

SUBCOMMITTEE NO. 5

Agenda

Senator Nancy Skinner, Chair
Senator Joel Anderson
Senator Jim Beall



Thursday, March 2, 2017
9:30 a.m. or upon adjournment of
The Joint Legislative Budget Committee
State Capitol - Room 113

Consultant: Julie Salley-Gray

<u>Item</u>	<u>Department</u>	<u>Page</u>
Discussion Items		
0250	Judicial Branch	
Issue 1	Chief Justice's Budget Priorities	4
Issue 2	Funding for Legal Services and the Equal Access Fund	7
Issue 3	Proposition 63 Implementation	8
Issue 4	Proposition 64 Implementation	9
Issue 5	Sustain Justice Case Management System	11
Issue 6	Funding Increase for Appellate Projects	13
Issue 7	Language Access	14
Issue 8	Vacant Superior Court Judge Reallocation and Trial Court Security	16

Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255 or by calling (916) 651-1505. Requests should be made one week in advance whenever possible.

ITEMS TO BE HEARD

0250 JUDICIAL BRANCH

The judicial branch is responsible for the interpretation of law, the protection of individual 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, Judicial Branch Facility Program, and the Habeas Corpus Resource Center). The branch receives revenue from several funding sources, including the state General Fund, civil filing fees, criminal penalties and fines, county maintenance-of-effort payments, and federal grants.

Due to the state's fiscal situation, the judicial branch, like most areas of state and local government, received a series of General Fund reductions from 2008-09 through 2012-13. Many of these General Fund reductions were offset by increased funding from alternative sources, such as special fund transfers and fee increases. A number of these offsets were one-time solutions, such as the use of trial court reserves and, for the most part, those options have been exhausted. In addition, trial courts partially accommodated their ongoing reductions by implementing operational actions, such as leaving vacancies open, closing courtrooms and courthouses, and reducing clerk office hours. Some of these operational actions resulted in reduced access to court services, longer wait times, and increased backlogs in court workload.

Key Legislation

AB 233 (Escutia and Pringle), Chapter 850, Statutes of 1997, enacted the Lockyer-Isenberg Trial Court Funding Act of 1997, to provide a stable and consistent funding source for the trial courts. Beginning in 1997-98, consolidation of the costs of operation of the trial courts was implemented at the state level, with the exception of facility, revenue collection, and local judicial benefit costs. This implementation capped the counties' general purpose revenue contributions to trial court costs at a revised 1994-95 level. The county contributions become part of the Trial Court Trust Fund, which supports all trial court operations. Fine and penalty revenue collected by each county is retained or distributed in accordance with statute.

AB 1732 (Escutia), Chapter 1082, Statutes of 2002, enacted the Trial Court Facilities Act of 2002, which provided a process for transferring the responsibility for court facilities from the counties to the state by July 1, 2007. It also established several new revenue sources, which went into effect on January 1, 2003. These revenues are deposited into the State Court Facilities Construction Fund (SCFCF) for the purpose of funding the construction and maintenance of court facilities throughout the state. As facilities were transferred to the state, counties began to contribute revenues for operation and maintenance of court facilities, based upon historical expenditures.

SB 1407 (Perata), Chapter 311, Statutes of 2008, authorized various fees, penalties and assessments, which were to be deposited into the Immediate and Critical Needs Account (ICNA) to support the construction, renovation, and operation of court facilities. In addition, the bill authorized the issuance of up to \$5 billion in lease-revenue bonds.

SB 1021 (Committee on Budget and Fiscal Review), Chapter 41, Statutes of 2012, altered the administration of trial court reserves by limiting the amount of the reserves individual courts could

carry from year to year to one percent of their funding and establishing a statewide reserve for trial courts, which is limited to two percent of total trial court funding.

In enacting these changes, the Legislature sought to create a trial court system that was more uniform in terms of standards, procedures, and performance. The Legislature also wanted to maintain a more efficient trial court system through the implementation of cost management and control systems.

