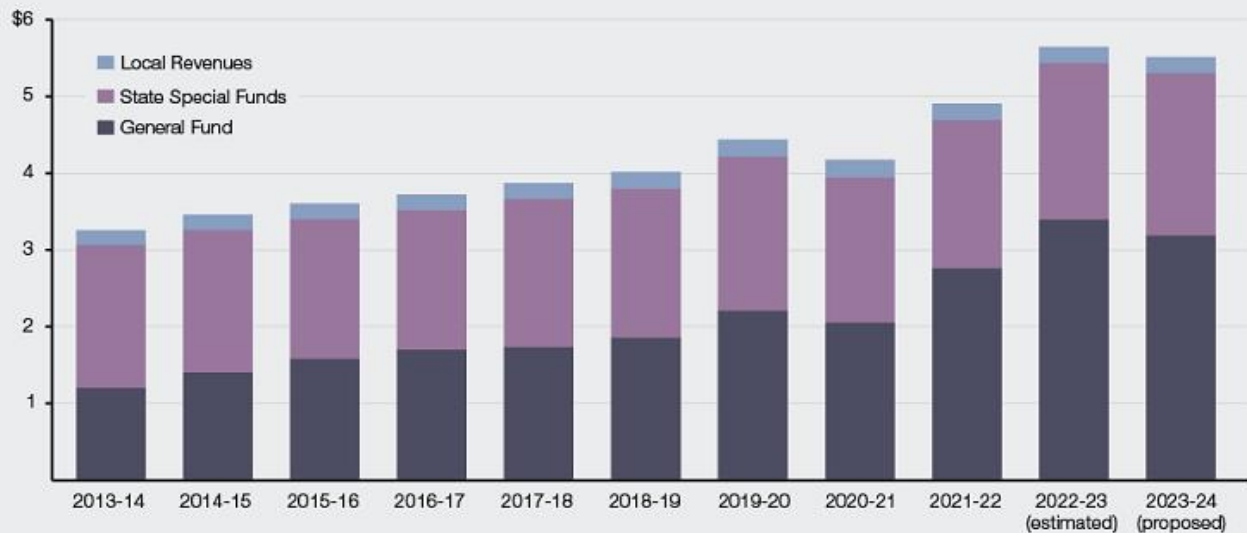
The state's annual budget typically designates the total amount of funding appropriated for trial court operations. While a portion of this funding must be used for specific programs or purposes, a significant portion of the funding is provided with little to no restrictions. Judicial Council is then responsible for allocating funding to individual trial courts. Upon receiving its allocation, each individual trial court has significant flexibility in determining how to use its share of funding. This can result in significant differences in the programs or services offered and the levels of service provided across trial courts. Funding increases for trial court operations have generally been provided through the approval of: (1) discretionary (or unallocated) funding increases; (2) budget requests for specific purposes (such as increased funding for a new program); and, (3) funding for increased trial court health benefit and retirement costs. Trial court funding levels are not adjusted for increased salary costs as the Legislature does not review and approve trial court labor agreements in the same manner as state negotiated labor agreements. Such agreements are generally negotiated by the individual trial courts. As a result, compensation cost pressures can differ across courts.

Figure 1 (next page) from the Legislative Analyst's Office shows the trend of the General Fund becoming a greater share of the Judicial Branch's budget. The growth is due to increased operational costs as well as General Fund provided to backfill decreases in fine and fee revenue.

Figure 1

**Total Judicial Branch Funding<sup>a</sup>**

(In Billions)



<sup>a</sup> State law requires excess property tax revenues collected by county offices of education beyond their annual funding allotment be used to offset state General Fund support of trial courts. This chart reflects these revenues as state special funds.

LAQA

**Proposed Funding**

The Governor's budget proposes \$5.1 billion (\$3.2 billion General Fund and \$1.9 billion other funds) for Judicial Branch operations, of which \$2.9 billion will support trial court operations. This includes an increase of \$74.1 million ongoing General Fund to support trial court operations which is in addition to augmentations provided in the 2021 and 2022 Budget Acts. Figure 2 reflects the revised budget amounts from the previous years. The totals reflected do not include expenditures from local or trial court reserves. The decrease is largely a result of the expiration of one-time General Fund support provided in 2022-23.

Figure 2

**Judicial Branch Budget Summary—All State Funds**

(Dollars in Millions)

	2021-22 Actual	2022-23 Estimated	2023-24 Proposed	Change From 2022-23	
				Amount	Percent
State Trial Courts	\$3,517	\$3,904	\$3,973	\$69	1.8%
Supreme Court	51	57	54	-2	-4.2
Courts of Appeal	256	285	281	-4	-1.4
Judicial Council	224	387	394	7	1.9
Judicial Branch Facility Program	634	791	591	-200	-25.3
Habeas Corpus Resource Center	16	19	19	—	-0.2
<b>Totals</b>	<b>\$4,698</b>	<b>\$5,443</b>	<b>\$5,313</b>	<b>-\$130</b>	<b>-2.4%</b>

**Court Backlogs.** The COVID-19 pandemic presented challenges to the courts, resulting in significant backlogs. The state and the Judicial Branch have taken a number of actions to address reduced service levels and backlogs, including \$90 million one-time General Fund (2021 Budget Act) to address backlogs. The following table shows the current clearance rates achieved by the courts. In the majority of case types, the courts have returned to or exceeded pre-pandemic clearance rates. The six case types whose clearance rates are 10% or more below pre-pandemic rates are highlighted below.

Case type	Mar to Aug 2019 (Pre pandemic)			Mar 2020 to June 2022 (All pandemic)		
	Average Monthly Filings	Average Monthly Disposition	2019 Clearance Rate	Average Monthly Filings	Average Monthly Disposition	Pandemic Clearance Rate
Certification	4,510	3,811	84%	4,637	4,373	94%
Child Support	7,262	7,132	98%	6,013	5,612	93%
Civil - Limited	36,582	30,828	84%	25,997	27,666	106%
Civil - Unlimited	20,176	17,749	88%	20,067	17,128	85%
Conservatorship/ Guardianship	1,529	1,110	73%	1,321	1,060	80%
<b>Dissolution</b>	11,175	10,038	90%	10,221	8,226	80%
Domestic Violence	7,070	5,161	73%	6,388	4,858	76%
Estates/Trusts	3,110	2,399	77%	3,608	2,659	74%
<b>Felony</b>	16,629	13,806	83%	17,215	11,509	67%
Infractions	335,176	278,711	83%	235,063	200,483	85%
Juvenile Delinquency	2,329	2,132	92%	1,464	1,494	102%
Juvenile Dependency	3,480	3,141	90%	3,109	3,060	98%
Mental Health	3,557	3,480	98%	3,454	3,180	92%
<b>Misd - Non traffic</b>	36,613	35,695	97%	27,210	23,000	85%
<b>Misd - Traffic</b>	23,142	22,197	96%	18,650	15,422	83%
Other Family Petition	3,399	2,373	70%	2,966	2,154	73%
<b>Parentage</b>	2,215	1,483	67%	1,711	945	55%
Small Claims	12,862	13,505	105%	5,911	6,790	115%
<b>Unlawful Detainer</b>	10,507	10,782	103%	4,777	4,230	89%
<b>Total Average</b>	<b>541,320</b>	<b>465,529</b>	<b>86%</b>	<b>399,783</b>	<b>343,849</b>	<b>86%</b>

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**Staff Recommendation: Hold Open.**

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**ISSUE 2: OVERVIEW OF FUNDING FOR TRIAL COURT CONSTRUCTION, UPDATE ON TRIAL COURT CONSTRUCTION PROJECTS AND NEW PROPOSALS**

The Legislative Analyst's Office will provide an overview of funding for trial court construction and the Judicial Council will provide an update on trial court construction projects, how they are prioritized and selected, and highlight new proposals in the Governor's budget.

**PANELISTS**

- Anita Lee, Legislative Analyst's Office
- Pella McCormick, Director of Judicial Council Facility Services
- Zlatko Theodorovic, Deputy Director, Budget Services, Judicial Council
- Department of Finance

**BACKGROUND**

The Legislative Analyst's Office has provided the Subcommittee with a handout for their trial court construction funding overview. The handout is also available on the Assembly budget website.

The Judicial Branch currently manages approximately 450 facilities across all 58 counties. Its facility program is responsible for various activities including maintaining these facilities, managing leases, and constructing new courthouses to replace outdated facilities.

**State Court Facilities Construction Fund (SCFCF) Solvency.** State law authorizes Judicial Council to construct trial court facilities and established a special fund, the SCFCF, to support the judicial branch's court facility-related projects. (A different construction account was consolidated into the SCFCF as part of the 2021-22 budget.) Specifically, state law increased certain criminal and civil fines and fees and deposited the revenues into the SCFCF to finance trial court construction and other facility-related expenses. Existing state law also allows funds to be transferred from the SCFCF to support trial court operations. Such transfers were initially implemented to mitigate the impacts of budget reductions on trial court operations. The amount of revenue deposited has steadily declined over time, largely due to declining criminal fine and fee revenue. This has resulted in SCFCF expenditures—such as debt service and facility modifications—routinely exceeding revenues. Currently, a total of \$55.5 million is redirected annually from the SCFCF to support trial court operations. To support this level of spending, the judicial branch has been expending funds from the SCFCF fund balance. As a result, the SCFCF faces insolvency in 2023-24.

