

AGENDA

ASSEMBLY BUDGET SUBCOMMITTEE NO. 5 ON PUBLIC SAFETY

ASSEMBLYMEMBER CRISTINA GARCIA, CHAIR

MONDAY, MARCH 15, 2021
2:30 PM, STATE CAPITOL – ROOM 437

Due to the regional stay-at-home order and guidance on physical distancing, seating for this hearing will be very limited for press and for the public. All are encouraged to watch the hearing from its live stream on the Assembly's website at <https://www.assembly.ca.gov/todaysevents>.

We encourage the public to provide written testimony before the hearing. Please send your written testimony to: 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.

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) and access code: [131 54 37](tel:1315437).

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0250 JUDICIAL BRANCH

ISSUE 1: JUDICIAL BRANCH OVERVIEW AND VARIOUS MAINTENANCE AND CONSTRUCTION BUDGET PROPOSALS

The Judicial Council will provide an overview of the Judicial Branch and its various budget proposals related to maintenance and construction.

PANELISTS

- Zlatko Theodorovic, Judicial Council
- Nancy Eberhardt, San Bernardino Superior Court
- Pella McCormick, Judicial Council
- Jesse Romine, Department of Finance
- Anita Lee, Legislative Analyst's Office

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 state's 58 counties, and statewide entities of the branch (the Judicial Council, the Judicial Council Facility Program, and the Habeas Corpus Resource Center). The branch receives support from several funding sources including the state 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.

Two Funds Support Trial Court Construction. Chapter 1082 of 2002 (SB 1732) shifted ownership and responsibility for maintenance of nearly all trial court facilities from the counties

to the state. It also gave Judicial Council the authority to construct future trial court facilities, including selecting projects to recommend for funding. Two special funds—the State Court Facilities Construction Fund (SCFCF) and Immediate and Critical Needs Account (ICNA)—generally support such construction. The Judicial Branch conducted a number of facility assessments to identify the construction projects that would be supported by these accounts.

- **SCFCF.** Senate Bill 1732 increased certain criminal and civil fines and fees and deposited the revenues into SCFCF to finance trial court construction and other facility-related expenses. Subsequent statute in 2007 prohibited additional expenditures above the amount appropriated in the 2007-08 Budget Act unless the fund could support already approved projects.
- **ICNA.** Chapter 311 of 2008 (SB 1407) increased certain criminal and civil fines and fees and deposited the revenues into ICNA to finance up to \$5 billion in trial court construction projects and other facility-related expenses. It also prohibited Judicial Council from approving projects that could not be fully financed with the revenue deposited into ICNA.

Since 2009-10, nearly \$1.6 billion has been transferred from SCFCF (\$239 million) and ICNA (\$1.3 billion) to the General Fund and to support trial court operations. Currently, a total of \$55.5 million is transferred annually to support trial court operations. These redirections were generally made during the fiscal downturn to reduce pressures on the General Fund. Over time, the amount of revenue into SCFCF and ICNA has steadily declined, largely due to a decline in criminal fine and fee revenue. It is currently estimated that each fund's 2020-21 revenues will be around 56 percent lower than their peak levels a decade ago.

All 14 trial court construction projects financed by SCFCF have been completed. Prior to the passage of the 2018-19 budget, 12 out of 42 ICNA projects had been completed. Of the remaining projects, 16 had been placed on hold, 11 were not initiated, and 3 were canceled due to a lack of sufficient revenues. The 2018-19 budget included \$1.3 billion in lease revenue bond authority backed by the General Fund to finance ten planned ICNA projects—nine that had been placed on hold and one that had not been initiated. These funds effectively backfilled the \$1.4 billion in transfers to the General Fund that occurred between 2009-10 and 2017-18.

As required by the 2018-19 budget package, Judicial Council reassessed its trial court needs in November 2019 and ranked projects according to its priorities. The reassessment identified a total of 80 projects—56 new buildings and 24 renovations—totaling an estimated \$13.2 billion. Roughly one-fifth of these projects are previously identified ICNA projects that were placed on hold or were never initiated. Judicial Council categorized projects into five groups in the following priority order: 18 immediate need (\$2.3 billion), 29 critical need (\$7.9 billion), 15 high need (\$1.3 billion), 9 medium need (\$1.6 billion), and 9 low need (\$100 million).

Impact of COVID-19 and Reduction in General Fund support in 2020-21. The 2020-21 budget included an ongoing \$176.9 million reduction in General Fund support for trial court operations. However, the budget also included a \$50 million one-time General Fund augmentation for trial court operations. This funding was provided to help address the backlog of cases that accumulated as a result of the COVID-19 pandemic. As a result, trial courts were

only required to reduce operational expenditures by \$126.9 million in 2020-21. Given differences in the way trial courts operate, each court took different one-time and ongoing actions to reduce expenditures in the current year. Regarding its operation, the Judicial Council has shared, “After a significant drop in the early months of the pandemic due to shelter in place orders, court filings for many case types returned to pre-pandemic levels. Building on foundations from previous technology investments, the Judicial Branch quickly implemented a number of measures to continue providing safe access to justice for the people of California.” The Judicial Council surveyed trial courts on the impact of the pandemic on its operations and offered a summary of the preliminary¹ findings:

1. Technology and other operational enhancements help maintain safe access to justice –most courts implemented new technology solutions to provide remote and online services while court users shelter in place or work from home.
2. Self-help centers remain open and now provide the majority of assistance remotely. Court processing slows down due to physical social distancing requirements and impacts of workforce availability.
3. Workforce shifts and redirections occurred for 5-10% of employees for pandemic specific tasks and new responsibilities. Due to pandemic related absences and a 10% budget cut in the current year, some available workforce days were reduced.
4. Judicial officer availability not significantly impacted by pandemic related leaves.
5. Judicial officer assignments for specific case types remains consistent with pre-pandemic levels.
6. Continuances for civil and criminal cases increase on average 11% with civil cases being affected less than criminal cases.
7. Average days elapsed from filing to disposition for civil unlimited cases (including complex civil cases) increases 18%.
8. Change in average number of hearings per case for civil, criminal, and traffic vary based on local constraints and process changes. Some increased, some decreased, and some stayed the same.

Proposed Funding

The Governor’s Budget proposes \$4.2 billion (General Fund and Special Funds) and 1,731.2 positions to support the operations of the Judicial Branch. Approximately \$3.1 billion, an increase of \$57 million above the revised total for 2020-21, is for trial court operations. The proposed budget includes: (1) \$72.2 million ongoing General Fund, which represents an overall increase of 3.7 percent compared to the 2020 Budget Act; and, (2) \$39.1 million ongoing General Fund

¹ The Judicial Council states the survey results are preliminary and some follow up is needed with courts to confirm the submissions.

for trial court employee health benefit and retirement costs. Earlier this year, the Governor signed SB 91 (Chapter 2, Statutes of 2021) to extend the moratorium on evictions for non-payment of rent due to hardship from COVID-19. The extension period is through June 30, 2021 and \$11.7 million one-time General Fund was included in 2020-21 for trial courts to process increases in unlawful detainer and small claims filings resulting from AB 3088 (Chapter 37, Statutes of 2020).

