

# SUBCOMMITTEE NO. 5

# Agenda

Senator Loni Hancock, Chair  
Senator Joel Anderson  
Senator Lois Wolk



Tuesday, May 22, 2012  
1:30 p.m.  
Room 113

Consultant: Joe Stephenshaw

<u>Item Number and Title</u>	<u>Page</u>
<b>Vote Only</b>	
0250 Judicial Branch	
(1) Allocation of the \$350 million Reduction .....	2
5225 California Department of Corrections and Rehabilitation	
(1) Juvenile Population Adjustment.....	2
(2) Pharmacy Augmentation.....	2
(3) Female Offender: Expansion of Alternative Custody Program.....	3
<b>To be Heard</b>	
0250 Judicial Branch	
(1) Employee Retirement Contribution .....	5
(2) Restructure Trial Court Funding.....	6
(3) Use of Trial Court Construction Funds.....	9
(4) Courthouse Projects: Reappropriations .....	12
(5) Courthouse Projects: Construction .....	13
(6) Court Appointed Counsel Program .....	14
5225 California Department of Corrections and Rehabilitation	
(1) DJJ Savings and Realignment Reversal.....	18
5225 California Correctional Health Care Services	
(1) Baseline Adjustment .....	21

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.

## Vote Only Items

### Judicial Branch (0250)

#### Issue 1 – Allocation of the \$350 million Reduction

**Governor’s Proposal.** The May Revise proposes to schedule the \$350 million unallocated reduction contained in the Judicial Branch’s budget.

**Background.** The 2011 Budget Act included an ongoing \$350 million unallocated reduction to the Judicial Branch. The 2012-13 Governor’s Budget only scheduled the reduction for 2011-12, as approved by the Judicial Council. This adjustment schedules the unallocated reduction in 2012-13, consistent with 2011-12.

**Recommendation.** Approve as proposed.

### CA Department of Corrections and Rehabilitation (5225)

#### Issue 1: Juvenile Population Adjustment

**Governor’s Proposal.** The May Revise proposes a net decrease of \$9.1 million General Fund to reflect revised Division of Juvenile Justice (DJJ) population projections.

**Background.** This change is comprised of a decrease of \$7.2 million General Fund, \$1.6 million General Fund Proposition 98, and \$229,000 in reimbursement authority. Adjusted for recent juvenile population trends, the May Revise reflects an estimated average daily population of 992 wards in 2012-13, which is 156 less than projected in the Governor’s Budget.

**Recommendation.** Approve as Budgeted.

#### Issue 2 – Pharmacy Augmentation

**Governor’s Proposal.** The California Correctional Health Care Services (CCHCS) requests an augmentation of \$59.9 million in fiscal year 2012-13 and \$51.2 million in 2013-14 and ongoing for pharmaceutical funding. This augmentation is necessary to restore and set the baseline for the pharmaceutical budget.

The CCHCS reports that this augmentation will bring pharmaceutical funding in line with actual expenditures and prevent the CCHCS from either realizing a deficiency in its pharmaceutical budget or failing to comply with the Federal Court's mandates to provide patient-inmates a level of care that does not violate their constitutional rights.

**Recommendation.** 1) Approve on a two-year limited-term basis, 2) adopt trailer bill language that mandates the use of generics, and 3) adopt budget bill language that requires the Receiver's office to report on feasibility of implementing inmate co-payments.

### **Issue 3 - Female Offenders: Expansion of Alternative Custody Program**

**Governor's Proposal.** The Governor's budget proposes trailer bill language that provides for the expansion of the Alternative Custody Program (ACP) for Women to include women who have a prior serious or violent conviction. The goal is to allow CDCR to place these offenders in community-based treatment programs in an effort to achieve successful outcomes and reduce recidivism among this population. Savings resulting from the reduction in the female inmate population will be used to cover the cost of treatment programs in the community. The anticipated population decline in future years is expected to generate long-term savings of \$2.5 million beginning in 2014-15 and \$5 million annually thereafter.