Given the insolvency of the SCFCF, the 2021-22 budget shifted support for the construction of any future courthouses to the General Fund. Accordingly, the 2021-22 and 2022-23 budgets included General Fund support to start the construction or renovation of nearly a dozen of the highest ranked immediate need projects identified in the judicial branch's 2019 assessment of facilities.

**Additional Support for Ongoing Facility Modification Provided in 2022-23.** The annual budget typically provides the judicial branch with a specified amount of funding to support trial court facility modification projects that arise during the year. This funding is used at Judicial Council's discretion to generally address the highest-priority needs that arise. The 2022-23

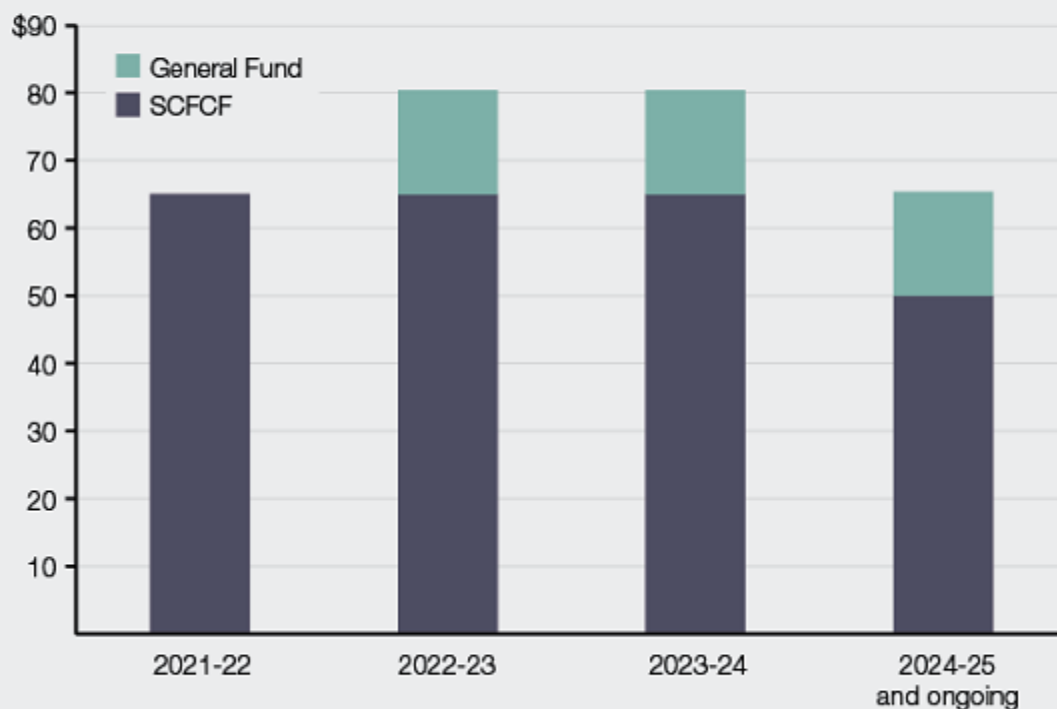
budget provided \$65 million from the SCFCF to support trial court facility modification projects. This amount included \$50 million in annual funding and \$15 million in temporary funding. The temporary funding of \$15 million annually for ten years was first provided as part of the 2014-15 budget package, which means that it is scheduled to expire at the end of 2023-24.

Additionally, the 2022-23 budget included \$15.4 million in ongoing General Fund support for trial court facility modification projects. In combination, as shown in Figure 5, this increased total support for trial court facility modification projects to \$80.4 million annually in 2022-23 and 2023-24—before declining to \$65.4 million annually beginning in 2024-25 due to the expiration of the temporary SCFCF funding. The expiration of the temporary funding would restore funding levels to the amount available annually between 2014-15 and 2021-22.

Figure 5

### Total Amount Available for Facility Modification Projects as of the 2022-23 Budget

(In Millions)



SCFCF = State Court Facilities Construction Fund.

LAOA

**Trial Court Construction Projects.** In a November 2019 assessment of its facilities, the Judicial Council identified a need for 80 construction projects—56 new buildings and 24 renovations—totaling \$13.2 billion. These projects were categorized into five groups and ranked within each group—in the following descending priority order: 18 immediate need projects (\$2.3 billion), 29 critical need projects (\$7.9 billion), 15 high need projects (\$1.3 billion), 9 medium need projects (\$1.6 billion), and 9 low need projects (\$100 million). Additionally, in

August 2021, the judicial branch identified 22,743 deferred maintenance projects totaling \$5 billion. The table below shows the status of approved court construction projects.

City	Courtrooms	Square Feet	Current Phase	Phase % Complete	Approved Project Budget	Forecast Project Completion
Yreka	5	67,000	Completed	100%	\$ 78,008,000	06/02/2021
Sonora	5	62,000	Completed	100%	\$ 72,385,000	10/15/2021
Redding	14	165,000	Construction	96%	\$ 203,006,000	07/28/2023
El Centro	4	48,000	Construction	96%	\$ 73,431,000	05/12/2022
Willows	3	42,000	Construction	86%	\$ 62,768,000	06/16/2023
Nevada City	6	NA	Completed	100%	\$ 972,000	09/30/2022
Los Angeles	NA	NA	Study	68%	\$ 2,347,000	11/03/2023
Sacramento	53	540,000	Construction	67%	\$ 514,792,000	05/01/2024
Santa Rosa	15	169,000	Construction	34%	\$ 204,803,000	07/31/2024
Indio	5	53,000	Construction	22%	\$ 80,874,000	10/25/2024
Menifee	9	85,000	Construction	43%	\$ 95,253,000	03/21/2024
Oroville	1	610	Working Drawings	5%	\$ 3,955,000	11/18/2024
Modesto	27	309,284	Construction	20%	\$ 351,909,000	12/31/2024
San Bernardino	2	5,000	Working Drawings	5%	\$ 9,433,000	10/08/2025
Lakeport	4	46,000	Design Build Phase	1%	\$ 86,722,000	10/16/2025
Mendocino	7	82,000	Performance Criteria	95%	\$ 144,924,000	03/05/2027
Monterey	7	83,000	Acquisition	63%	\$ 174,684,000	03/16/2028
Solano	12	141,000	Acquisition	23%	\$ 265,123,000	07/25/2029
San Luis Obispo	12	145,000	Acquisition	23%	\$ 291,895,000	12/12/2029
Los Angeles	24	278,000	Acquisition	20%	\$ 519,561,000	01/25/2030
Plumas	3	54,000	Acquisition	22%	\$ 100,891,000	01/03/2029
Fresno	36	413,000	Acquisition	26%	\$ 749,369,000	09/23/2029



Judgeship (San Joaquin)	1	1,900	Preliminary Plans	61%	\$	6,025,000	07/11/2025
Judgeship (Sacramento)	2	10,000	Working Drawings	5%	\$	11,532,000	01/13/2025
Judgeship (Sutter)	1	2,500	Preliminary Plans	5%	\$	6,025,000	07/12/2024
Judgeship (Kings)	1	6,800	Preliminary Plans	52%	\$	6,025,000	07/12/2024

### **Proposed Funding**

The Governor's 2023-24 budget includes one proposal for ongoing SCFCF expenditures and two proposals to provide a total of \$89.5 million General Fund in 2023-24 (increasing to \$175.5 million annually beginning in 2024-25) to address the SCFCF insolvency. Specifically, the Governor's budget proposes to:

- **Make SCFCF Funding Scheduled to Expire Ongoing.** The Governor's budget proposes to make permanent the \$15 million to support trial court facility modification projects that was previously approved for ten years—permanently increasing the amount available to support trial court facility projects from \$65.4 million to \$80.4 million annually.
- **Shift SCFCF Support of Trial Court Operations to General Fund.** A total of \$55.5 million is currently redirected annually from the SCFCF to support trial court operations. The Governor's budget proposes to shift such support from the SCFCF to the General Fund in order to address the insolvency of the SCFCF while maintaining trial court funding levels.
- **Provide General Fund to Backfill Remaining Shortfall.** Despite removing SCFCF support for trial court operations, the SCFCF still faces insolvency. Revenues are estimated to be \$215 million, while expenditures are estimated to be about \$336 million. This results in a \$120 million shortfall that the Governor proposes to backfill with General Fund support on an ongoing basis. In 2023-24, a significant portion of this shortfall is addressed by depleting the SCFCF's fund balance—thereby only requiring a \$34 million General Fund backfill. However, the full backfill amount of \$120 million is needed on an ongoing basis beginning in 2024-25. The Governor's budget proposes provisional budget bill language authorizing the Department of Finance to increase the backfill amount 30 days after notification to the Legislature if SCFCF revenues are lower than expected.

### **Additional New Proposed Proposals**

**1. Court of Appeal—New Sixth Appellate District Courthouse (NEW).** The Governor's Budget proposes \$2,811,000 for the Performance Criteria phase of the Sixth Appellate District Courthouse project. The project includes the construction of a new one-courtroom, two-story courthouse of approximately 50,000 square feet (SF) on an existing approximately 2-acre, state-owned property in the city of Sunnyvale in Santa Clara County. Total project costs are estimated at \$86,725,000, including Performance Criteria (\$2,811,000) and Design-Build (\$83,914,000). The Performance Criteria is scheduled to begin in July 2023 and will be approved in June 2024. Design-Build is scheduled to begin in July 2024 and will be completed in October 2028.