The Governor's Budget also proposes trailer bill language to consolidate the SCFCF and ICNA, which would allow the ICNA fund balance to be used to prevent the SCFCF from becoming insolvent in the budget year. This delays the need to address the insolvency issues until the combined account becomes insolvent and is unable to meet its current obligations. The following lists the various maintenance and construction proposals:

1. Lake County—New Lakeport Courthouse. The Governor's Budget requests \$1.63 million General Fund to the Judicial Council for the Performance Criteria and \$66.6 million in lease revenue bond authority for the Design Build phase of the Lake County—New Lakeport Courthouse. The project includes the design and construction of a new 4 courtroom courthouse in the city of Lakeport and will replace the existing courthouse. The total estimated project costs is \$73.13 million.

2. Los Angeles County Master Plan. The Governor's Budget requests \$2.35 million General Fund to the Judicial Council to complete a study for the Superior Court of Los Angeles to analyze and develop a plan for improving and modernizing Los Angeles County court facilities. SB 847 required the Judicial Council to reassess projects identified in its Trial Court Capital Outlay Plan and Prioritization Methodology which is the basis for the judicial branch's Trial Court Five-Year Infrastructure Plan (Plan), which was submitted to the respective budget committees in 2010. The Plan established project rankings based on a number of factors and identified seventeen courthouse projects in Los Angeles County at an estimated cost of over \$6 billion. The requested study would assist in developing a long-range facility plan that minimizes adverse impacts on the court program and operations.

3. Mendocino County—New Ukiah Courthouse. The Governor's Budget requests \$3.33 million General Fund to the Judicial Council for the Performance Criteria phase of the Mendocino County—New Ukiah Courthouse resulting in a new 7 courtroom courthouse in Ukiah. The estimated total project cost is \$118.13 million.

4. Nevada County—New Nevada City Courthouse. The Governor's Budget requests \$972,000 General Fund to the Judicial Council to initiate a Planning Study for the Nevada County—New Nevada City Courthouse which will compare the merits and disadvantages of a minimum of 3 options for the Nevada Court, including renovating the courthouse, replacing all or part of the courthouse and building a new courthouse.

5. One-Time Deferred Maintenance Allocation. The Governor's Budget requests \$30 million one-time General Fund in 2021-22 to the Judicial Council for deferred maintenance in trial and appellate courts to support modernization of building management systems, HVAC, elevators, and roof replacements identified in the 2021-22 deferred maintenance list.

6. Trial Court Facility Modifications. The Governor's Budget requests \$18.9 million General Fund in 2021-22 and \$48.8 million in 2022-23 for the Judicial Council's estimated share of the total cost of trial court facility modification projects that resolve deficiencies by expanding the fire and life safety systems at the Central Justice Center in Orange County and correction fire and light safety deficiencies at the East County Regional Center in San Diego County.

7. Trial Courts and Courts of Appeal Facilities, Maintenance, and Leases. The Governor's Budget requests \$53.5 million ongoing General Fund and 5 positions to the Judicial Council to support facilities services costs for trial courts and Courts of Appeal. This includes \$52.4 million for trial court facilities program costs that provide for operations and maintenance at an industry standard level, unfunded leased trial court space, and additional staff to oversee the program, and \$1.1 million for Court of Appeal facilities program costs to fund operations and maintenance at an industry standard level.

LEGISLATIVE ANALYST'S OFFICE (LAO)

The LAO makes the following recommendations regarding the various proposals related to trial court construction:

1. Approve Governor's Approach to Fund New Projects from General Fund. We recommend the Legislature approve the Governor's new approach to fund new trial court construction projects from the General Fund. This approach helps ensure that any new construction projects are weighed against the Legislature's other General Fund priorities.

2. Shift Responsibility for Current SCFCF and ICNA Obligations to General Fund as well, rather than Consolidate Accounts. In order to fully address the pending insolvency of the two existing construction accounts on a permanent basis, we recommend the Legislature eliminate the accounts and shift their current obligations on already completed projects to the General Fund. This helps ensure that any General Fund construction-related obligations are fully accounted for and considered when evaluating the state's overall fiscal condition and determining General Fund spending priorities. To the extent the Legislature does not want to eliminate SCFCF and ICNA and shift their obligations to the General Fund, we would recommend approving the Governor's proposal to consolidate the two accounts.

3. Shift Non-construction-Related SCFCF and ICNA Expenditures to the General Fund. To maintain support for the non-construction expenditures supported by the construction accounts, we recommend appropriating from the General Fund \$65 million for facility modification projects, \$40 million for facility personnel and operating costs, and \$55.5 million for trial court operations—a total of \$160.5 million annually. (We note this amount would decline to \$145.5 million in 2024-25 due to the expiration of an SCFCF facility modification budget request approved in 2014-15.)

4. Shift SCFCF and ICNA Revenues to the General Fund. To partially offset the costs shifted to the General Fund, we recommend the Legislature deposit all construction account revenue into the General Fund. (We note that, due to legal limitations on the use of revenues, the civil fee revenue might need to be deposited into a special fund supporting trial court operations with a corresponding reduction in the total amount of General Fund support for trial court operations.)

5. Appropriate Funding for Trial Court Construction Based on Legislative Priorities. We recommend the Legislature determine which specific construction projects to fund based on its priorities, which may or may not include any of the projects currently proposed by the Governor or the judicial branch. The Legislature's construction priorities may also differ from the prioritization identified in the 2019 reassessment.

Staff Recommendation: Hold Open.

ISSUE 2: ACCESS TO JUSTICE: BUDGET PROPOSALS SUPPORTING LOW-INCOME AND UNREPRESENTED LITIGANTS; PROPOSED TRAILER BILL FOR REMOTE PROCEEDINGS IN CIVIL MATTERS

The Judicial Council will provide an overview of proposals to expand access to low income and unrepresented litigations. The Judicial Council will also provide an overview of proposed trailer bill to allow for remote proceedings in all civil matters.