**Background.** Senate Bill 1266 (Liu, 2010) established an ACP within the CDCR under which eligible female inmates, including pregnant inmates or inmates who were the primary caregivers of dependent children, would be allowed to participate in lieu of their confinement in state prison. Under the program, female inmates may be placed in a residential home, a nonprofit residential drug-treatment program, or a transitional-care facility that offers individualized services based on an inmate's needs. The program focuses on reuniting low-level inmates with their families and reintegrating them back into their community.

All inmates continue to serve their sentences under the jurisdiction of the CDCR and may be returned to state prison for any reason. An inmate selected for ACP is under the supervision of a Parole Agent and is required to be electronically monitored at all times.

In addition to ACP, the CDCR also administers the Community Prisoner and Mother Program, which is a community treatment program that allows eligible women sentenced to state prison and who have one or more children under the age of six to participate together in a community based facility.

**Recommendation.** Approve trailer bill language to expand the Alternative Custody Program and the Community Prisoner and Mother Program.

## Items to be Heard

### Judicial Branch (0250)

Article VI of the Constitution creates the Supreme Court of California and the Courts of Appeal to exercise the judicial power of the state at the appellate level. Article VI also creates the Judicial Council of California to administer the state's judicial system. Chapter 869, Statutes of 1997, created the California Habeas Corpus Resource Center to represent any person financially unable to employ appellate counsel in capital cases.

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.

Chapter 1082, Statutes of 2002, enacted the Trial Court Facilities Act of 2002, which provided a process for the responsibility for court facilities to be transferred from the counties to the state by July 1, 2007. This Chapter 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 transferred to the state, counties also contributed revenues for operation and maintenance of court facilities based upon historical expenditures.

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.

The Judicial Council is the policymaking body of the California courts, the largest court system in the nation. Under the leadership of the Chief Justice and in accordance with the California Constitution, the council is responsible for ensuring the consistent, independent, impartial, and accessible administration of justice. The Administrative Office of the Courts (AOC) implements the council's policies.

Currently, the state maintains 58 trial court systems, each having jurisdiction over a single county. These courts have trial jurisdiction over all criminal cases (including felonies, misdemeanors, and traffic matters). They also have jurisdiction over all civil cases (including family law, probate, juvenile, and general civil matters). In 2009-10, more than ten million cases were filed in trial courts throughout the state.

The mission of the Judicial Branch is to resolve disputes arising under the law and to interpret and apply the law consistently, impartially, and independently to protect the rights and liberties guaranteed by the Constitutions of California and the United States, in a fair, accessible, effective, and efficient manner.

The May Revision includes total funding of \$3.6 billion (\$730 million General Fund) for the Judiciary.

### Major Trial Court Realignment Legislation

Legislation	Description
<b><i>Lockyer–Isenberg Trial Court Funding Act of 1997.</i></b> Chapter 850, Statutes of 1997 (AB 233, Escutia and Pringle)	Transferred financial responsibility for trial courts (above a fixed county share) from the counties to the state.
<b><i>Trial Court Employment Protection and Governance Act.</i></b> Chapter 1010, Statutes of 2000 (SB 2140, Burton)	Classified most individuals working in the trial courts as court employees.
<b><i>Trial Court Facilities Act of 2002.</i></b> Chapter 1082, Statutes of 2002 (SB 1732, Escutia)	Initiated the transfer of ownership and responsibility of trial court facilities from the counties to the state.

**Governor’s Budget Proposals.** The Governor’s budget contains the following proposals relative to trial court funding (note: because of the May Revise proposals, the Branch is no longer included in the trigger reduction described below):

- 1) \$50 million for the Trial Court Trust Fund from civil court fee increases. These funds would be available to offset the ongoing impact of reductions in funding for trial court operations contained in previous budget acts.
- 2) Provisional Language that would grant the Judicial Council the authority to allocate the continuing budget reductions across the branch and to redirect funding from other court fund sources, as the Judicial Council deems appropriate.
- 3) A trigger reduction of \$125 million if the Governor’s tax proposal is not approved in November. While the Branch would determine how to implement this reduction, it is the equivalent of court closures equal to three days per month.