Budget Overview. Total funding for the judicial branch has steadily increased between 2012-13 (year in which the judicial branch last received a significant reduction in General Fund support) and 2016-17, and is proposed to remain relatively flat in 2017-18 at about \$3.9 billion. Of the total budget proposed for the judicial branch in 2017-18, about \$1.7 billion is from the General Fund—nearly 43 percent of the total judicial branch budget. This is a net General Fund reduction of \$119 million, or 6.7 percent, below the 2016-17 amount. This net reduction primarily reflects a \$108 million decrease related to the expiration of various one-time expenditures in 2016-17 (such as \$25 million for the Court Innovation Grant Program).

(Dollars in thousands)

Program	2015-16	2016-17	2017-18
Supreme Court	\$42,906	\$48,101	\$48,577
Courts of Appeal	216,721	232,075	232,683
Judicial Council	132,869	138,484	137,628
Judicial Branch Facilities Program	355,864	444,804	440,929
State Trial Court Funding	2,645,581	2,776,062	2,792,364
Habeas Corpus Resource Center	13,276	15,751	15,814
Offset from Local Property Tax Revenue	-26,662	-37,275	-37,275
Total	\$3,380,555	\$3,618,002	\$3,630,720
Positions	1731.4	1717.0	1,719.0

Issue 1: Chief Justice's Budget Priorities

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

- ***\$158.5 million funding shortfall.*** The Chief Justice argues that providing \$158.5 million General Fund to the judicial branch would help close the current funding shortfall of over \$400 million.
- ***\$22 million for dependency counsel.*** An augmentation of \$22 million General Fund per year would reduce the dependency counsel caseloads from 225 cases per attorney to 188 cases per attorney.
- ***\$560 million for court construction and facilities.*** The Chief Justice notes that since 2009, the state has removed \$510 million in General Fund each year from the court budget and has continued to redirect \$50 million for court operations. These funds are used for construction and maintenance, which will be discussed in detail at a later hearing.
- ***Judgeships.*** While the Chief Justice supports the Governor's proposal to redirect four judgeships (discussed in detail in a later item), she notes that their current judicial needs assessment demonstrates the statewide need for 188 new judges.

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

Prior Budget Actions. Over the last several years, the Legislature has included augmentations in the trial court budget in an attempt to begin reducing the funding shortfall and to ensure that the gap does not continue to grow.

In the 2014-15 budget, the Legislature approved an increase of \$60 million General Fund for trial court funding, for a total General Fund increase of \$160 million. Specifically, the budget included a five percent increase in state trial court operations, for a total increase of \$86.3 million. In addition, the budget provided an increase of \$42.8 million General Fund to reflect increased health benefit and retirement adjustment costs for trial court employees. Finally, the Legislature authorized a General Fund increase of \$30.9 million to account for an estimated shortfall in the Trial Court Revenue Trust Fund.

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

- ***Trial Court Trust Fund Revenue Shortfall.*** \$15.5 million General Fund to cover the revenue shortfall in the trial court budget. This brought the total General Fund transfer for the shortfall to \$66.2 million.

- **Dependency Counsel.** Increased funding for dependency court attorneys in 2015-16 and on-going by \$11 million in General Fund. In addition, the budget shifted all dependency counsel funding to a separate item within the trial courts budget to insure that it remains dedicated to funding attorneys who represent children and their parents in the dependency court system.

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

- **Trial Court Employee Costs.** \$16.1 million General Fund to cover increased employee benefit costs.
- **Trial Court Augmentation.** \$20 million (or one percent) General Fund base augmentation for trial court operations.
- **Trial Court Emergency Reserve.** \$10 million General Fund on a one-time basis to establish a state level reserve for emergency expenditures for the trial courts.
- **Proposition 47.** A one-time General Fund augmentation of \$21.4 million to address the increased workload associated with Proposition 47 (The Safe Neighborhoods and Schools Act) passed by voters in 2014. In addition, the budget anticipates the trial courts will save \$1.7 million General Fund a year as a result of the reduced workload associated with Proposition 47.
- **Innovation Grants.** \$25 million one-time for innovative programming (\$10 million General Fund and a transfer of \$15 million from deferred maintenance to Innovation Grants program).

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

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

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

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

Staff Recommendation. Hold open overall trial court funding pending any May Revise updates.

Issue 2: Funding for Legal Services and the Equal Access Fund

Governor’s Budget. The Governor’s proposed budget includes \$15.9 million in funding for the Equal Access Fund (\$10.4 million General Fund and \$5.5 million Special Funds).