PANEL 1 SELF-HELP CENTERS

- Bonnie Hough, Judicial Council
- Anita Lee, Legislative Analyst's Office
- Jesse Romine, Department of Finance

BACKGROUND

Self-Help Centers. The 2018 Budget Act provided \$19.1 million General Fund for 3 years to support self-help centers in courts and included a requirement directing the Judicial council to conduct a comprehensive cost-benefit analysis of self-help services to provide the Legislature with information to assess the efficacy of centers and determine what level of funding would be warranted. The Judicial Council submitted a report in January 2021 but it did not provide a complete cost-benefit analysis. Specifically, it did not include the following: (1) calculating the monetary value of identified benefits; (2) identifying the corresponding costs; and, (3) identifying the net benefit of the various self-help delivery methods by case type. Without this important information, it is difficult for the Legislature to determine what level of funding is warranted and how such funding should be used to maximize its impact.

Proposed Funding

1. Self-Help Centers in Trial Courts. The Governor's Budget requests \$19.1 million ongoing General Fund to the Judicial Council to allow California's trial courts to maintain self-help services for unrepresented litigants. Expansion of self-help services in trial courts have enabled courts to expand the types of legal cases served and the number of litigants serves from 444,000 to over 1,011,000 people per year. It has been reported that 16% of low-income people in California who receive legal assistance receive it from court based self-help centers. As a response to the pandemic, self-help centers have adapted their operations to provide more remote services, including expanding phone assistance, and email correspondence.

PANEL 2 ABILITY TO PAY EXPANSION

- Shelley Curran, Judicial Council
- Heather Pettit, Judicial Council
- Anita Lee, Legislative Analyst's Office
- Jesse Romine, Department of Finance

BACKGROUND

Online Adjudication of Infractions. Individuals charged with traffic infractions or misdemeanors can resolve their cases in various ways, such as not to contest a violation and submit payment or contest the violation before the court, such as through an in-person trial or in writing (referred to as a “trial by written declaration”). To determine how much is owed, individuals may request the court to consider their ability to pay. Judges can reduce or waive fines and fees or provide an alternative sentence, such as community services. Individuals can either pay the full amount or can set up an installment plan. If the payments become delinquent, state law authorizes collections programs to use a variety of sanctions, including wage garnishments. The collected revenue from these fines and fees are distributed to state and local funds that support various programs, including five special funds that support the judicial branch—the Trial Court Trust Fund (TCTF), the State Trial Court Improvement and Modernization Fund (IMF), the State Court Facilities Construction Fund (SCFCF), the Immediate and Critical Needs Account (ICNA), and the Court Facilities Trust Fund (CFTF). The 2018-19 budget package authorized a pilot program through January 1, 2023 to facilitate online adjudication of certain aspects of traffic infractions at a minimum of eight courts and allow individuals to request ability-to-pay determinations.

Proposed Funding

Ability to Pay Expansion. The Governor’s Budget requests \$12.3 million General Fund in 2021-22, increasing to \$58.4 million ongoing by 2024-25 and 8 positions to the Judicial Council to support statewide court operations for adjudicating all types of infractions with online options, including processing ability to pay determinations. This request also includes estimated backfill (\$7.9 million in 2021-22, \$18.9 million in 2022-23, \$40.7 million in 2023-24, and \$55.8 million annually thereafter) to the judicial branch for the estimated loss in revenue as a result of the penalty reductions. The 2018 Budget Act included \$3.4 million to design, deploy, and maintain software to adjudicate traffic violations online, including ability to pay determinations, in eight pilot courts. As of November 2020, Shasta, Tulare, Ventura, San Francisco, Santa Clara and Fresno pilot courts are all live with online ability to pay determination processing. Monterey County will be live by January 2021. As of December 15, 2020, over 12,000 ability to pay determinations have been submitted and the total overall reduction in fees is approximately \$4.29 million. This proposal seeks to expand the program statewide to all 58 counties, projecting that at full implementation, 600,000 ability to pay determinations would be processed.

Additionally the Governor’s Budget proposes trailer bill language authorizing the trial courts to conduct all infraction proceedings remotely, including arraignments and trials, upon consent of the defendant. This authorization means that courts could conduct infractions using online tools other than the one developed by the Judicial Council, including video conferencing. Some courts are currently using video conferencing on an emergency basis due to the pandemic and this trailer bill would extend this authorization.

Staff Comment. The Subcommittee is in receipt of correspondence from a number of organizations including the Western Center on Law and Poverty, the Lawyer’s Committee on Civil rights, Insight Center, and others that request the Subcommittee reject the Ability to Pay

Expansion budget proposal and instead abolish civil assessment fees that would provide more extensive debt relief to Californians in a manner that is consistent across the state. They state the relief offered by the Judicial Council's pilot is insufficient, discretionary, and inconsistent based on the county from which the person is seeking relief. For example, the pilot offered a reduction of 76% for residents in San Francisco and Santa Clara County, but only 41% in Ventura County. They further state that eliminating civil assessments would "deliver a more uniform benefit to Californians across counties and courtrooms." They cite jaywalking as an example where an added civil assessment can raise a base fine of \$25 to \$325. This does not include other added fees that could raise the total fine to \$522.

PANEL 3 REMOTE CIVIL PROCEEDINGS TRAILER BILL

- Robert Oyung, Judicial Council
- Judge Tara Desautels
- Jesse Romine, Department of Finance
- Anita Lee, Legislative Analyst's Office

BACKGROUND

Remote Civil Proceedings. The Governor's Budget proposes trailer bill language to allow for remote proceedings in all civil actions, including trials and evidentiary hearings. The proposed language is as follows:

SECTION 1. Section 367.7 is added to the Code of Civil Procedure, to read:

367.7. (a) Notwithstanding any other law, a court may, as appropriate and practicable, do the following:

(1) Conduct proceedings remotely through the use of technology in civil actions, including trials and evidentiary hearings.

(2) Allow any person, including a court user, court participant, court personnel, or judicial officer to participate in a civil proceeding without being physically present in the courtroom.

(b) Consistent with its constitutional rulemaking authority, the Judicial Council may adopt rules to implement the policies and provisions in this section.

(c) It is the intent of the Legislature that this section be interpreted broadly to provide safe and reliable access to justice.

LEGISLATIVE ANALYST'S OFFICE (LAO)

Self-Help Centers. The LAO has the following recommendations for the Self-Help Centers Budget Proposal:

1. Direct Judicial Council to Use External Researcher to Complete Cost-Benefit Analysis. We recommend the Legislature adopt budget trailer legislation directing Judicial Council to contract with an external researcher to complete a cost-benefit analysis of self-help services, as well as to provide recommendations on how funding can be allocated by delivery method and case type to maximize the benefit to members of the public and to the court. This report should be due to the Legislature no later than November 30, 2022 in order to inform legislative decisions on self-help funding for the 2023-24 budget. (This complements the recommendation below that funding only be provided through 2022-23.) We anticipate that the external researcher will be able to make use of the data and information collected by the judicial branch to prepare its submitted report, but may need to supplement this information. As such, we anticipate that costs should not exceed a couple hundred thousand dollars. We find that this cost could be absorbed by the judicial branch within its existing resources.