**2. Support for Judicial Branch Facilities Operations and Maintenance.** The Governor's Budget proposes \$5.97 million ongoing General Fund and \$27 million ongoing reimbursement authority to support operations and maintenance for nine facilities which have recently completed construction and are planned to open to the public. The Judicial Council Facilities Services program oversees the overall care and management of the judicial branch's building assets. The facilities program executes emergency, routine, and preventive maintenance on building systems, portfolio and lease management, building system renovations, and other functions.

#### Proposed Continuing Projects

**1. Imperial County—New El Centro courthouse—Bonds to Cash (Continuing).** The Governor's Budget proposes \$18,203,000 General Fund to pay a portion of expenditures for the construction phase of the Imperial County – New El Centro Courthouse project. The General Fund appropriation is intended to offset project expenditures that were incurred outside of a three-year window required under federal rules governing the use of tax-exempt bonds. Bonds for the project are scheduled to be sold in fall 2023. The project was authorized for total construction funding of approximately \$65,431,000 through the Public Buildings Construction Fund (lease revenue bond financing) in the Budget Acts of 2018 and 2019.

To finance projects funded by the Public Buildings Construction Fund, the State Public Works Board typically provides interim financing for the construction phase of a project, then issues tax-exempt lease revenue bonds as permanent project financing. Federal tax code for the issuance of tax-exempt bonds requires, among other things, that the bonds must be issued within three years of initial project expenditures. Due to delays in the construction completion schedule for this project, a portion of expenditures fall outside of this three-year window and therefore those project expenditures no longer qualify for tax-exempt financing. This would likely result in the need to issue taxable bonds for the project, which could significantly increase the cost of financing.

**2. Monterey County—New Fort Ord Courthouse (Continuing).** The Governor's Budget proposes \$153,046,000 for Design-Build. The project includes the construction of a new 7-courtroom courthouse of approximately 83,000 SF in the Fort Ord area. Total project costs are estimated at \$191,766,000, including Acquisition (\$35,619,000) Performance Criteria (\$3,101,000) and Design-Build (\$153,046,000). The design-build amount includes \$127,073,000 for the construction contract, \$3,812,000 for contingency, \$5,315,000 for architectural and engineering services, and \$16,846,000 for other project costs. The Acquisition began in July 2021 and will be completed in December 2023. The Performance Criteria is scheduled to begin in January 2024 and will be approved in March 2024. Design-Build is scheduled to begin in April 2024 and will be completed in December 2027.

**3. Nevada County—New Nevada City Courthouse (continuing).** The Governor's Budget proposes \$8,115,000 for Acquisition. The project includes the construction of a new 6-courtroom courthouse of approximately 77,000 SF in the city of Nevada City. Total project costs are estimated at \$178,418,000, including Acquisition (\$9,701,000) Performance Criteria (\$1,289,000) and Design-Build (\$167,428,000). The design-build amount includes \$137,095,000 for the construction contract, \$4,113,000 for contingency, \$6,923,000 for architectural and engineering services, and \$19,297,000 for other project costs. The Acquisition is scheduled to begin in July 2023 and complete in September 2025. The Performance Criteria is scheduled to

begin in November 2025 and will be approved in June 2026. Design-Build is scheduled to begin in July 2026 and will be completed in August 2030.

Due to insufficient resources in the Immediate and Critical Needs Account, the Judicial Council made a decision to place some projects on hold until proper funding could be restored. The impact of the Judicial Council direction to this project was to stop the project in the Acquisition phase. In 2021–22, the project was reactivated to complete a planning study. The estimated total project cost of \$178,418,000 includes \$1,586,000 for Acquisition/Study expenditures incurred under the prior authority.

**4. Sacramento County—New Sacramento Courthouse—Bonds to Cash (Continuing).** The Governor's Budget proposes \$17,046,000 General Fund to pay a portion of expenditures for the construction phase of the Sacramento County – New Sacramento Courthouse project. The General Fund appropriation is intended to offset project expenditures that were incurred outside of a three-year window required under federal rules governing the use of tax-exempt bonds. The project includes the construction of a new 53-courtroom courthouse, containing approximately 540,000 square feet in the city of Sacramento, in Sacramento County.

The project was authorized for total construction funding of approximately \$473,536,000 through the Public Buildings Construction Fund (lease revenue bond financing) in the Budget Act of 2018. To finance projects funded by the Public Buildings Construction Fund, the State Public Works Board typically provides interim financing for the construction phase of a project, then issues tax-exempt lease revenue bonds as permanent project financing. Federal tax code for the issuance of tax-exempt bonds requires, among other things, that the bonds must be issued within three years of initial project expenditures. Due to delays in the construction completion schedule for this project, a portion of expenditures fall outside of this three-year window and therefore those project expenditures no longer qualify for tax-exempt financing. This would likely result in the need to issue taxable bonds for this project, which could significantly increase the cost of financing.

**5. San Bernardino County—Juvenile Dependency Courthouse Addition and Renovation (Continuing).** The Governor's Budget proposes \$8,306,000 for Construction. The project includes approximately 5,000 SF addition for two courtrooms, associated clerical support space, and a lobby expansion at the current Juvenile Dependency Courthouse in San Bernardino. Total project costs are estimated at \$9,928,000, including Acquisition (\$422,000), Preliminary Plans (\$479,000), Working Drawings (\$721,000), and Construction (\$8,306,000). The construction amount includes \$6,026,000 for the construction contract, \$422,000 for contingency, \$302,000 for architectural and engineering services, and \$1,556,000 for other project costs. The Acquisition began in July 2021 and completed in August 2022. The Preliminary Plans began in September 2022 and will be completed in December 2022. The Working Drawings is scheduled to begin in February 2023 and will be approved in January 2024. Construction is scheduled to begin in March 2024 and will be completed in October 2025.

**6. Shasta County—New Redding Courthouse—Bonds to Cash (Continuing).** The Governor's Budget proposes \$54,135,000 General Fund to pay a portion of expenditures for the construction phase of the Shasta County – New Redding Courthouse project. The General Fund appropriation is intended to offset project expenditures that were incurred outside of a three-year window required under federal rules governing the use of tax-exempt bonds. The project includes the construction of a new 14-courtroom courthouse, containing approximately 165,000 square feet in the city of Redding, in Shasta County.

The project was authorized for total construction funding of approximately \$171,412,000 through the Public Buildings Construction Fund (lease revenue bond financing) in the Budget Acts of 2016 and 2018. To finance projects funded by the Public Buildings Construction Fund, the State Public Works Board typically provides interim financing for the construction phase of a project, then issues tax-exempt lease revenue bonds as permanent project financing. Federal tax code for the issuance of tax-exempt bonds requires, among other things, that the bonds must be issued within three years of initial project expenditures. Due to delays in the construction completion schedule for this project, a portion of expenditures fall outside of this three-year window and therefore those project expenditures no longer qualify for tax-exempt financing. This would likely result in the need to issue taxable bonds for this project, which could significantly increase the cost of financing.

#### LEGISLATIVE ANALYST'S OFFICE (LAO)

The LAO provides the following analysis:

***Proposal Generally Reasonable.*** We find the Governor's SCFCF proposals to be generally reasonable as they address the SCFCF's insolvency on an ongoing basis. Shifting ongoing support for trial court operations to the General Fund maintains existing operational levels. Additionally, committing to an ongoing General Fund backfill of the SCFCF ensures that, going forward, it is clear that the General Fund will address any shortfall in the ability of the SCFCF to meet its construction-related obligations (such as debt service for previously constructed courthouses). This is important as it will ensure that these obligations are accounted for and considered when evaluating the state's overall fiscal condition and determining General Fund priorities.

***General Fund Backfill Amount Will Change Over Time.*** The backfill amount required by the SCFCF will change over time. Revenues could increase or decrease. For example, the number of people required to pay criminal fines could differ by year for various reasons—including the number of tickets written by law enforcement. Additionally, expenditures will also change over time. Most notably, SCFCF debt service payments are expected to decrease by about \$40 million annually beginning in 2032-33 as six construction projects are fully paid off. Such debt service obligations will continue to decrease over time as more projects are fully paid off. For example, there will be a further decrease of about \$50 million beginning in 2038-39, and another of about \$40 million in 2039-40.

***Making Facility Modification Funding Permanent Helps Address Facility Needs, but Results in Additional General Fund Cost Pressures.*** The judicial branch has identified significant facility needs that will eventually need to be addressed. The Governor's proposal to make the temporary SCFCF facility modification funding permanent would be a step forward in that direction on an ongoing basis. However, because the SCFCF is insolvent, the proposal would effectively result in \$15 million in additional cost pressure on the state General Fund to backfill the SCFCF.

#### LAO Recommendations

***1. Approve Proposed Shift of Trial Court Operations Support to General Fund.*** We recommend the Legislature approve shifting \$55.5 million in support for trial court operations

from the SCFCF to the General Fund. This action would help maintain solvency of the SCFCF and existing trial court funding levels.

**2. Direct Judicial Council to Report Annually on Condition of SCFCF.** We recommend the Legislature direct Judicial Council to report annually on the SCFCF's long-term fund condition—including projected revenues, expenditures, and fund balance—as long as a General Fund backfill is required to address the SCFCF's insolvency. This information will enable the Legislature to ensure that the budget is adjusted annually to include the appropriate level of General Fund resources. For example, as noted above, there is expected to be a significant decline in SCFCF expenditures in 2032-33 due to decreased debt service payments at that time. Such reporting would help ensure that the backfill was appropriately decreased—thereby making General Fund available for other legislative priorities. Similarly, if revenues are significantly lower (such as in response to a change in state law) than expected, the backfill could be appropriately increased to ensure that all SCFCF obligations are being met.