### Issue 1 – Employee Retirement Contribution

**Governor’s Proposal.** The May Revise proposes a reduction of \$4 million General Fund to reflect a shift in employee retirement contributions for employees of the Judicial Council, Courts of Appeal, Habeas Corpus Resource Center, and Supreme Court. Trailer bill language is proposed to reflect this change.

**Background.** The majority of state employees currently pay eight percent of their retirement contribution. Judicial Branch employees of the Judicial Council, Courts of

Appeal, Habeas Corpus Resource Center and Supreme Court typically contribute five percent, with the entire contribution being covered for a small group of employees. Increasing the contribution for state court employees from five percent to eight percent makes their contribution consistent with other state employees.

Staff notes that because Judicial Branch employees are included in a larger group of state miscellaneous employees, the savings to the Branch from this proposal may be well under \$4 million. In addition, there are other benefits that are inconsistent between the Judicial Branch and other state employees. For instance, most Executive Branch employees are afforded annual Merit Salary Adjustments, while Judicial Branch Employees are not.

**Recommendation.** Approve the \$4 million in savings from the Judicial Branch. However, 1) reject the trailer bill language specifying the employee retirement contribution level and, instead, 2) adopt budget bill language that requires the Judicial Council to report to the Legislature, by September 30, 2012, on how these savings will be achieved on an ongoing basis.

## **Issue 2 – Restructure Trial Court Funding**

**Governor’s Proposal.** The May Revise proposes a one-time decrease of \$300 million General Fund to reflect the use of local trial court reserves to support trial court operations and trailer bill language to eliminate trial court reserves at the local level and authorize the Judicial Council to retain three percent of total estimated trial court expenditures for emergencies. Ongoing General Fund support for trial courts will be reduced by \$71 million.

The Administration also proposes to establish a working group to conduct an evaluation of the state’s progress in achieving the goals outlined in the reform legislation, including the ability of trial courts to provide equal access to justice, is appropriate. The working group will conduct a statewide analysis of workload metrics, staffing standards, and other relevant data necessary to support a more uniform and efficient administrative system for the judiciary.

**Background.** During the mid-1990s there were significant reforms in the Judicial Branch—court unification and the state assumption of funding responsibility for trial courts. Prior to state funding, many small courts were in financial crisis and needed emergency state funding to keep their doors open. One of the goals of state funding was to promote equal access to justice so that a citizen’s access to court services was not dependent on the financial health of an individual county. Trial courts have benefitted financially, as the state has been able to stabilize and increase funding.

Since 2007-08, state General Fund support for the Judicial Branch has been reduced by \$653 million ongoing. However, the Administration, the Legislature and the Judicial Council have mitigated these reductions through a mix of permanent and one-time

offsets, including transfers from special funds, fee increases, and use of trial court reserves. Overall expenditures for the trial courts have remained relatively flat as illustrated below. Beginning in 2013-14, because of reliance on one-time reductions and the loss of reserves and fund balances, trial courts will need to achieve reductions through operational changes and efficiencies.

(dollars in millions)

<b>Trial Court Reductions</b>	<b>2008-09</b>	<b>2009-10</b>	<b>2010-11</b>	<b>2011-12</b>
Unallocated Reduction	\$92.2	\$268.6	\$55	\$320
One-time Reduction		(100)	(30)	
<b>Total</b>	<b>\$92.2</b>	<b>\$268.6</b>	<b>\$55</b>	<b>\$320</b>
<b>Offsets</b>				
	<b>2008-09</b>	<b>2009-10</b>	<b>2010-11</b>	<b>2011-12</b>
Use of Local Reserves	\$92.2	\$71	\$25	\$0
Transfer From other Funds		130	130	233.0
Fee Increases		46.7	113.2	107.1
Use of Fund Reserve		3	36	69.4
<b>Total</b>	<b>\$92.2</b>	<b>\$250.7</b>	<b>\$304.2</b>	<b>\$409.5</b>

(dollars in millions)