Background. Civil legal aid organizations provide free legal assistance to low-income Californians, people with disabilities, and seniors. Legal aid helps people with problems such as foreclosure, unemployment, domestic violence, health access, consumer debt, housing, and re-entry. Although many people believe that they have a “right to an attorney,” there is no right to an attorney in civil cases. Legal aid attorneys help those who are most vulnerable and who most need an attorney’s assistance.

Federal Funding for Legal Services. The largest single funder of legal aid in the nation—and in California—is the federal government, largely through the Legal Services Corporation. Eleven of California’s ninety-four legal aid programs receive LSC funding. California’s share of LSC funding is approximately \$41 million for 2017. California’s community of legal aid programs also receive approximately \$8 million in funding from the Older Americans Act and \$28 million in a mix of many other smaller federal funds, including from the Department of Justice, Department of Education, and office of the Violence Against Women Grants.

Equal Access Fund. The Equal Access Fund (EAF) supports approximately 100 legal aid non-profits providing critical assistance to low-income Californians throughout the state. The EAF was established in 1999 with a \$10 million on-going General Fund appropriation, in subsequent years the EAF also began to receive a portion of court filing fees. As noted above, the Governor’s budget contains a total of approximately \$16 million (\$10.4 million General Fund and \$5.5 million special fund). Legal aid services providers argue that their funding remains unchanged despite significant increases in the number of clients who need their services. Providers further note that California was 10th in the nation in state funding for legal services but has now fallen to 22nd in the nation. They further note that the state of New York provides \$85 million per year for their legal aid programs.

The 2016 Budget. The budget included a one-time \$5 million augmentation for the Equal Access Fund.

Staff Comments. Given the heightened role of legal services attorneys and concerns about cuts to federal funding, the committee may wish to consider providing an on-going General Fund augmentation.

Staff Recommendation. No action is necessary at this time.

Issue 3: Proposition 63 Implementation

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

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

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

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

Staff Comments. The judicial branch estimates increased costs of approximately \$11.5 million per year for the workload associated with the proposition. The Governor's budget does not contain any funding for this workload. The committee may wish to consider dedicating funding to assist the courts in establishing a process for retrieving firearms from newly prohibited persons at the time of their felony conviction.

Staff Recommendation. No action is necessary at this time.

Issue 4: Proposition 64 Implementation

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

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

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

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

Change in Penalties for Future Cannabis Crimes. The measure changes state cannabis penalties. For example, possession of one ounce or less of cannabis is currently punishable by a \$100 fine. Under the measure, such a crime committed by someone under the age of 18 would instead be punishable by a requirement to attend a drug education or counseling program and complete community service. In addition, selling cannabis for nonmedical purposes is currently punishable by up to four years in state prison or county jail. Under the measure, selling cannabis without a license would be a crime generally punishable by up to six months in county jail and/or a fine of up to \$500. In addition, individuals engaging in any cannabis business activity without a license would be subject to a civil penalty of up to three times the amount of the license fee for each violation. While the measure changes penalties for many cannabis-related crimes, the penalties for driving a vehicle while under the impairment of cannabis would remain the same. The measure also requires the destruction, within two years, of criminal records for individuals arrested or convicted for certain cannabis-related offenses.

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

Staff Comments. This item is a follow-up to the Senate Budget and Fiscal Review Committee hearing on February 16, 2016, during which the committee discussed the legalization of cannabis in California. The issue before Subcommittee #5 is whether or not to provide one-time funding for the trial court workload associated the destruction of criminal records and the resentencing of individuals convicted of cannabis-related crimes. The Judicial Branch estimates costs of approximately \$20 million over four years. Those costs may be partially offset by savings due to the reduction in charges related to cannabis.

Staff Recommendation. No action is necessary at this time.

Issue 5: Sustain Justice Case Management System

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

Background. The California court system—the largest in the nation, with more than 2,000 judicial officers, 19,000 court employees, and nearly 10 million cases—serves over 38 million people —12.5% of the United States population. During 2013-2014, 7.5 million cases were filed in these courts at some 500 court locations throughout the state. A case management system is central to court operations by facilitating the track and recording of case information, processing and managing filings and collecting and reporting on revenues from filings, fines and fees.