**3. Weigh Proposed Facility Modification Funding Increase Against Other Budget Priorities.** The judicial branch has identified significant unaddressed facility needs which could merit additional support. However, the Legislature will want to weigh what level of additional SCFCF funding to provide, if any, as well as how long this increased funding should be provided against its other budget priorities. Moreover, reducing or rejecting the proposed ongoing spending on facility modification projects would provide the Legislature with a budget solution to help address the projected out-year deficits that would occur under the Governor's proposed budget.

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**Staff Recommendation: Hold Open.**

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**ISSUE 3: CARE ACT COURT IMPLEMENTATION**

The Judicial Council will provide an overview of their proposal related to the CARE Act and an update on their implementation progress.

**PANELISTS**

- Zlatko Theodorovic, Deputy Director, Budget Services, Judicial Council
- Charlene Depner, Director of Center for Families, Children & Courts, Judicial Council
- Anita Lee, Legislative Analyst's Office
- Department of Finance

**BACKGROUND**

**CARE Act.** Chapter 319 Statutes of 2022 (SB 1338), known as the CARE Act, established a phased approach for counties to implement a new process in civil court for adults experiencing severe mental illness to receive treatment through a voluntary agreement, or if an agreement cannot be reached, involuntarily. Among its provisions, the CARE Act defines who is eligible for the process, who is allowed to petition for the process, what venue provisions are available, and the process for voluntary or involuntary treatment.

SB 1338 includes various other requirements. For example, the California Health and Human Services Agency or Department of Health Care Services (DHCS) is generally required to contract with an independent, research-based entity to conduct an evaluation of the CARE Program. A preliminary evaluation report is required to be provided to the Legislature three years after implementation of SB 1338 and a final evaluation report is due five years after implementation. Additionally, DHCS is required to collect data from courts and counties and report annually on the CARE Program and its impact—including statutorily specified data and outcome measures. All counties must implement the Act by December 1, 2025.

The Judicial Council provided the following information regarding the costs it will incur in order to implement the CARE Act.

**1. Court Hearing Costs.** The Judicial Council estimates 18,000 initial petitions (as provided by the Department of Health Care Services) resulting in 12,000 eligible participants statewide a year. Under the CARE Act, the Counties of Glenn, Orange, Riverside, San Diego, Stanislaus, and Tuolumne and the City and County of San Francisco (Cohort 1) would implement the CARE Act by October 1, 2023 and the remaining counties (Cohort 2) would begin implementation by December 1, 2024. The budget estimate pro-rates the number of petitions and eligible participants based on the cohorts implementing the CARE Act to 26 percent of the population for 9 months in 2024-25, and to the remaining 74 percent of the population for 7 months in 2025-26, and to 100 percent in 2026-27 and ongoing. Court hearing costs include judicial officer and court clerk time with an average of one petition review for all petitioners and nine 15 or 30 minute hearings for CARE Act participants.

**2. Other Court Personnel and Costs.** Courts are estimated to require additional staff including self-help center attorneys and other court implementation and administration costs. This is estimated at 116.0 full time equivalent statewide at full implementation.

**3. Judicial Council Personnel.** Judicial Council personnel costs include five full time equivalent staff members: 1.0 Supervising Attorney, 1.0 Attorney II, 1.0 Senior Analyst, 1.0 Senior Education Specialist and 1.0 Senior Business Analyst. Principal staff responsibilities will be developing the legal and procedural framework for implementing the CARE Act in the courts, training and providing resources to the courts and stakeholders appearing in court on court procedures, and managing the expanded requirements for data collection in the courts.

**4. Judicial Council Information Technology.** These costs cover licensing and contract staff to modify court case management systems to manage the new category of CARE Act cases and collect the data mandated in the statute.

**5. CARE Act Legal Representation.** These costs are estimated at 20 hours of representation per CARE Act client as provided by legal services agencies and administered by the State Bar of California. The funds may be used by legal services agencies or public defenders to provide legal representation for CARE Act clients. The Judicial Council and the Administration will work with stakeholders over the coming months to further refine the allocation methodology.

**6. Other Considerations.** The CARE Act constitutes a new legal case type for courts, counties and stakeholders and there are varying estimates of the number of petitioners, the number of participants, and court and legal representation caseload. As data is received from the first year of CARE Act implementation, these estimates will need to be revised.

### **Proposed Funding**

The Governor proposes a total of \$29.9 million General Fund in 2023-24, \$72.4 million in 2024-25, and \$100 million in 2025-26 and ongoing to update previous cost estimates for the implementation of Chapter 319, Statutes of 2022 (CARE Act). The 2022 Budget Act included \$6.1 million in 2022-23 and \$37.7 million ongoing for the Judicial Branch to implement the CARE Act. This request reduces this funding by \$13.9 million General Fund in 2023-24 and increases funding by \$12.9 million in 2024-25, and \$30.9 million ongoing.

In total, this provides the Judicial Branch \$23.8 million General Fund in 2023-24, \$50.6 million in 2024-25, and \$68.5 million in 2025-26 and ongoing for the CARE Act court implementation. In addition, the Judicial Council requests \$6.1 million General Fund in 2023-24, increasing to \$31.5 million annually beginning in 2025-26, to support public defender and legal services organizations who will provide legal counsel to CARE participants.

## Summary of Total Proposed CARE Program Funding

General Fund (In Millions)

Entity	Purpose	2022-23	2023-24	2024-25	2025-26 and Ongoing
<b>Judicial Branch</b>					
Judicial Branch	Court Operations	\$5.9	\$23.8	\$50.6	\$68.5
Judicial Branch	Legal Representation	0.3	6.1	21.8	31.5
<b>Totals, Judicial Branch</b>		<b>\$6.1</b>	<b>\$29.9</b>	<b>\$72.4</b>	<b>\$100.0</b>
<b>Health Entities</b>					
CalHHS	Training	\$5.0	—	—	—
DHCS	Training, Data Collection, and Other Activities	20.2	\$6.1	\$6.1	\$6.1
DHCS	County Grants	57.0	16.5	66.5	108.5
<b>Totals, Health Entities</b>		<b>\$82.2</b>	<b>\$22.6</b>	<b>\$72.6</b>	<b>\$114.6</b>
<b>Total CARE Program Funding</b>		<b>\$88.3</b>	<b>\$52.4</b>	<b>\$144.9</b>	<b>\$214.6</b>

CARE = Community Assistance, Recovery, and Empowerment; CalHHS = California Health and Human Services Agency; and DHCS = Department of Health Care Services.

### LEGISLATIVE ANALYST'S OFFICE (LAO)

The LAO provides the following analysis:

**Funding Needs Uncertain as Program Has Not Been Implemented.** The CARE process is a new court process which is not anticipated to be first implemented until October 1, 2023 when the seven counties in Cohort 1 begin operations. Because the program has not yet been implemented, the proposed funding levels for 2023-24 and future years is uncertain. This is because state and local entities are currently planning how this new program will be implemented—including working to resolve some operational and funding details. For example, it is not clear in which counties legal representation will be provided by qualified legal services projects versus county public defenders. Moreover, once implemented, operational processes may need to be adjusted to address unintended challenges that emerge. In view of the above, the underlying assumptions made by the administration in developing the budget request could end up overestimating or underestimating actual program costs.

For 2023-24, the administration's assumptions and requested resources appear reasonable for the initial implementation of the CARE Program. However, the program costs in subsequent years could be significantly different than assumed in the Governor's budget. For example, upon full implementation, the Governor's budget assumes 18,000 CARE Program petitions will be filed



annually resulting in 12,000 participants. We note that, at the time SB 1338 was being considered, however, county stakeholders raised concerns that the number of participants could be higher, potentially by tens of thousands of people. If this actually occurs, General Fund costs would be significantly higher.

***Actual Implementation Data Important for Determining Appropriate Funding Levels after 2023-24.*** When implementing a new program like the CARE Program, it can make sense to test implementation on a small group first. This enables the state to monitor whether implementation and costs occur as expected or if there are any unintended challenges or unanticipated impacts that could require legislative or operational changes. For example, actual implementation by Cohort 1 could show that more time is needed by judicial and court staff to process CARE Program petitions or by legal counsel to appropriately represent their clients. This additional time could be needed for various reasons, including to ensure that all participants have the ability to be heard (which could simply require more time and resources) or to address conflicting interpretations or application of the language (which could be resolved legislatively or through statewide Judicial Council guidance). Information collected on the implementation of Cohort 1, and any associated changes, would then inform the estimated costs needed to implement the program across the state. As such, data collected from Cohort 1 should be used to determine Cohort 1's future year costs as well as the costs to expand the CARE Program statewide to ensure that the CARE process is being implemented as intended and that the appropriate level of resources is provided to do so.