<b>Trial Court Expenditures</b>				
<b>2007-08</b>	<b>2008-09</b>	<b>2009-10</b>	<b>2010-11</b>	<b>2011-12 (Est.)</b>
\$3,316	\$3,321	\$3,362	\$3,559	\$3,552

At the end of 2010–11, trial courts possessed combined reserves of \$562 million, but only around half was unrestricted and available for use by the trial courts to address their budget reductions. The Legislative Analyst’s Office has previously pointed out that the actual level of reserve balances, particularly unrestricted funds, currently varies across trial courts. Some courts possess enough funds in their reserves to cover a large share of their annual expenditures and would probably be able to draw on these reserves—rather than make additional operational changes—to absorb additional budget reductions. Other courts lack a significant amount of unrestricted funds and might have difficulty absorbing further budgetary reductions.

Even with the current level of trial court reserves and the relatively flat annual expenditures by trial courts, funding issues have driven significant impacts on trial court services. Under Government Code Section 68106, courts must provide written notice to the public and to the Judicial Council at least 60 days before instituting any plan to

reduce costs by designating limited services days. The Judicial Council, in turn, must post all such notices on its Web site within 15 days of receipt. Since Section 68106 became operative on October 19, 2010, and as of last month, the Judicial Council has received notices from 25 counties, which detail the reductions in court staffing and services implemented by these counties.

For example, some counties have had to close courtrooms including:

- San Diego Superior Court, which has reduced the number of assigned judges regularly used by the court and reduced four full-time trial courtrooms.
- San Joaquin Superior Court, which closed courtrooms at the Lodi and Tracy branches and reassigned to other court branches the civil limited, traffic, small claims, domestic violence, civil harassment, and juvenile traffic cases.
- Ventura Superior Court, which closed two civil courtrooms at the East County branch and relocated two civil judges to Ventura.

Other courts have closed entire court branches, including Butte, San Joaquin, and San Luis Obispo Counties, which have closed one court branch each, and San Diego, Sonoma and Stanislaus Counties, which have both closed two court branches.

Budget cuts have also impacted the availability of civil case self-help and family law assistance services, including:

- Alameda Superior Court, which has eliminated self-help services at two court locations and reduced hours in providing services at another court.
- Riverside Superior Court, which decreased family law facilitator assistance in order to provide more civil self-help services. Additionally, one of the court's justice partners reduced by half family law assistance at two court locations and eliminated self-help assistance at another location.
- Sacramento Superior Court, which reduced domestic violence workshops from five to three days per week; eliminated trial setting and notice of motion workshops; closed the computer room where litigants prepared child and spousal support calculations, prepared legal forms, and obtained family law and probate information; and reduced the number of litigants served annually from 40,500 to 33,900 due to reduced staff resources.

Efforts to reduce trial court expenditures have led to staffing reductions, including:

- San Joaquin Superior Court, which recently laid off 42 employees.
- San Francisco Superior Court, which recently laid off 75 employees.
- Los Angeles Superior Court, which previously laid off 329 employees.

**Legislative Analyst's Office (LAO).** The LAO has found that given the state's fiscal situation, the Governor's proposal to utilize \$300 million of local trial court reserves to offset additional General Fund reductions to the trial courts merits approval. However, they note that the proposal will likely result in most, if not all, trial court reserves being

depleted. The depletion of reserves could have differing impacts on individual courts depending on the level of reserves they had maintained, the degree to which they relied on their reserves to implement multi-year budget reductions, and what changes they choose to implement if they had planned to utilize their reserves in the budget year. These changes could include, for example, court closures, staff reductions, and reduced clerk hours.

The LAO recommends rejection of the administration's proposal to eliminate the authority of local courts to retain reserves and to instead establish a statewide reserve. While this proposal could potentially further the goals of statewide trial court realignment, it is a significant policy change that raises numerous questions related to the respective role of the local court and the Judicial Council in setting fiscal and program priorities. Instead, the LAO recommends that the evaluation of whether courts should maintain local reserves be part of the working group proposed by the Governor to evaluate the state's progress in achieving the goals of state trial court realignment. This evaluation could help the Legislature determine what policy changes, such as the Governor's proposed elimination of local reserves, could improve the overall efficiency and effectiveness of the judicial branch.