2. Provide Funding for Two Years. In order to prevent a reduction in self-help services pending the completion of the above cost-benefit analysis and help maintain the equity-related benefits of the previously provided funding, we recommend the Legislature approve the Governor's proposed funding for self-help centers, but only on a two-year, limited-term basis. Moreover, we would note that such services are arguably more important during the COVID-19 pandemic. For example, more individuals may no longer be able to afford legal representation or assistance.

3. Consider Provisional Language Prioritizing Use of Funding. The Legislature may want to consider adopting provisional language to specify its priorities for the use of self-help center funding. As mentioned above, a number of self-help centers have pivoted in response to the pandemic to provide more services remotely rather than in person in court facilities. The Legislature could specify that a minimum portion of the funding must be used to provide services remotely (such as by using video conferencing or screen-sharing technologies) in order to increase the ways members of the public can access the courts. While this is particularly important during the pandemic when in-person public access to the court may be limited, it could also be beneficial to maintain on an ongoing basis for certain court users—such as those who would need to travel far distances to visit the court—under normal circumstances.

Ability to Pay Expansion. The LAO provides the following assessment and recommendations regarding the Ability to Pay Expansion Budget Proposal.

Assessment. As of November 2020, six courts offered the online ability-to-pay component of the pilot tool. A seventh court began offering this component in January 2021. The judicial branch reports that a total of nearly 11,000 requests were submitted (with nearly 77 percent approved) by 6,865 litigants between April 2019 and October 2020 across five out of six courts. (Data from the sixth court was not reported.) Around half of these litigants reported that they received public benefits and 87 percent reported incomes below the federal poverty level. These submitted requests resulted in a few million dollars in reduced fines and fees, with the average amount owed per request being cut nearly in half.

Various components of the tool are still in the process of being finalized and implemented. For example, online trials will not begin to be tested and implemented in any of the courts until spring 2021. The impacts of these additional components are currently unknown and could increase

the total costs associated with the proposal. We also note that the total net impact of this tool on court operations and costs is unknown.

Existing state law requires the judicial branch to complete an evaluation of the pilot program by June 30, 2022. The purpose of the pilot is to determine the overall costs, effectiveness, and impacts of the specified pilot activities. Such information is intended to inform future policy and funding decisions by the Legislature regarding online adjudication and ability-to-pay determinations, including the trade-offs of certain choices. Without the results of the pilot, the Legislature would be unable to fully understand the costs and benefits of such choices.

LAO Recommendations

1. Reject Budget Trailer Legislation. We recommend the Legislature reject the proposed budget trailer legislation that would cancel the pilot and expand the existing online adjudication tool statewide. More complete data is necessary to accurately determine the impact of the various activities being tested in the pilot program that is currently in progress. The forthcoming evaluation of the pilot would allow the Legislature to assess the effectiveness and impacts of specific pilot activities, which will better inform future legislative policy and funding decisions.

2. Only Approve Funding Requested for 2021-22. To the extent the Legislature is interested in providing more lower-income individuals with access to the tool and its ability-to-pay component, we recommend the Legislature only provide \$12.3 million (the amount requested for 2021-22) in order to support the proposed expansion of the tool to ten additional courts in the budget year. This action would avoid delay in providing more lower-income individuals with financial relief and promoting increased equity while the currently required evaluation is being completed. Moreover, providing funding only for the budget year would prevent the program from automatically continuing to expand in subsequent years before the Legislature has the opportunity to determine what changes, if any, need to be made after receiving the evaluation.

3. Approve Provisional Language. We recommend the Legislature approve the proposed provisional language authorizing DOF to determine the distribution of the General Fund backfill revenues among the various judicial branch special funds impacted by this proposal. This is a technical adjustment that ensures that the revenue deposited into each special fund is commensurate with the revenue loss due to this proposal.

Staff Recommendation: Hold Open.

0820 DEPARTMENT OF JUSTICE

ISSUE 3: DEPARTMENT OVERVIEW VARIOUS AND DEPARTMENT BUDGET PROPOSALS

The Department of Justice (DOJ) will provide an overview of the Department and its various budget proposals.

PANELISTS

- Chris Ryan, Department of Justice
- Barry Miller, Department of Justice
- Anita Lee, Legislative Analyst's Office

BACKGROUND

Under the direction of the Attorney General, the DOJ provides legal services to state and local entities, brings lawsuits to enforce public rights, carries out various law enforcement activities, collects criminal justice statistics from local authorities, manages the statewide criminal history database, conducts background checks required for firearm purchase, licensing, and other purposes, and provides various services to local law enforcement agencies including the provision of forensic services

Proposed Funding

The Governor's budget proposes approximately \$1.1 billion (\$358 million General Fund) to support DOJ operations in 2021-22.

1. Healthcare Rights and Access Division Workload. The Governor's Budget requests 10 positions and \$2.1 million Public Rights Law Enforcement Special Fund in 2021-22 and ongoing to the DOJ to address the workload related to healthcare rights and access. The 2020 Budget Act included 27 positions and \$6.6 million of ongoing funding to establish the Healthcare Rights and Access Section.

2. Controlled Substance Utilization Review and Evaluation System (CURES). The Governor's Budget requests \$484,000 reimbursement authority for the DOJ in 2021-22 and ongoing to support the CURES Program. The Department of Consumer Affairs is responsible for reimbursing the DOJ for the maintenance and operation of the CURES system via an interagency agreement. A commensurate CURES Fund augmentation has been included in the Department of Consumer Affairs' budget to support this proposal.

The 2019 Budget Act included two year limited-term funding associated with four help desk positions (two Associate Governmental Program Analysts and two Staff Service Analysts) for the CURES Program, which expire on June 30, 2021. This proposal seeks to make these positions permanent. According to the DOJ, the CURES system usage has remained steady

with the volume of requests for access assistance, CURES usage training, and other related inquiries. In 2019, the CURES program received an average of 4,834 calls and emails per month.

3. Northern Region: Consolidated Forensic Science Laboratory Campus. The Governor's Budget requests \$6.54 million General Fund to the DOJ to support the performance criteria phase of a consolidated forensic laboratory and office space in the Sacramento region for the Bureau of Forensic Services (BFS). This request reflects a consolidated campus to house the BFS's Richmond DNA Laboratory, Sacramento Regional Crime Laboratory, California Criminalistics Institute (CCI), and Headquarters staff. The estimated total project costs are \$434.58 million.