***Other Factors Can Also Impact Actual Funding Needs.*** Other factors—such as county decisions and court rulings—can also impact the actual level of funding needed to implement the CARE Program statewide. For example, as noted above, Los Angeles County announced intentions to begin CARE Program implementation by December 1, 2023. If this occurs, it would result in the need for additional General Fund support in 2023-24 above the amount currently proposed in the Governor's budget. This is because the Governor's budget assumes that only Cohort 1 (representing about 26 percent of the state's population) will require resources in the budget year and that no other counties will begin implementation prior to July 1, 2024. Since Los Angeles County consists of about 25 percent of the state's population, additional resources in the range of \$10 million would be needed in 2023-24 to support the court-related costs. Similarly, additional resources would likely be needed in 2024-25 as Los Angeles County will require a full-year of General Fund support, rather than only seven months which would be required if implementation occurred on December 1, 2024. Additionally, it is unclear whether any other counties have the intention of launching CARE Program implementation earlier than expected. Finally, as of the writing of this brief, it is unclear whether a court ruling could delay or prevent implementation of the CARE Program, such as if a court rules in favor of the group of disability and civil rights advocates seeking to block implementation of SB 1338.

### **LAO Recommendations**

***1. Provide Only One-Year Funding.*** We recommend the Legislature only provide the requested funding in 2023-24—meaning to not commit to providing a specific amount of funding beyond the budget year. We recognize that there will be costs in subsequent years that require state funding. However, since the CARE Program has not been implemented, there is significant fiscal uncertainty regarding the extent to which the assumptions underlying the Governor's requested resource are accurate. Major differences between such assumptions and actual data collected when the program is implemented could significantly change the level of resources needed in future years. Providing funding for one year can ensure that data is collected from Cohort 1 to

inform legislative deliberations to ensure that the appropriate level of funding is being provided in future years as well as whether potential legislative changes are needed to ensure the CARE Program operates as intended and/or to control the cost of the program. Additionally, given the budget pressure on the General Fund in 2023-24, the Legislature may want to consider whether to limit the number of counties in Cohort 2 that begin implementation prior to July 1, 2024. Such action would limit the amount of additional General Fund resources needed in 2023-24 (and 2024-25) to support the implementation of the CARE Program in such counties.

**2. Require Reporting From Cohort 1.** Senate Bill 1338 requires DHCS and Judicial Council to work with courts and counties to report annually on key outcome and performance metrics, including some (such as the number of petitions filed) which could help inform calculations of the level of funding needed in future fiscal years. However, such information would likely be reported after deliberations next year on the 2024-25 budget have concluded. As such, we recommend the Legislature require each court in Cohort 1 report monthly in 2023-24, beginning the month after the court begins to operate the CARE Program. In these monthly reports, we recommend the Legislature specify key metrics for courts to report on that directly impact the estimates for the level of funding needed to implement the CARE Program. At minimum, such reports should include: (1) the number of CARE Program petitions received and dismissed; (2) the number of people admitted to the CARE Program; (3) the number of court proceedings conducted and the amount of time needed for those hearings; (4) the amount of judicial and staff time required to process cases; and, (5) the amount of time spent by legal counsel representing and working with CARE clients. Such information would help provide the Legislature with key data to ensure that appropriate levels of funding are provided in future years.

<b>STAFF COMMENT</b>
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The CARE Act's constitutionality has been challenged in the California Supreme Court by Disability Rights California, Western Center on Law and Poverty, and the Public Interest Law Project on January 26, 2023. Petitioners may also choose to file their lawsuit in a lower court should the Supreme Court refuse to hear the matter. The Administration filed a preliminary response asking the court to deny the petition and issue an order stating the petitioners' filing "establishes no basis for the requested prohibitory relief."

Implementation of the CARE Act, pursuant to Welfare and Institutions Code Section 5970.5, describes two cohorts of counties to implement the provisions of the new program in a phased approach. The first cohort includes Glenn, Orange, Riverside, San Diego, Stanislaus, Tuolumne, and San Francisco. The first cohort is required to implement the law no later than October 1, 2023. All other counties are required to implement the law by December 1, 2024. Los Angeles County has recently announced that it will be ready to implement the law with the initial cohort. The Subcommittee may wish to clarify whether the proposed funding takes Los Angeles County's early implementation into account.

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**Staff Recommendation: Hold Open.**

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**0250 JUDICIAL BRANCH****5227 BOARD OF STATE AND COMMUNITY CORRECTIONS**

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**ISSUE 4: LEGISLATIVE PRIORITIES**

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The Legislative Analyst's Office will provide an overview of previously allocated resources that are proposed to be cut or deferred in the Governor's January 10 budget under the purview of the Judicial Branch and the Board of State and Community Corrections.

**PANELISTS**

- Anita Lee, Legislative Analyst's Office
- Caitlin O'Neil, Legislative Analyst's Office
- Mark Jimenez, Department of Finance
- Cynthia Mendoza, Department of Finance

**BACKGROUND**

The 2023-24 Governor's Budget proposed \$340 million in cuts and delays to legislative priorities identified by this Subcommittee including the following:

**1. Court Lactation Facilities.** The Governor's Budget proposes the delayed implementation of Chapter 200, Statutes of 2022 (AB 1576). AB 1576 would require the superior courts to provide any court user access to a lactation room in any courthouse in which a lactation room is also provided to court employees by July 1, 2024. Existing law provides that the courts are required to provide access to lactation rooms for their employees. Attorneys and other members of the public spend a substantial amount of time in the courts and while some courts informally provide this accommodation, all of them do not.

The 2022 Budget Act included \$15 million for the implementation of the policy. A letter dated on August 22, 2022 to Governor Newsom from the Judicial Council indicated that the \$15 million would provide lactation rooms in 67 courthouses (30% of all facilities) and an additional \$67 million would be needed for the remaining 157 facilities. The Department of Finance has indicated that due to the current economic outlook, a delayed implementation is needed to assess the availability of General Fund to fully implement AB 1576. The Administration has indicated they are seeking an implementation date of July 1, 2028.

**Court Appointed Special Advocates Program (CASA).** The Governor's Budget proposes eliminating \$40 million General Fund (2022 Budget Act) over two years to support the Court Appointed Special Advocates (CASA), a statewide program that supports foster children removed from their home due to abuse, neglect, or abandonment. The CASA funding was to support the more than 11,000 court appointed special advocates who are supporting 13,000 children in the foster care system. CASA is funded by \$5.7 million in VOCA grants and \$2.7 million from the Judicial Council annually. In addition, CASA competes for philanthropic dollars. The one-time augmentation in the 2022 Budget Act of \$60 million over three years (\$20 million has already been distributed) was to allow the CASA to serve more children, recruit and train more volunteers, and to stabilize the operations of network of providers dedicated to improving the outcomes of foster children.

**Public Defense Pilot.** The 2021 Budget Act provided \$50 million General Fund each year for three years for a public defense pilot to support public defender, alternate defender, and other indigent defense offices statewide for workload associated with Penal Code 1170(d)(1), Penal Code 1473.7, Penal Code 3051, and Penal code 1170.95. The Board of State and Community Corrections (BSCC) was required to collaborate with the Office of the State Public Defender to identify the offices that provide indigent services on behalf of each county. Each office receiving funding is required to submit a report on the use of funding to the BSCC by March 1, 2025. The BSCC is required to contract with a qualified entity to complete an independent evaluation to assess the impact of these resources. The Governor's proposed budget eliminates the third year of funding of \$50 million. The Office of State Public Defender provided the following general information related to resentencing efforts:

- Preliminary data from January 1, 2019 to June 30, 2022 indicate approximately 470 people have been resentenced.
- Approximately 88% of the people resentenced were people of color, with Black individuals comprising the largest share (45%).

The resentencing of 470 individuals saved the state approximately \$135 million in marginal incarceration costs.

<b>STAFF COMMENT</b>
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The Subcommittee is in receipt of letters from the Public Defender Offices in Alameda, Los Angeles, and Santa Barbara Counties, the Bar Association of San Francisco in opposition to the proposed cut to the public defense pilot.

In addition, the Subcommittee is in receipt of a letter signed by CASA directors and leadership representing 44 different CASA programs representing more than 50 counties asking for the reinstatement of funding for CASA in 2023-24 and 2024-25.

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**Staff Recommendation: Hold Open.**

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**5225 DIVISION OF JUVENILE JUSTICE**

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**ISSUE 5: UPDATE ON REALIGNMENT OF THE DIVISION OF JUVENILE JUSTICE (DJJ)**

The Division of Juvenile Justice (DJJ) will provide an update on the progression of DJJ Realignment and the closure of DJJ prisons, which are set to close by June 30, 2023.

**PANELISTS**

- Dr. Heather Bowlds, Director, Division of Juvenile Justice
- Orlando Sanchez-Zavala, Legislative Analyst's Office
- Department of Finance

**BACKGROUND**

Historically, the majority of youth adjudicated in the juvenile justice system are kept under local control. In 2022, there were approximately 2,146 youth housed in county juvenile facilities and 560 in the DJJ, for a total of 2,706. This is about 5,600 fewer youth than the total 8,320 youth incarcerated in 2012.

**Realignment of youth from state youth prisons to county facilities.** Chapter 175 of 2007 (SB 81) restricted the type of youth that juvenile courts could place in DJJ based on their commitment offense. Youth adjudicated for serious offenses in Welfare Institutions Code 707(b) and certain sex offenses were eligible to be committed to DJJ. The state currently provides over \$200 million annually to counties for costs associated with supervising youth that might otherwise have been placed in DJJ.