**Recommendation.** Hold Open.

### **Issue 3 – Use of Trial Court Construction Funds**

**Governor's Proposal.** The May Revise proposes a decrease of \$240 million General Fund to reflect the one-time (\$50 million ongoing) redirection of court construction funds for trial court operations. Trailer bill language is proposed to allow for this redirection.

**Background.** The Judicial Branch has two primary court construction funds, the State Court Facilities Construction Fund (SCFCF), which receives approximately \$130 million from fees and penalty assessments to support trial court construction projects, and the Immediate and Critical Needs Account (ICNA), which receives approximately \$321 million from various civil and criminal fines and fees to support 41 trial court construction projects that were deemed to be immediate and critical by the Judicial Council (the AOC submitted a revised court construction funding plan to the Judicial Council in December that resulted in the cancelation of two, one-courtroom projects (Alpine and Sierra)). In the current year, the following actions were taken related to these two funds:

- Transferred \$310.3 million from the ICNA to the GF.
- Loaned \$350 million from the SCFCF to the GF, to be repaid with interest.
- Loaned \$90 million from the ICNA to the GF, to be repaid with interest.
- Provided authority to the AOC to allow for redirection of \$130 million from the SCFCF and ICNA to offset the reduction to trial court funding.

In response to fiscal constraints, at its December 2011 meeting, the Judicial Council also directed the Office of Court Construction and Management to reduce costs on all proposed court projects by four percent. At its April 2012 meeting, the Judicial Council

subsequently approved a more comprehensive plan to reevaluate the court facilities program to achieve additional cost savings. This reevaluation will include consideration of options such as reducing square footage, undertaking renovations instead of new construction, evaluating lease options, and using lower-cost construction methods, where practical.

The Governor’s May Revise proposal would redirect \$240 million, in 2012-13, from the ICNA. To achieve this, design activities will be delayed for up to 38 court construction projects while the Judicial Council reviews local trial court operations, court construction standards, and the pace of future court construction to ensure operational efficiencies can be reflected in the design of new trial courts. The following table outlines the potential impact of this proposal:

<b>All Active Court Projects</b>	<b>Current Phase</b>	<b>Status in 2012-13</b>
1. El Dorado County: New Placerville Courthouse	Acquisition	Will not proceed to Preliminary Plans
2. Fresno County: Renovate Fresno County Courthouse	Preliminary Plans	Will not proceed to Working Drawings
3. Glenn County: Renovation and Addition to the Willows Courthouse	Preliminary Plans	Will not proceed to Working Drawings
4. Imperial County, New El Centro Family Courthouse	Preliminary Plans	Will not proceed to Working Drawings
5. Inyo County: New Independence Courthouse	Acquisition	Will not proceed to Preliminary Plans
6. Kern County: New Delano Courthouse	Acquisition	Will not proceed to Preliminary Plans
7. Kern County: New Mojave Courthouse	Acquisition	Will not proceed to Preliminary Plans
8. Lake County, New Lakeport Courthouse	Preliminary Plans	Will not proceed to Working Drawings
9. Los Angeles County, New Southeast LA Courthouse	Acquisition	Will not proceed to Preliminary Plans
10. Los Angeles County: New Eastlake Courthouse	Acquisition	Will not proceed to Preliminary Plans
11. Los Angeles County: New Glendale Courthouse	Acquisition	Will not proceed to Preliminary Plans
12. Los Angeles County: New Mental Health Courthouse	Acquisition	Will not proceed to Preliminary Plans
13. Los Angeles County: New Santa Clarita Courthouse	Acquisition	No Change
14. Mendocino County: New Ukiah Courthouse	Acquisition	Will not proceed to Preliminary Plans
15. Merced County: New Los Banos Courthouse	Preliminary Plans	Will not proceed to Working Drawings