4. DNA Identification Fund Backfill. The Governor's budget proposes \$16 million to backfill a projected decline in criminal fine and fee revenue in the DNA Identification Fund in order to maintain existing service levels in the budget year. Specifically, the budget proposes: (1) a \$6 million ongoing General Fund augmentation in 2021-22 (increasing to \$18.3 million annually beginning in 2022-23); and, (2) an ongoing redirection of \$10 million General Fund from the California Justice Information Services Division (CJIS). As a result of these proposed actions, the Governor's budget includes \$94 million in total operational support for BFS in 2021-22, nearly the same as the current year. The Governor proposes to backfill the \$10 million redirection from CJIS from another DOJ special fund—the Fingerprint Fees Account (FFA). (FFA cannot directly backfill BFS due to statutory limits on how the funds in FFA can be used.)

LEGISLATIVE ANALYST'S OFFICE (LAO)

DNA Identification Fund Backfill. The LAO provides the following assessment and recommendations:

Assessment. While the Governor's backfill proposal would address the decline in revenue deposited into the DNA Identification Fund and maintain current BFS service levels, it is unclear if the FFA redirection is sustainable. FFA generally receives revenues from fees charged for employment- or licensing-related background checks. FFA revenues are projected to decline. Specifically, revenues in 2019-20, 2020-21, and 2021-22 are estimated to be nearly 25 percent lower than 2018-19 levels. If revenues do not sufficiently increase, FFA may become insolvent in 2022-23.

In addition, a large share of BFS resources are dedicated to providing forensic services to local law enforcement and prosecutorial agencies, which are predominantly responsible for collecting and submitting forensic evidence for testing and using the evidence to pursue criminal convictions. However, certain counties and cities benefit significantly more than others. Specifically, BFS effectively subsidizes agencies in 46 counties that generally do not use any of their own resources for criminal laboratory services. Since BFS does not charge for its services, local agencies lack incentive to prioritize what forensic evidence is collected and submitted for testing. Submissions are generally only limited by BFS's overall capacity and funding. In contrast, the 12 counties and 8 cities that support their own labs—and those agencies that pay

to use private laboratories—have greater incentive to carefully prioritize what evidence should be tested and how quickly it should be done.

LAO Recommendations

1. Approve Governor’s Proposed Backfills for Two Years We recommend the Legislature approve the Governor’s proposed backfill proposal, but only for two years to ensure FFA can provide the level of support proposed on an ongoing basis. This would also support BFS until the new funding framework discussed below can be implemented.

2. Require Local Governments to Partially Support BFS Beginning in 2023-24. Given the substantial benefit that local agencies receive from BFS services, we recommend the Legislature take steps to require local agencies to partially support BFS beginning in 2023-24. Agencies would be required to pay for a portion of services they receive, providing greater incentive to prioritize workload submitted to DOJ. The delayed implementation date provides time for DOJ to calculate each agency’s share of costs and to allow agencies to adapt to the new funding framework.

3. Require DOJ Develop Plan for Calculating Local Government’s Share of BFS Support We recommend the Legislature direct DOJ to submit a plan for calculating each local agency’s share of the BFS services it uses—including operating and facility costs—and report on this plan no later than October 1, 2022 to allow for its consideration as part of the 2023-24 budget. We recommend the Legislature provide guidance on the development of this plan. This includes requiring that at least half of BFS operating revenues come from local agencies, in order to generally reduce the need for the General Fund to support BFS costs on an ongoing basis. DOJ would have flexibility to develop the specifics of the plan after consulting with stakeholders. For example, DOJ could require local agencies to pay more or less based on various factors—such as the specific type of forensic service sought, the speed of the service, or the size of the agency.

4. Consider Facility Proposal After Implementing New Funding Structure. We recommend the Legislature reject the Governor’s facility proposal until the new funding framework is implemented. The new framework would incentivize local agencies to find the most cost-effective way to obtain laboratory services. This could impact the volume and type of cases sent to BFS, which could then require BFS to modify the amount or type of services it provides or how it provides such services. Changes to BFS’s overall workload or organization could change its need for the proposed consolidated forensic science laboratory campus.

STAFF COMMENT

The Subcommittee is in receipt of letters from stakeholders that express concern regarding the Consolidated Forensic Science Laboratory Campus. Correspondence from the Mayor of the City of Richmond and the District 1 Supervisor of Contra Cost County request that the DNA Laboratory in Richmond be excluded from the consolidation proposal. They state that in addition to the 120 state positions at the Richmond lab, there are additional facility engineering staff and technicians, janitorial staff, and security staff. Further, they state that the Richmond lab helps to attract Life Science organizations that provide a wide variety of quality employment opportunities

ranging from entry level administrative work to lab technicians, and post-graduate degree positions. They state that the Richmond lab provides significant credibility to the City of Richmond and Contra Costa County in this field of work.

Correspondence from other stakeholders state the following:

- As an internationally recognized center of innovation and excellence in DNA forensic analysis, the Richmond laboratory is equipped with specialized training and presentation facilities that are used to train criminalists from around the world. Those visitors also support the local food and hospitality sector.
- DOJ staff participate in scientific outreach programs at both the high school and college level including participation in scientific career days for East Bay high school students.
- The Richmond laboratory was planned, designed, constructed and equipped to meet the exact requirements of the various DOJ DNA programs. Over \$23 million of tax payers' funds has already been invested into the facility. The laboratory buildings and highly specialized infrastructure and equipment are operated and maintained by Wareham Property Group, recognized experts in this field, and are in excellent condition. The facility is not yet fully utilized and there is room for expansion. The building infrastructure and equipment is more than capable of sustaining multi-shift operations should workload increases dictate.
- Given the multiple challenges facing the State of California, it is difficult to understand why a sum of this magnitude would be committed to re-create a top-class highly specialized facility that already exists, meets the exacting requirements of the forensic scientists, and is located only 75 miles away with good access by road and rail.

Staff Recommendation: Hold Open.

ISSUE 4: BUDGET PROPOSALS TO IMPLEMENT ENACTED LEGISLATION

The Department of Justice (DOJ) will provide an overview of the various budget proposals to implement recently enacted legislation.

PANELISTS

- Chris Ryan, Department of Justice
- Marc St. Pierre, Department of Justice

Proposed Funding

1. Police Use of Force (AB 1506). The Governor's Budget requests 67 positions and \$13 million General Fund in 2021-22, and \$13.5 million annually thereafter, to the DOJ to establish three teams, one in each of the northern, central, and southern regions of California, to conduct investigations across the state per the mandates of Chapter 326, Statutes of 2020 (AB 1506). Commencing July 1, 2023, the Attorney General is required to operate a Police Practices Division to review, upon the request of a local law enforcement agency, the use of deadly force policies of that law enforcement agency, and make recommendations. AB 1506 requires the DOJ to investigate officer involved shootings (OIS) that result in the death of an unarmed civilian, prepare a written report, and post all reports on a public internet website. AB 1506 eliminates the Attorney General's discretion to conduct an investigation regarding a local law enforcement officer's use of deadly force or a local agency's deadly force policies. DOJ does not require law enforcement agencies (LEAs) to pay penalties or to cover DOJ's costs of reviewing cases, and does not anticipate requiring LEAs to reimburse any costs for compliance with AB 1506 implementation.