Chapter 337 of 2020 (SB 823) realigned responsibility for the majority of the remaining youth from the state to the counties. To assist counties with their increased responsibility, the state provides funding to counties—in addition to the funding provided from SB 81—which is estimated to be \$122 million in 2022-23 and reaching over \$200 million annually by 2024-25.

**DJJ Closure.** DJJ's facilities will close by July 1, 2023, except for Pine Grove Youth Conservation Camp, which CDCR will operate to train justice-involved youth in firefighting skills. All remaining youth at the time of closure will be transferred to county jurisdiction. CDCR is authorized to enter into contracts with counties to accept youth for Pine Grove who, among other criteria, are under the jurisdiction of the juvenile court for a serious crime and are at least 18 years old.

Welfare and Institution Code Section 736.5 requires DJJ to develop a plan for the transfer of jurisdiction of youth remaining at DJJ who are unable to discharge or otherwise move prior to the final closure of DJJ on June 30, 2023. The report, received on February 9, 2022 indicated there were 660 youth from 40 counties housed at DJJ at that time. The report also indicated DJJ's plan to work in partnership to establish individual transfer plans. As a part of realignment, youth could not be committed to DJJ after July 1, 2021 unless a motion to transfer the minor from juvenile court to adult court was filed. In December 2021, DJJ initially estimated that approximately 250 youth will remain at the time of DJJ's closure. In the 2023-24 Governor's Budget, it is now estimated that 360 youth will remain at the time of DJJ's closure.

### **Proposed Funding**

The Governor's Budget proposes net reduction of \$95.6 million (\$93.2 million General Fund and \$2.4 million other funds) and 603.1 positions in 2023-24, and a net reduction of \$98.9 million (\$96.1 million General Fund and \$2.8 million other funds) and 631.4 positions in 2024-25, and \$95.8 million (\$93 million General Fund and \$2.8 million other funds) in 2025-26 and ongoing associated with the closure of the Division of Juvenile Justice. Reflected in the net request amounts, CDCR and DJJ are seeking to retain a total of \$29.1 million and 78.7 positions in 2023-24 and \$26.6 million and 52.6 positions in 2024-25 and ongoing to: (1) complete temporary ramp-down activities in 2023-24; (2) maintain DJJ facilities in warm shutdown and manage ongoing DJJ-specific activities and workload; and, (3) continue operations of Pine Grove Youth Conservation Camp for local justice-involved youth post DJJ-closure. The details of the proposed funding are as follows:

**1. Maintains Limited-Term DJJ Resources for Temporary Workload Associated with Closure and Transitioning Youth.** This proposal would reduce most of the funding for the DJJ budget but would still maintain 124 positions for transition related workload.

- **Staff to Complete Closure (\$1.1 million).** The Governor's proposal includes funding to keep 111 positions between one and six months to complete the DJJ closure. These positions consist of various staff to document inventory, deactivate facilities, and move equipment and records out of DJJ facilities, as well as supervisors for this temporary staff.
- **Staff to Help Transition Youth to Counties (\$1.5 million).** The Governor's proposal also includes funding to keep 13 positions between 6 and 12 months to help transition youth. The positions consist of two Parole Agents that would provide counties with subject matter expertise on gangs, one Teacher and Superintendent to provide counties with support related to DJJ education, and eight Psychologists and one Chief Psychologist to create a mental health transition team that will support counties.

**2. Eliminates Some Related Funding from CDCR's Non-DJJ Budget.** The Governor's budget eliminates \$3.9 million and 24 positions from CDCR that are not part of DJJ's budget, but currently support DJJ workload. For example, the proposal would eliminate accounting positions from CDCR's Fiscal Services unit that are dedicated to DJJ workload.

**3. Augments CDCR's Non-DJJ Budget for Ongoing Workload Associated with Closure.** The Governor proposes to augment CDCR's budget outside of DJJ on an ongoing basis with \$19.8 million and 27 positions for workload associated with DJJ's closure. This includes staff and resources for:

- **Workers' Compensation Claims (\$15.3 Million).** The workers' compensation system provides benefits to employees for work-related injuries or illnesses. These benefits may include medical treatment, payments for lost wages, and payments that compensate the injured employee for having a permanent impairment or limitation. The obligation to pay these costs for former DJJ employees will remain after the closure. Accordingly, the Governor's proposal includes two permanent positions for processing such claims and \$15 million to pay for the claims.

- **Warm Shutdown of Facilities (\$3.4 Million).** When CDCR facilities are deactivated, their basic infrastructure is often maintained to ensure it does not deteriorate while the facility is unused—a practice referred to as warm shutdown. The Governor’s proposal provides 15 positions for CDCR to place all DJJ facilities—with the exception of Pine Grove—on warm shutdown. These positions will be funded on an ongoing basis to conduct pest control, safety maintenance, and other preventive care.
- **Administrative Workload (\$900,000).** The Governor’s proposal provides six positions for administrative workload, such as ongoing recordkeeping and maintenance of transcripts as well as processing of transcript requests. CDCR expects that this workload will continue permanently.
- **Automotive Maintenance for California Health Care Facility (\$200,000).** Because the California Health Care Facility (CHCF) does not have an in-house automotive repair shop, the adult prison staff must take the CHCF vehicle fleet off-site for repair. The Governor’s proposal requests resources to use the existing DJJ automotive facilities, which are located in close proximity to CHCF, to service the CHCF vehicle fleet. Included in the request are two automotive mechanic positions that would service the CHCF fleet.

**4. Provides CDCR Resources for Operation of Pine Grove.** The Governor proposes \$6.9 million and 27.6 positions ongoing for CDCR to maintain operations of Pine Grove. The Administration has indicated that CDCR entered into contracts with five counties that would send youth to Pine Grove, and expects to add 19 additional counties. Under the proposed contracts, the state would pay most of the costs associated with Pine Grove operations. However, counties would be responsible for paying a rate of \$81 per day that a youth is in training and \$10 per day otherwise—or a maximum of about \$4,600 per year. This means counties would cover—at most—around \$460,000 of the costs of the camp (or about 7 percent), given it can hold a maximum of 100 youth.

<b>LEGISLATIVE ANALYST’S OFFICE (LAO)</b>
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The LAO provides the following analysis and recommendations:

**Some Temporary Staff to Complete Closure Could Be Unnecessary.** As previously mentioned, the Governor’s budget proposal includes funding to keep 111 positions on a temporary basis in the budget year to complete the DJJ closure. We note, however, that it is possible that the workload associated with some of these positions could be completed in the current year ahead of the closure. Some of the requested 111 temporary positions and associated workload that could be completed prior to closure includes: two Chaplain positions for one month to archive records and inventory property, two Pharmacists and two Pharmacy Technicians for one month to inventory medications, two Lieutenants for two months to process contraband and take inventory of various correctional officer equipment, and ten Case Records Technicians for at least two months to help transition DJJ files to the counties. Given that the administration’s request is based on estimates for the amount of temporary workload to remain post-closure as of last fall, revised estimates this spring on the amount of workload remaining could show that some or all of the above positions are not necessary on a workload basis.

***Temporary Staff to Help Transition Youth Unnecessary.*** Given that each youth transitioning to county jurisdictions from DJJ will have an individualized transition plan that notifies the county of the youth's needs, participation in programs, and security concerns, we find the 13 temporary staff to help transition youth post-closure seem unnecessary. Although DJJ staff indicate that these positions could help address concerns from counties, they also indicated that counties have not requested this specific support.

***Proposed CDCR Resources for Workload Associated With Closure Appear Justified for 2023-24, but Some Positions Likely Unnecessary on Ongoing Basis.*** We find that the permanent positions and associated funding proposed for CDCR for workload associated with the closure appear needed in the budget year. However, some of the proposed resources are likely to be unnecessary in the future as some of the workload will decline. For example, as DJJ workers' compensation claims close in the future and no new workers' compensation claims are filed because of the closure, the workload necessary to process the remaining open claims will decline. Similarly, the administrative workload related to maintaining and processing DJJ files will likely decline over the years. For example, as former DJJ youth age, there are likely to be a declining number of transcript requests. Accordingly, the resources could be unnecessary in the future.

***Funding for Automotive Maintenance for Nearby CHCF Not Justified.*** As previously mentioned, the administration indicates that it will be more efficient for CHCF to service its vehicle fleet by using the existing DJJ positions and automotive facilities rather than taking the fleet to be serviced off-site as is currently done. However, while the Governor's budget proposes \$200,000 to support the DJJ automotive facilities, the budget does not eliminate the funding that is currently being used to pay the costs of taking the fleet to be serviced off-site—resulting in an increase in total costs rather than savings. As a result, we find the funding requested for the two positions unnecessary, as it appears that CDCR could redirect the existing resources it is using to service the CHCF fleet off-site to support the cost of servicing it at the DJJ automotive facilities.

***Permanent CDCR Staff for Pine Grove Operations Appears Reasonable.*** The requested resources to staff Pine Grove appear justified since the proposed staffing package is similar to the existing staffing package used by DJJ. For example, in recent years Pine Grove's existing annual budget was between \$6 million and \$7 million. While it is unclear how many counties will send youth and how many youth will be at the camp, the number of youth in the camp will not significantly impact the resources needed to operate Pine Grove. This is because most of the expenses of the staff and other overhead will occur regardless of how many youth are in the camp at any given time.