16. Nevada County: New Nevada City Courthouse	Acquisition	No Change
17. Placer County: New Tahoe Area Courthouse	Acquisition	Will not proceed to Preliminary Plans
18. Plumas County: New Quincy Courthouse	Acquisition	Will not proceed to Preliminary Plans
19. Riverside County, New Indio Family/Juvenile	Preliminary Plans	Will not proceed to Working Drawings
20. Riverside County: New Hemet Courthouse	Acquisition	Will not proceed to Preliminary Plans
21. Sacramento County: New Sacramento Criminal Courthouse	Acquisition	Will not proceed to Preliminary Plans
22. San Joaquin County: New Stockton Courthouse	Preliminary Plans	Will not proceed to Working Drawings
23. Santa Barbara County: New Santa Barbara Criminal Courthouse	Acquisition	Will not proceed to Preliminary Plans
24. Santa Clara County: New Family Justice Center	Preliminary Plans	Will not proceed to Working Drawings
25. Shasta County, New Redding Courthouse	Acquisition	Will not proceed to Preliminary Plans
26. Siskiyou County: New Yreka Courthouse	Acquisition	Will not proceed to Preliminary Plans
27. Sonoma County, New Santa Rosa Criminal Courthouse	Acquisition	Will not proceed to Preliminary Plans
28. Stanislaus County: New Modesto Courthouse	Acquisition	Will not proceed to Preliminary Plans
29. Tehama County, New Red Bluff Courthouse	Preliminary Plans	Will not proceed to Working Drawings
30. Tuolumne County: New Sonora Courthouse	Acquisition	Will not proceed to Preliminary Plans
31. San Diego Courthouse: New San Diego Courthouse	Preliminary Plans	Will proceed to Working Drawings
32. Butte County, New North County Courthouse	Working Drawings	Will proceed to Construction with PL
33. Kings County: New Hanford Courthouse	Working Drawings	Will proceed to Construction with PL
34. Sutter County, New Yuba City Courthouse	Working Drawings	Will proceed to Construction with PL
35. Yolo County, New Woodland Courthouse	Working Drawings	Will proceed to Construction with PL
36. Solano County, Renovation to Fairfield Courthouse	Working Drawings	Will proceed to Construction with PL

37. San Joaquin County: Renovation and Addition to the Juvenile Justice Center	Working Drawings	Will proceed to Construction with PL
38. Monterey County, New South Monterey County Courthouse	Preliminary Plans	Will not finish Preliminary Plans and will not proceed to Working Drawings - Project is being reassessed by JC

**Recommendation.** Hold Open.

#### **Issue 4 – Courthouse Projects: Reappropriations**

**Governor’s Proposal.** The May Revise proposes to reappropriate \$144.4 million, previously authorized in 2009, from the Immediate and Critical Needs Account (ICNA) for the acquisition phase of 19 courthouse projects.

**Background.** Chapter 10, Statutes of 2009, authorized funding for 19 courthouse projects (listed in the table below), that expires on June 30, 2012. Funding for subsequent design phases will be requested, as appropriate, should the evaluation review (outlined in Issue 4 – *Use of Trial Court Construction Funds*) support the need to continue.

(dollars in millions)

<b>Project</b>	<b>Amount</b>
1. El dorado County: New Placerville Courthouse	\$1.1
2. Inyo County: New Inyo Courthouse	\$.7
3. Kern County: New Delano Courthouse	\$.7
4. Kern County: New Mojave Courthouse	\$.1
5. Los Angeles County: New Southeast Courthouse	\$21.1
6. Los Angeles County: New Santa Clarita Courthouse	\$1.2
7. Los Angeles County: New Glendale Courthouse	\$14.3
8. Los Angeles County: New Mental Health Courthouse	\$33.5

9. Los Angeles County: New Eastlake Juvenile Courthouse	\$13.8
10. Mendocino County: New Ukiah Courthouse	\$3.5
11. Nevada County: New Nevada City Courthouse	\$12.7
12. Placer County: New Tahoe Area Courthouse	\$2.8
13. Plumas County: New Quincy Courthouse	\$.7
14. Riverside County: New Hemet Courthouse	\$.4
15. Sacramento County: New Sacramento Courthouse	\$15.0
16. Santa Barbara County: New Santa Barbara Criminal Courthouse	\$8.6
17. Shasta County: New Redding Courthouse	\$7.0
18. Siskiyou County: New Yreka Courthouse	\$.4
19. Stanislaus County: New Modesto Courthouse	\$6.9