Data collected pursuant to Government Code section 12525.2 showed that that, on average, 140 civilians are killed in an OIS on an annual basis. Approximately 20 of these cases involve civilians who are unarmed with any type of weapon. Of the remaining 120 cases, an average of 9 cases involved a civilian armed with a replica firearm, which does not qualify as a deadly weapon under the current definition of "unarmed civilians." In addition, 10 to 12 cases involve civilians armed with objects that do not qualify as deadly weapons under the definition of AB 1506. DOJ projects approximately 40 OIS investigations annually.

Staff Comment: According to a letter submitted by the Department of Justice to the Subcommittee, the DOJ states that their updated fiscal estimate for implementing AB 1506 is \$26 million in 2021-22, \$22 million in 2022-23, and increasing to \$30 million in 2023-24 and annually thereafter. The DOJ states that \$22 million is required for criminal investigation and prosecution responsibilities and \$8 million for the Police Practices Division. Funding for the Police Practices Division was not included in the proposed Governor's Budget. DOJ further states that their Division of Law Enforcement (DLE) will need to hire 57 permanent positions to perform the criminal investigations, and its Criminal Law Division (CLD) will need to hire 13 attorneys and 9 legal support for the prosecution function. The Governor's Budget proposal provides 34 positions for DLE and 12 positions for the CLD. In addition, the DOJ estimates

needing \$4 million for its Civil Law Division, Division of Operations, and the Directorate Division for various other duties including responding to public records requests and review/redact audio and video footage for each investigation.

2. Juvenile Court and Probation Statistical System (SB 823). The Governor's Budget requests \$1.9 million General Fund in 2021-22 and \$1 million in 2022-23 to the DOJ to convene a working group necessary to submit a plan for the replacement of the Juvenile Court and Probation Statistical System (JCPSS) with a modern database and reporting system as required by Chapter 337, Statutes of 2020 (SB 823).

Staff Comment: SB 823 provided for the realignment of the Division of Juvenile Justice to the counties and among its provisions included a requirement for the DOJ to submit a plan to the Legislature to replace the outdated JCPSS system that currently provides incomplete and inconsistent data on youth in the juvenile justice system.

3. Firearms Dealers: Conduct of Business (AB 2362). The Governor's Budget requests \$301,000 Dealers' Record of Sale Special Account in 2021-22 and \$139,000 annually thereafter to the DOJ to promulgate regulations and track violations per the mandates of Chapter 284, Statutes of 2020 (AB 2362). AB 2362, commencing July 1, 2022, grants DOJ authority to issue civil fines against non-compliant firearms dealers and license holders (e.g., ammunition vendors, firearms manufacturers, exempted federal firearms licensees, and firearm manufacturers).

Staff Comment: The Assembly Appropriations Committee analysis for AB 2362 estimated costs to the DOJ of \$213,000 in 2020-21, \$676,000 in 2021-22, \$537,000 in 2022-23, \$371,000 in 2023-24 and \$175,000 annually thereafter in additional staff for licensing and enforcement.

4. Firearms: Inspections (AB 2061). The Governor's Budget requests 2 positions and \$152,000 Dealers' Record of Sale Special Account in 2021-22, \$600,000 in 2022-23, and \$445,000 annually thereafter to the DOJ to inspect gun shows per the mandates of Chapter 273, Statutes of 2020 (AB 2061). AB 2061 authorizes DOJ to inspect all vendors at California gun shows and allows DOJ to allocate essential positions to work in collaboration to ensure the compliance of criminal and regulatory law, and to act as a visible deterrence against firearms trafficking and illegal acquisitions of firearms by prohibited persons.

Staff Comment: The Assembly Appropriations Committee analysis estimated costs to the DOJ of \$153,000 in 2021-2022, \$2.5 million dollars in 2022-2023, and \$2.1 million dollars annually thereafter for 11 additional staff and equipment, but final costs will depend on the number of compliance inspections and the number of gun shows.

5. Firearms: Unsafe Handguns (AB 2847). The Governor's Budget requests \$674,000 Dealers' Record of Sale Special Account in 2021-22 and \$1,252,000 in 2022-23 to the DOJ to make necessary information technology changes to meet the mandates of Chapter 292, Statutes of 2020 (AB 2847). AB 2847 reduces the requirement for firearms on the handgun roster from having a microstamp in two or more places to one. The purpose is to encourage manufacturers to introduce firearms with modernized safety features and single microstamping into the California marketplace.

Staff Comment: The Assembly Appropriations Committee analysis estimated one-time costs of between \$150,000 and \$300,000 for DOJ to draft and accept public comment on new regulations related to new Roster requirements and changes to the microstamping technology requirements and ongoing costs beginning in 2022-23 and annually thereafter in the low hundreds of thousands of dollars for DOJ to test firearms for microstamping ability and inclusion on the Roster. The analysis also stated that the total cost will depend on the number of firearms submitted to DOJ for microstamp testing.

6. Task Force to Study and Develop Reparation Proposals for African Americans (AB 3121). The Governor's Budget requests \$1.1 million General Fund in 2021-22 and 2022-23 to the DOJ to support the Task Force to Study and Develop Reparation Proposals for African Americans as required by Chapter 319, Statutes of 2020 (AB 3121). DOJ will oversee the Task Force, which will consist of nine members appointed by a specific selection process. During the Task Force's two-year effective period, the Task Force will be required to compile a detailed report on slavery in the United States, and recommend the methods, forms, and eligibility criteria for compensation related to slavery. Ultimately, the Task Force is required to produce a written report of its findings and recommendations to the Legislature. The DOJ will be required to provide administrative, technical, and legal assistance to the Task Force.

Staff Comment: The Assembly Appropriations Committee analysis for AB 3121 estimated costs in the hundreds of thousands to low millions of dollar in administrative, technical, and legal staff (as well as infrastructure and travel costs).

7. Secondhand Goods: Reporting Requirements (AB 1969). The Governor's Budget requests \$491,000 Secondhand Dealer & Pawnbroker Fund in 2021-22 and \$114,000 in 2022-23 to the DOJ to perform database upgrades and modifications to comply with the mandates of Chapter 185, Statutes of 2020 (AB 1969). Effective January 1, 2023, AB 1969 exempts a seller or pledger who verifies their identity using a Matricula Consular from the requirements that their name and current address be included in the information reported to California Pawn and Secondhand Dealer System.