***Proposed Pine Grove Contracts Inconsistent With Realignment.*** As previously mentioned, under the current contracts and the Governor's proposal, the state would be responsible for at least 93 percent of the cost of the camp, with counties paying fees supporting only 7 percent of the costs. We find that this is inconsistent with underlying goal of realignment to make juvenile justice solely a county responsibility. Moreover, the contracts would result in the state effectively double paying counties that choose to send realigned youth to Pine Grove. This is because the state already provides funding to counties for these youth through the grant programs created by SB 81 and SB 823.



## **LAO Recommendations**

**1. Approve Reductions Associated With Closure.** We have no concerns with the proposed reductions to the DJJ budget. Accordingly, we recommend the Legislature approve the reductions. If the administration proposes further reductions in the spring—as it has indicated could be necessary—we will advise the Legislature on such proposals at that time.

**2. Withhold Action and Direct Department to Report on Need for Temporary Staff to Complete Closure.** As discussed above, it is possible that some of the workload for the temporary staff requested for the closure will be completed before 2023-24. The department will have better information in the spring as to the amount of workload remaining and the corresponding number of temporary staff it will need. Accordingly, we recommend the Legislature withhold action on this part of the proposal and direct CDCR to provide in spring budget hearings updated estimates of the workload remaining to complete the closure.

**3. Reject Temporary Positions to Help Transition Youth.** We recommend the Legislature reject the proposed temporary positions to help counties transition youth. We find these staff to be unnecessary because each youth will have a county transition plan to inform counties of their specific needs. Moreover, the department indicates that counties have not directly requested this type of support.

**4. Modify Resources for Ongoing Workload Associated With Closure.** We recommend the Legislature modify the proposed ongoing resources for CDCR associated with closure of DJJ. Specifically, we recommend:

- Approving the \$15.3 million and two positions to process workers' compensation claims and \$900,000 and six positions for administrative workload on a two-year, limited-term basis as the need for these resources is likely to decline in the future. We note the department can request to retain these resources in the future if the need for them persists.
- Approving the two automotive maintenance positions to provide repair and maintenance services to the CHCF vehicle fleet, but rejecting the requested \$200,000 as CHCF should have sufficient resources for these positions within its existing budget from the funding freed up from servicing the CHCF fleet at DJJ facilities.
- Approving the proposed \$3.4 million and 15 positions requested for warm shutdown.

**5. Require Department to Charge Counties a Fee That Minimizes State Costs for Pine Grove.** We recommend the Legislature require CDCR to charge counties a fee that covers a larger share of the costs of operating Pine Grove. For example, an annual fee of about \$70,000, or about \$192 per day, would roughly cover all of the costs of Pine Grove assuming the camp operates at full capacity. This would ensure counties remain fiscally responsible for most of the costs of youth in the juvenile justice system, as well as minimize the extent to which the state would effectively be paying counties twice for realigned youth.

**6. Monitor Continued Need for Pine Grove.** We recommend the Legislature monitor the continued need for operating Pine Grove. For example, if it becomes unviable to operate Pine Grove because few counties place youth in the camp, then the Legislature could reconsider the cost-effectiveness of maintaining Pine Grove. However, to the extent it remains a legislative priority, the Legislature could consider taking steps to encourage counties to place youth there,

such as reducing the county share of costs in the future if cost is the primary factor preventing counties from placing youth in the camp.

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**Staff Recommendation: Hold Open.**

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## NON-DISCUSSION ITEMS

The Subcommittee does not plan to have a presentation of the items at this time in this section of the agenda but the Department of Finance and the Legislative Analyst's Office are available to answer questions from members. Public Comment may be provided on these items.

### 0250 JUDICIAL BRANCH

#### ISSUE 6: VARIOUS BUDGET CHANGE PROPOSALS

**1. Charles James Ogletree, Jr. Courthouse (AB 2268).** The Governor's Budget proposes \$440,000 one-time General Fund in 2023–24 to provide resources for the design, fabrication, and installation of new signage to rename the Superior Court of Merced County's main courthouse as the Charles James Ogletree, Jr. Courthouse pursuant to Chapter 410, Statutes of 2022 (AB 2268).

**Appropriations Analysis.** The Assembly Appropriations analysis identified one-time costs of \$175,000 Trial Court Trust Fund to the Judicial Council for the acquisition and installation of appropriate signage to reflect the updated name of the Merced County Courthouse. The Senate Appropriations analysis is the same but notes State Court Facilities Construction Fund and General Fund as possible fund sources.

#### STAFF COMMENT

The Judicial Council states that the appropriations analysis includes the costs associated with a single monument sign. Subsequent site visits identified the need for two additional monument signs, façade lettering in the front entrance, and updates to wayfinding signage as provided below:

Monument Signs	\$175,000 x 2 =	\$350,000
Building Façade Signage	\$50,000 x 1 =	\$50,000
Wayfinding Signage	\$5,000 x 1 =	\$5,000
Contingency (site conditions and unknowns)	\$35,000 x 1 =	\$35,000
Total Request		\$440,000

**2. Community Mental Health Services (SB 929).** The Governor's Budget proposes \$3.56 million General Fund and 2.0 positions in 2023-24, \$3.54 million and 2.0 positions in 2024-25, and \$1.97 million and 2.0 positions ongoing starting to comply with data collection requirements specified in SB 929 (Chapter 539, Statutes of 2022) relating to community mental health services. SB 929 requires the State Department of Health Care Services to collect data quarterly and to publish a report on or before May 1 each year, beginning in 2025. The Judicial Council must provide DHCS with data from each superior court by October 1 of each year to complete its report. The court data includes the number and outcomes of certification review hearings held, petitions for writs of habeas corpus filed, judicial review hearings, petitions for capacity hearings, and capacity hearings in each superior court. The courts maintain their own case management systems to collect workload data but they are not integrated into a statewide system. The Judicial Council collects aggregate statistics on court workload data, including mental health filings and dispositions, which courts transmit electronically but does not collect data at the level of aggregation required by SB 929.

The provisions related to reporting were first included in another bill (AB 2275) and was subsequently removed. When the language was removed in AB 2275, the Judicial Council did not complete a fiscal analysis for the workload. The provisions related to data reporting were added to the bill as an amendment on August 25, 2022.

**Appropriations Analysis.** The Assembly Appropriations analysis identified \$1.45 million (\$725,000 General Fund and \$725,000 Federal Funds) in 2023-24 and \$1.37 million (\$685,000 General Fund and \$685,000 Federal Funds) in 2024-25 and ongoing to the Department of Healthcare Services (DHCS) and unknown costs to local entities to provide new types of data to DHCS upon its request. The Senate Appropriations analysis did not identify any costs to be incurred by the Judicial Council.

<b>STAFF COMMENT</b>
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The provisions related to reporting were first included in AB 2275 which was subsequently amended out at which time the Judicial Council did not complete a fiscal analysis. The reporting language was subsequently added to SB 929 on August 25, 2022 but Judicial Council states they were not notified of this inclusion and with the limited number of working days until the August 31 deadline, there was insufficient time for them to include workload estimates.

**3. Jury Duty (AB 1981).** The Governor's Budget proposes \$19 million General Fund in 2023-24, \$17.5 million in 2024-25, and \$4.2 million ongoing to implement Chapter 326, Statutes of 2022 (AB 1981). Of the total, \$14.8 million General Fund in 2023-24 and \$13.3 million General Fund in 2024-25 will be used to conduct a two-year pilot program in at least six courts to study whether increases in juror compensation and mileage reimbursement rates increase juror diversity and participation and provide a report to the Legislature. The remaining \$4.2 million ongoing General Fund beginning in 2023-24 will fund increases to juror mileage and public transit reimbursements.

On average, the state spends approximately \$16.2 million per fiscal year on juror per diems, mileage, and transportation. AB 1981 changes existing mileage reimbursement provisions to now provide mileage reimbursement for travel roundtrip, requires that all jurors and prospective jurors who have been summoned be provided access to existing public transit services at no cost, authorizes courts to partner with public transit operators to provide this no-cost service or to determine an alternate method of reimbursement up to a daily maximum of \$12 and requires the Judicial Council to sponsor a pilot program for two fiscal years to study whether increases in juror compensation and mileage reimbursement rates increase juror diversity and participation and to provide a report to the Legislature, by September 1, 2026.

**Appropriations Analysis.** The Assembly Appropriations analysis identified \$4 million annual General Fund costs to the Judicial Council and one-time costs of \$27 million over two years to sponsor the pilot program. The Senate Appropriations analysis is the same.

**4. Support for Appellate Court Security.** The Governor's Budget proposes \$1.4 million from the Appellate Court Trust Fund (ACTF) in 2023-24 through 2025-26, for a three-year Appellate Court Security Pilot program to support four additional California Highway Patrol Judicial Protection Section (CHP-JPS) officers at four of the seven single-officer courthouses. Trailer bill language is also proposed to authorize the Judicial Council to spend from the ACTF to manage the CHP-JPS contract on behalf of the protected entities. The California Highway Patrol (CHP)

has a contractual agreement to provide specified statewide police protective services for the Judicial Council, the California Supreme Court, the six districts of the Courts of Appeal, and the Commission on Judicial Performance. The California Supreme Court is based in San Francisco, but it also hears oral arguments in Los Angeles and Sacramento. In addition, the Supreme Court holds special outreach sessions at locations around the state. The six districts of the Courts of Appeal have courthouses in the following locations: San Francisco, Sacramento, San Jose, Fresno, Ventura, Los Angeles, Santa Ana, Riverside, and San Diego. Like the Supreme Court, the districts and divisions of the Courts of Appeal hold special outreach sessions at locations around the state.