**Recommendation.** Approve as proposed.

<b>Issue 5 – Courthouse Projects: Construction</b>
--

**Governor’s Proposal.** The May Revise proposes 1) \$364.8 million in lease-revenue bond authority for the construction phase of four courthouse projects, and 2) budget bill language specifying that funds shall not be expended until the Judicial Council has reconfirmed both the detail cost and scope of the projects, as approved by the Department of Finance.

**Background.** While the court facility reevaluation efforts may result in cost and scope changes, the Administration recognized that some projects, specifically those that are in advanced stages of design, will likely not benefit from a major design reevaluation, as the cost of doing so may outweigh any potential cost savings. Therefore, the May Revise proposes funding and provisional language for the following projects that are in working drawings:

(dollars in millions)

Project	Amount
1. Butte County: New North County Courthouse	\$54.0
2. Kings County: New Hanford Courthouse	\$109.1
3. Sutter County: New Yuba City Courthouse	\$62.7
4. Yolo County: New Woodland Courthouse	\$139.0

**Recommendation.** Approve as proposed.

## **Issue 6 – Court Appointed Counsel Program**

**Governor’s Proposal.** The May Revision proposes \$4.7 million General Fund for the Court Appointed Counsel Program within the Court of Appeals. In addition, the following budget bill language is proposed to revert any unspent funding to the General Fund:

*Of the funds appropriated in Schedule (2), \$63,557,000 is available for the Court Appointed Counsel Program and shall be used solely for this purpose. Any funds for the Court Appointed Counsel Program not expended by June 30, 2013, shall revert to the General Fund.*

**Background.** California has a constitutional mandate to provide adequate legal services to indigents in criminal and juvenile matters before the Courts of Appeal. Private attorneys are appointed by the Courts of Appeal to provide representation to these appellants. Statewide, the attorneys are selected, trained, and mentored by five non-profit appellate projects that contract with the Courts of Appeal to oversee the attorneys’ work on each individual case and ensure competency, efficiency, and cost-effectiveness. The appellate projects also recommend payment for each case based on the complexity of the case, the experience of the attorney, and the guidelines developed by the Judicial Council’s Appellate Indigent Defense Oversight Advisory Committee.

The United States Constitution guarantees effective assistance of counsel for indigent parties in criminal proceedings. At the appellate level, the courts are required to provide indigent appellants with representation by counsel for all appeals from original convictions in criminal cases, juvenile dependency, and delinquent cases. Anyone unable to afford counsel has a right to have this counsel paid for by the state. The work of the appellate projects guides the process that accomplishes this goal.

The cost of the Courts of Appeals, Court Appointed Counsel Program has exceeded its authority in funding each of the past five fiscal years, with shortfalls ranging from \$2.1

million to \$7.5 million (as outlined in the table below). In each of these years the Legislature has approved deficiency funding to support this shortfall (2011-12 has been submitted for approval).

(dollars in millions)

Program Budget	2007-08	2008-09	2009-10	2010-11	2011-12
Authorized Expenditures	\$58.8	\$58.8	\$58.8	\$58.8	\$58.8
Actual Expenditures	\$60.9	\$66.3	\$63.9	\$64.0	\$63.5
<b>Shortfall</b>	<b>\$2.1</b>	<b>\$7.5</b>	<b>\$5.1</b>	<b>\$5.2</b>	<b>\$4.7</b>

**Recommendation.** Approve as proposed.

## **CA Department of Corrections and Rehabilitation (5225)**

**Departmental Overview.** Effective July 1, 2005, the California Department of Corrections and Rehabilitation (CDCR) was created pursuant to the Governor's Reorganization Plan No. 1 of 2005 and Chapter 10, Statutes of 2005 (SB 737, Romero). All departments that previously reported to the Youth and Adult Correctional Agency (YACA) were consolidated into CDCR and include the California Department of Corrections, Youth Authority (now the Division of Juvenile Justice), Board of Corrections (now the Corrections Standards Authority (CSA)), Board of Prison Terms, and the Commission on Correctional Peace Officers' Standards and Training (CPOST). Effective July 1, 2012, Chapter 36, Statutes of 2011 (SB 92, Committee on Budget and Fiscal Review) creates the Board of State and Community Corrections ("BSCC"). At that time, the BSCC will supersede the CSA.