Staff Comment: The Assembly Appropriations Committee analysis estimated one-time costs of approximately \$700,000 2020-21 and approximately \$170,000 in 2021-22 to the DOJ to perform database upgrades and modifications.

8. Personal Information: State Agencies (AB 499). The Governor's Budget requests \$425,000 General Fund in 2021-22 and \$168,000 in 2022-23 to the DOJ to make necessary information technology upgrades to implement the mandates of Chapter 155, Statutes of 2020 (AB 499). Beginning January 1, 2023, AB 499 prohibits a state agency from sending outgoing United States mail to an individual if the mail contains the individual's full social security number unless the number is truncated to its last four digits. By September 1, 2021, this bill requires state agencies to report to the Legislature on why full social security numbers are included on any mailed documents.

Staff Comment: The Assembly Appropriations Committee analysis did not include specific costs to the DOJ but indicated costs in the millions of dollars annually in additional staff and infrastructure to state agencies such as the Department of Motor Vehicles to provide appropriate identity theft prevention and mitigation services if it sends out a person's Social Security Number. An updated Senate Appropriations Committee Analysis estimated up to \$1 million in costs for the DOJ's Criminal Justice Information Services.

Staff Recommendation: Hold Open.

0530 HEALTH AND HUMAN SERVICES AGENCY

ISSUE 5: OFFICE OF YOUTH AND COMMUNITY RESTORATION

The Health and Human Services Agency (HHS) will provide an overview of the proposal to establish the Office of Youth and Community Restoration (OYCR). The Department of Finance will provide an overview of the proposal to provide county probation departments with \$50 million in one-time General Fund.

PANEL 1 \$50 MILLION GENERAL FUND TO PROBATION

- Justin Adelman, Department of Finance
- Luke Koushmaro, Legislative Analyst's Office

Proposed Funding

The Governor's Budget included a one-time early action proposal of \$50 million General Fund for probation departments to support the implementation of SB 823 and AB 1950. SB 823 effectuated the realignment of the Division of Juvenile Justice (DJJ) and AB 1950 reduced probation terms for certain misdemeanor and felony offenses. In a follow up memo to staff, the Department of Finance states that the \$50 million is intended to provide "start-up funding" so that county probation departments can flexibly spend in the manner most appropriate for their populations.

The Department of Finance has stated that the methodology for allocation to probation departments will be based 66% on previous DJJ commitments and 33% on adult probation data. Each county probation department will receive a minimum of \$50,000 and funding will be dispersed by the State Controller's Office based on a schedule created by the Department of Finance. According to this allocation plan, 24 counties would receive less than \$100,000 and of the 24, 15 counties would only receive the minimum \$50,000. Under this proposed allocation schedule it is unclear how impactful \$50,000-\$100,000 in resources would be for 24 of the state's 58 counties.

Staff Comment

SB 823: Based on available data, there are approximately 4,000 youth annually who are eligible to be sent to DJJ. In practice, approximately 300 are actually sent annually and the vast majority of counties treat DJJ eligible youth locally. The majority of county juvenile facilities have a significant number of empty beds (discussed below in the Office of Youth and Community Restoration proposal) due to factors such as significant declines in youth crime along with, additional investments in diversion and restorative justice programs. As part of SB 823, at full implementation, counties are provided with \$209 million General Fund annually based on an average daily population of 928 youth (\$225,000 per youth, per year). In addition, SB 823 provided \$9.6 million General Fund to establish a Youth Programs and Facilities Grant.

According to a BSCC survey of county probation departments, only half of the counties expressed interest in applying for this grant.

AB 1950. The Assembly Appropriations analysis for this bill indicated potential savings as a result of reduced workload. No costs were assessed for the implementation of the bill. The Department of Finance has stated that funding *could* be used to “front load” treatment and services. AB 1950 does not require any front loading of resources and the Governor’s proposal does not provide any detail on which resources and how they would be front loaded.

Accountability. The Governor’s proposal also does not include any “specific restrictions” or reporting requirements for this funding, so it is unclear as to how this funding will ultimately be spent. The Department of Finance has pointed to existing reporting requirements that exist for SB 823 and SB 678 that serve as “accountability mechanisms” that will provide “sufficient transparency around the use of these funds and related outcomes.” Despite the Legislature’s desire to including reporting on the use of block grant funding in SB 823, that provision was not included in the final bill, so while counties submit a spending plan, they are not required to report back on the actual spending. In addition, SB 678 reporting is only for SB 678 funding. As this proposal cites that the funding is primarily to support the implementation of two specific pieces of legislation, if the funding is provided, the Subcommittee may wish to require separate reporting to assess the impact of this investment.

If the Administration wishes to provide additional resources to support an individual’s success on probation generally, the Subcommittee may wish to ask for a more detailed, comprehensive proposal that includes the full array of wraparound supports that would assist the person on probation. Such a proposal would benefit from input provided by reentry housing providers, substance use disorder treatment providers, employment providers, mental health treatment providers, counseling providers, among others.

In addition, if the Administration wishes to provide counties with additional resources to prepare them for DJJ realignment, in order to remain consistent with the provisions of SB 823 which disperses the Juvenile Justice Block Grant to the counties, the Subcommittee may wish to direct the resources to the counties, not directly to probation, and adopt budget bill language to include some additional accountability and reporting measures. Finally, the Subcommittee may wish to adopt trailer bill language that includes reporting requirements for the Juvenile Justice Realignment Block Grant funding so that the Legislature may assess the impact of the funding in the state’s 58 diverse counties.

PANEL 2 OFFICE OF YOUTH AND COMMUNITY RESTORATION
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- Stephanie Welch, Deputy Secretary of Behavioral Health, Health and Human Services Agency
- Frankie Guzman, Director, Youth Justice Initiative at the National Center for Youth Law
- Dominique Nong, Director of Youth Justice Policy, Children’s Defense Fund-CA

BACKGROUND

Juvenile Justice in California. Youth crime has been trending downward for the last several decades. Youth arrests for violent crime has dropped by 70% since 1994. Even so, between 1996 and 2007, 41 counties spent nearly \$500 million to add juvenile beds. After 2007, as a result of SB 81 realignment, youth adjudicated for non-Welfare and Institutions Code 707(b) offenses were realigned to the counties and a second round of juvenile bed expansion occurred. As of 2018, out of 43 counties, 39 county juvenile halls were less than half full and at least 7 counties were less than 25% full. These reductions in youth crime and fewer occupied beds in local juvenile facilities have resulted in skyrocketing costs as juvenile operations and bed capacity has not been reduced in a commensurate manner. In 2019, San Francisco County passed a resolution to close its juvenile hall Grand juries in Nevada, and Marin County have recommended closing their juvenile halls due to the excessive costs In Nevada County, the Grand Jury recommended Nevada County to contract with other county partners, a typical practice of many rural counties.