**5. Language Access Efforts in CA Courts.** The Governor's Budget proposes \$200,000 Court Interpreters' Fund in 2023-24 through 2027-28 to address the shortage of interpreters and budget bill language authorizing yearly adjustments to the expenditure authority as needed. Over 200 languages are spoken in the California courts, and as of June 30, 2021, there were 1,858 certified and registered court interpreters on the Judicial Council's Master List. In 2018-19, prior to the COVID-19 pandemic, there were 766,800 interpreted cases statewide (the total interpretations in Spanish were approximately 665,400, and total other-than-Spanish interpretations were approximately 101,400). Of the 1,858 interpreters (as of June 30, 2021), 811(44%) were employees and 1,047 (56%) were contractors. For fiscal year 2019–20, employees accounted for 78.4 percent of court interpreter expenditures, and contractors accounted for 21.6 percent of expenditures. There were 1,696 interpreters certified for major languages and 162 were registered for lesser languages. Some languages have less than ten interpreters, which can drive up contractor costs. California has high standards for certification, following the testing standards established by the National Center for State Courts, and the exam passage rate for the Bilingual Interpreting Examination has averaged around 10 percent or less. Because the court interpreter employee pool is constrained in size, only 20 to 30 percent of cross-assignment requests for interpreters are successful, because courts are not able to routinely release their interpreters to travel to other counties for other work. The proposed funding would be used to provide trainings for near passers of the bilingual interpreting examination to help increase the pool of qualified interpreters.

**6. Legal Support for Court Rules and User-Friendly Forms.** The Governor's Budget proposes \$838,000 General Fund and 3.0 positions in 2023-24, and \$1.6 million and 6.0 positions ongoing to implement new laws through rules of court and forms and provide user-friendly forms and tools. Court forms were originally designed for use by attorneys to assist their clients, and relied on specialized legal language and a layout and organization scheme that assumed a knowledge of the relevant law. As the proportion of self-represented litigants increased to a majority in numerous case types including family and domestic violence, civil protective orders, elder abuse, and eviction proceedings, the Judicial Council determined that the forms could be revised to better serve self-represented litigants.

California has a system of state-level, mandatory court forms. In 2020, newly enacted legislation resulted in as many as 190 court forms requiring development or revision. The number of newly mandated forms and forms requiring revision has steadily increased from 55 in 2013 to 138 in 2020. Seventy (70) percent of the forms created or revised in this period are those used primarily by self-represented litigants, including those related to restraining orders and gun violence (20 percent), family law (15 percent), conservatorship (6 percent), and traffic, unlawful detainer, and small claims (5 percent combined).

## 0280 COMMISSION ON JUDICIAL PERFORMANCE

### ISSUE 7: SUPPORT FOR COMPLAINT PROCESSING

**Support for Complaint Processing.** The Governor's Budget requests \$189,000 General Fund and 1 position in 2023-24 and \$178,000 ongoing for an administrative assistant to counsel position to assist with new complaints resulting from a new online complaint process that began in 2021.

#### STAFF COMMENT

The Commission on Judicial Performance (CJP) has stated that the average length of hearings has increased due to increasing complexity and the involvement of a higher volume of witnesses. Costs of hearings annually have varied from year to year. For example, fiscal year 2017-2018 resulted in \$47,277.46 in hearing costs and fiscal year 2020-2021 resulted in \$244,584.44 in hearing costs. CJP also reported that its current case management system does not report analytics for the number of online complaints versus mail complaints. CJP does indicate some increased workload from the number of complaints filed in each year reflected below. CJP began accepting online complaints on January 1, 2021.

2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
1,209	1,212	1,245	1,234	1,251	1,246	1,241	1,063	1,253	1,414

CJP states the reason it takes longer to process online complaints is due to the following:

“When a complaint is received online versus mail, the assistant must: (1) upload each document; (2) prepare an acknowledgment letter; (3) combine the acknowledgement letter and complaint/documents; (4) name the Adobe file; (5) create a file/matter in our [Case Management System or CMS] (set up a contact for the complainant if not in the CMS); and, (6) link the complaint to the matter. If the complainant has filed a complaint on multiple judges a file/matter is created for each judge and the complaint is linked to each file/matter. When further correspondence is received on an open or closed matter the assistant must upload the documents, combine the documents, name the file and link to the appropriate matter or matters, and notify the attorney. Prior to June 2021, the [CJP] could not report how much further correspondence [it] received on closed matters. In 2021, [CJP] received 368 further correspondence. In 2022, [CJP] received 1,280 further correspondence on closed matters. When a complainant submits multiple attachments in support of their complaint, it takes considerable time for the assistant to process the matter, as described above.

If someone submits a complaint via mail the assistant: (1) prepares an acknowledgment letter; and, (2) scans the document and acknowledgment letter, and follows the remaining steps above. Going paperless and accepting complaints online has significantly increased the amount of time to create a file/matter.”

**5227 BOARD OF STATE AND COMMUNITY CORRECTIONS**

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**ISSUE 8: VARIOUS BUDGET PROPOSALS**

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**1. Funding Reappropriations.** The Governor's Budget proposes requests reappropriation of \$9.8 million in Indigent Defense Grant funds originally authorized in the 2020 Budget Act to extend the availability for encumbrance and expenditure through June 30, 2024, \$5 million General Fund for the Adult Reentry grant originally authorized in the 2018 Budget Act, and \$300,000 General Fund for the Use of Force and De-escalation pilot program grant originally authorized in the 2022 Budget Act to extend the availability for encumbrance and expenditure through June 30, 2026. Funding for the Indigent Defense Grant and the Adult Reentry Grant experienced unforeseen delays caused by the COVID-19 pandemic. The Use of Force and De-escalation pilot program requires an extended encumbrance period for administration costs for the whole duration of the three-year pilot.

**2. Increase Federal Spending Authority—Safer Communities Act.** The Governor's Budget proposes a \$50 million increase to its federal spending authority annually for five fiscal years beginning 2023-24 to draw down federal funds for the new grant program established through the Federal Bipartisan Safer Communities Act (Pub. L. No. 117-159). The \$50 million federal spending authority increase would be split between two budget items to allow for administrative support and local assistance spending as follows: (1) \$2.5 million increase for administrative support under budget item 5227-001-0890; and, (2) \$47.5 million increase for local assistance under budget item 5227-101-0890.

On June 25, 2022 President Biden signed the Federal Bipartisan Safer Communities Act (Pub. L. No. 117-159) which is a bill aimed at supporting states that choose to adopt red flag laws and providing funding to all states for a range of crisis intervention programs and initiatives. According to the Act, the funding will go towards the "(I) Implementation of State crisis intervention court proceedings and related programs or initiatives, including but not limited to— (i) mental health courts; (ii) drug courts; (iii) veterans courts; and (iv) extreme risk protection order programs." The BSCC anticipates it to be similar in structure to the Coronavirus Emergency Supplemental Funding program, from the Coronavirus Aid, Relief, and Economic Security Act, and will use the existing grant state formula and local direct award pathways established within Edward Byrne Memorial Justice Assistance Grant program.

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**7870 VICTIM COMPENSATION BOARD**

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**ISSUE 9: INFORMATION TECHNOLOGY STAFF**

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**Information Technology Staff.** The Governor's Budget proposes \$877,000 Restitution Fund and 4.0 positions in 2023-24 and \$789,000 and 4.0 positions in 2024-25 and ongoing to implement and maintain increased cybersecurity capabilities. In October 2021, the California Department of Technology and its Office of Information Security released the Governor's multi-year Cyber Information Security Maturity Roadmap called Cal-Secure. Cal-Secure's plan builds on the key objectives of the California Homeland Security Strategy, under which California established a goal to strengthen security and preparedness across cyberspace by enhancing safety and preparedness with state federal, local, tribal, and private sector stakeholders.

Cal-Secure has 29 required capabilities to strengthen the state's security and preparedness across Cyberspace. Of the 29 capabilities, CalVCB has been able to absorb the workload for nine of the capabilities. At the close of each fiscal year, state departments and agencies will be required to attest that they have achieved the required capabilities. According to CalVCB, its current Information Technology (IT) Security staffing levels (1.2 information security staff positions) are not adequate to implement and support the cybersecurity requirements of Cal-Secure.

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**8140 OFFICE OF THE STATE PUBLIC DEFENDER**

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**ISSUE 10: RECRUITMENT SUPPORT**

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**Recruitment Support.** The Governor's Budget proposes \$280,000 and 2.0 positions ongoing to support to support OSPD's efforts in recruitment and retention to diversify its staff. OSPD currently has a group of volunteer attorneys, human resources staff, and legal analyst staff who provide support on diversity hiring efforts at OSPD. The agency has a second committee of legal and support staff focusing on efforts related to retention and training on diversity, equity, and inclusion (DEI) related issues. The proposed positions will consolidate the existing separate volunteer committees into a cohesive effort to recruit and retain a diverse staff, as well as train staff on DEI issues. Other state agencies have made similar commitments of staff to support programs to promote DEI in the state including the Department of Justice and the California State Teacher's Retirement System.

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**Staff Recommendation: Hold Open.**

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This agenda and other publications are available on the Assembly Budget Committee's website at: <https://abgt.assembly.ca.gov/sub5hearingagendas>. You may contact the Committee at (916) 319-2099. This agenda was prepared by Jennifer Kim.