In 2002, the judicial branch initiated the development of the statewide CCMS to replace numerous case management systems used by individual trial courts to schedule, process, and track court cases. The goal of CCMS was to develop a single, statewide, modern case management system that would have various benefits, such as increased electronic access to court records and greater efficiency from less work associated with paper-driven filings. CCMS was developed in iterations with a small number of courts deploying and testing either the criminal module (CCMS V2) or the civil module (CCMS V3). The final version (CCMS V4) was intended to be a statewide system that covered all case types. The CCMS project was ultimately terminated in 2012 without being fully deployed statewide.

A number of trial courts delayed replacing existing case managements systems while waiting for the completion of CCMS. After the termination of the CCMS project, a number of trial courts used their reserves (unspent funds from prior years) to replace all or parts of their case management systems. As of January 2017, 31 courts reported completing the replacement of all or a part of their case management systems. Numerous other replacements are currently in progress. Additionally, as part of the 2016-17 budget, the Legislature approved \$25 million in one-time General Fund support over three years to replace CCMS V3 for the four courts still using the system.

Legislative Analyst’s Office (LAO)

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

Direct Judicial Branch to Revise Cost-Benefit Analysis. The LAO also recommends that the Legislature direct the judicial branch to revise its cost-benefit analysis of the proposed project to

accurately reflect the estimated costs and benefits, including any changes due to the fit-gap analysis recommended above. This would help the Legislature and the judicial branch determine whether the new eCourt systems are the most cost-effective alternative to the existing systems.

Staff Recommendation. Hold open.

Issue 6: Funding Increase for Appellate Projects

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

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

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

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

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

Legislative Analyst's Office (LAO). The LAO did not raise any concerns with this proposal in their analysis of the Governor's budget.

Staff Recommendation. Approve as budgeted.

Issue 7: Language Access

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

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

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

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

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

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

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

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

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

Staff Recommendation. Adopt the LAO recommendation and reject funding for the VRI pilot, pending an evaluation of the current pilot, and approve \$490,000 in one-time funding from the Court Interpreters' Fund.

Issue 8: Vacant Superior Court Judge Reallocation and Trial Court Security

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

In addition, the budget proposes providing Riverside and San Bernardino counties with \$280,000 in on-going General Fund to offset the security costs of those four judgeships.

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

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

Additional General Fund Recently Appropriated for Greater Levels of Trial Court Security. The California Constitution requires that the state bear responsibility for any costs related to legislation, regulations, executive orders, or administrative directors that increase the overall costs borne by a local agency for realigned programs or service levels mandated by the 2011 realignment. As part of the annual budget act, the state provided \$1 million in additional General Fund support in 2014-15, \$2 million in 2015-16, and \$7 million in 2016-17, above the tax revenue provided through the 2011 realignment, to provide counties with funding to address increased trial court security costs. Eligibility for these funds was limited to counties experiencing increased trial court security costs resulting from the construction of new courthouses occupied after October 9, 2011 (around the time of implementation of the 2011 realignment). Counties are required to apply to the Department of Finance (DOF) for these funds and only receive funding after meeting certain conditions—including that the county prove that a greater level of service is now required from the county sheriff than was provided at the time of realignment. Of the additional funds provided, DOF allocated \$713,000 in 2014-15, \$1.9 million in 2015-16, and currently estimates the allocation of about \$2.7 million to qualifying counties in 2016-17. The Governor’s budget proposes continuing to provide \$7 million in General Fund to augment trial court security funding.

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

Staff Comments. Since the inception of the use of General Fund to augment the realigned revenue to support trial court security, the Legislature has expressed concerns with the Administration's lack of justification for the augmentation. Over the last few years, the General Fund augmentation has grown from just over \$550,000 to \$7 million. While the item before the committee today is a \$280,000 augmentation related to the transfer of judgeships and not the larger issue of the increased security funding related to court construction, the committee may wish to consider revisiting the larger funding with the intention of setting aside a portion of the funding to pay any future successful local mandate claims and eliminating the remainder of the augmentation.

Staff Recommendation. Reject the \$280,000 augmentation for trial court security and hold open the trailer bill language.