In the last several years, Los Angeles County has embarked on reviewing and reimagining how best to treat youth who enter the juvenile justice system. Reports from the LA County Inspector General, a review of best practices and evidence based practices, and input from youth and youth development experts paved the way for recent reforms. In 2020, the Los Angeles County Board of Supervisors (LACBOS) unanimously voted to create a new county Department of Youth Development (DYD) that will serve as a national model that embodies youth justice practices rooted in treatment, counseling, and care. The new DYD will allow the county to shift juvenile justice programs into this new model to address persistent racial disparities, support restorative justice principles, and improve transparency and accountability.

History of the Division of Juvenile Justice (DJJ) Realignment Proposal. As part of the 2019 Budget Act, the Legislature approved the Governor's proposal to move DJJ from CDCR to the Health and Human Services Agency (HHS). The 2019 Budget Act also created a subcommittee under the HHS Child Welfare Council to provide recommendations related to DJJ shift. In the 2020 May Revision, the Governor proposed to stop the DJJ transfer to HHS and instead, close DJJ and realign youth to the counties.

SB 823. SB 823 is the budget trailer bill signed into law as part of the 2020 Budget Act that among its many provisions, effectuated the realignment of DJJ, created a block grant to counties to support the realignment, and established the Office of Youth and Community Restoration (OYCR). With the realignment of DJJ, the state will no longer have a youth involved in the juvenile justice system under its jurisdiction. Nevertheless, the Legislature has expressed both interest and a responsibility in providing state oversight to ensure effective, consistent programming statewide to improve youth outcomes. With that in mind, OYCR was established in statute to support the continuum of juvenile justice. OYCR has the authority to review all county plans submitted for block grant funding, possesses concurrence authority with all juvenile justice funding administered by the Board of State Community Corrections (BSCC), and by January 1, 2025, all juvenile justice grant administration functions in the BSCC shall be moved to the office no later than January 1, 2025. Welfare Institutions Code 2200 lays out its mission and other primary duties:

- **Mission:** “to promote trauma responsive, culturally informed services for youth involved in the juvenile justice system that support the youths’ successful transition into adulthood and help them become responsible, thriving, and engaged members of their communities.”
- **Responsibilities and Authority:**
 - **Data:** (once it becomes available pursuant to Penal Code Section 13015) Develop a report on youth outcomes in the juvenile justice system.
 - **Identify policy recommendations** for improved outcomes and integrated programs and services to best support delinquent youth.
 - **Identify and disseminate best practices** to help inform rehabilitative and restorative youth practices, including education, diversion, re-entry, religious and victims’ services.
 - **Provide technical assistance** as requested to develop and expand local youth diversion opportunities to meet the varied needs of the delinquent youth population, including but not limited to sex offender, substance abuse, and mental health treatment.
 - **Report annually** on the work of the Office of Youth and Community Restoration.
- **Establish an Ombudsman** that has the authority to do all of the following:
 - Investigate complaints from youth, families, staff, and others about harmful conditions or practices, violations of laws and regulations governing facilities, and circumstances presenting an emergency situation.
 - Decide, in its discretion, whether to investigate a complaint, or refer complaints to another body for investigation.
 - Resolve complaints when possible, collaborating with facility administrators and staff to develop resolutions that may include training.
 - Publish and provide regular reports to the Legislature about complaints received and subsequent findings and actions taken. The report shall comply with all confidentiality laws.
- **Evaluate the efficacy of local programs** being utilized for realigned youth. No later than July 1, 2025, the office shall report its findings to the Governor and the legislature.
- All juvenile justice grants administered by the BSCC shall not be awarded without the concurrence of OYCR.

And finally, under Welfare Institutions Code 1995, OYCR has the authority to **review all county plans submitted for block grant funding**, and by January 1, 2025, all juvenile justice grant administration functions in the BSCC shall be moved to the OYCR.

Proposed Funding

The Governor's Budget requests 19 permanent positions and \$3.4 million General Fund in 2021-22 and \$3.1 million ongoing thereafter to establish and operate the Office of Youth and Community Restoration.

STAFF COMMENT

The Administration has recently stated that the OYCR has a limited purview than what is currently in statute. This view regarding the limited purview was also shared by HHS in a public meeting with stakeholders. HHS developed their budget proposal based on this mistaken premise. The Administration has since clarified that in their interpretation, they OYCR does have purview over the juvenile justice system but a limited purview applies to the Ombudsperson's duties in the following way:

“Have an ombudsperson to receive and assess complaints. The ombudsperson will focus on the portion of the juvenile justice population that was realigned to the counties in 2007 and 2020—this includes all youth with a 707(b) offense, youth that commit certain sex offenses, and higher need youth that would have otherwise been sent to DJJ prior to 2007.”

Welfare Institutions Code Section 2200 (referenced above in the background section) does not comport to this interpretation.

Stakeholders from Human Rights Watch, W. Haywood Burns Center, the National Center for Youth Law, Children's Defense Fund-CA, Pacific Juvenile Defender Center, Commonweal, the Alliance for Boys and Men of Color, PolicyLink, and the California Alliance for Youth and Community Justice submitted a letter to the Subcommittee that was sent to the Administration on March 4, 2021, responding to the Administration's interpretation of the OYCR's limited purview. The letter stated the following:

“... The proposal would significantly limit the OYCR's purpose and scope of work, and is in direct conflict with state law. Senate Bill 823 carefully and thoroughly defined the OYCR; therefore, additional definition is unnecessary...One particularly troubling suggestion is that the protections of the Ombudsperson should be limited to youth with designated offenses...State law is clear that all youth in juvenile justice system facilities will be provided the protections of the Ombudsperson. All young people who experience abuse or inadequate conditions in juvenile facilities deserve access to the services of the Ombudsperson, just as is the case of youth in the foster care system. In addition, the Governor's office's write-up omits critical responsibilities of OYCR including but not limited to the responsibility to “develop and expand local diversion opportunities,” and to “identify policy recommendations for improved outcomes and integrated programs and services to best support delinquent youth.” We well remember the vision for youth justice reform that Governor Newsom articulated in 2019, when he proposed a strong HHS role for administration and oversight of the reformed youth justice system. The OYCR provisions of S.B. 823 will be critical to the realization of that goal. It cannot be overstated how important the

functions of the OYCR are to community support of S.B. 823. Of all elements of S.B. 823, OYCR is the centerpiece to shepherd a new age of youth justice.”

Staff Recommendation: The Subcommittee may wish to ask HHS and Department of Finance to submit a revised budget change proposal that is reflective of the OYCR’s scope and duties as stated in Welfare and Institutions Code 2200.