According to the department's website, its mission is to "enhance public safety through the safe and secure incarceration of offenders, effective parole supervision, and rehabilitative strategies to successfully reintegrate offenders into our communities."

The CDCR is responsible for the incarceration, training, education, and care of adult felons and non-felon narcotic addicts, as well as juvenile offenders. The CDCR also supervises and treats adult and juvenile parolees (juvenile parole is in the process of being realigned to counties). Until June 30, 2012, the department is responsible for setting minimum standards for the operation of local detention facilities and selection and training of law enforcement personnel, as well as provides local assistance in the form of grants to local governments for crime prevention and reduction programs.

The department operates 33 adult prisons, including 8 reception centers (7 male and 1 female), a central medical facility, a treatment center for narcotic addicts under civil commitment, and a substance abuse facility for incarcerated felons. The CDCR also operates three juvenile correctional facilities. In addition, CDCR operates dozens of adult and juvenile conservation camps, the Richard A. McGee Correctional Training Center, and nearly 200 parole offices, as well as contracts to house inmates in several in-state and out-of-state correctional facilities. However, due to the 2011 Public Safety Realignment, the department is altering its contract bed mix.

**Budget Overview.** The Governor's Budget proposes \$8.9 billion and 58,528.2 positions for the CDCR in 2012-13. The table on the following page shows CDCR's total operational expenditures and positions for 2010-11 through 2012-13.

(dollars in thousands)

<b>Funding</b>	<b>2010-11</b>	<b>2011-12</b>	<b>2012-13</b>
General Fund	\$9,481,820	\$8,980,824	\$8,664,771
General Fund, Prop 98	24,510	23,623	21,229
Other Funds	108,767	117,317	71,755
Reimbursements	106,196	130,287	130,077
<b>Total</b>	<b>\$9,721,293</b>	<b>\$9,252,051</b>	<b>\$8,887,832</b>
<b>Positions</b>	<b>57,620.6</b>	<b>61,150.1</b>	<b>58,528.2</b>

**2011 Public Safety Realignment.** Last year, Governor Brown signed AB 109 and AB 117 (known as public safety realignment), historic legislation that will enable California to close the revolving door of low-level inmates cycling in and out of state prisons. It is the cornerstone of California’s solution for reducing the number of inmates in the state’s 33 prisons to 137.5 percent of design capacity by June 27, 2013, as ordered by a Three-Judge Court and affirmed by the United States Supreme Court. In a May 23, 2011 decision, the United States Supreme Court affirmed the judgment of a three-judge panel convened pursuant to the Prison Litigation Reform Act of 1995 (18 U. S. C. §3626) ordering California to reduce its prison population to no more than 137.5 percent of its design capacity within two years.

**Key Features of Public Safety Realignment**

<b>Felon Incarceration</b>	<b>Post-Release Supervision</b>	<b>Parole and PRCS Revocations</b>
Restructured felon penalty by making specified non-violent, non-serious, non-sex offenses subject to local punishment	Created Post Release Community Supervision (PRCS) for certain offenders to be supervised locally upon release from prison	Parole revocation terms are served locally and, by July 1, 2013, both parole and PRCS revocations will be adjudicated by the courts

Under AB 109 and AB 117, all felons convicted of current or prior serious or violent offenses, sex offenses, and sex offenses against children will go to state prison. Additionally, there are nearly 60 additional crimes that are not defined in the Penal Code as serious or violent offenses but remain offenses that would be served in state prison rather than in local custody.

## **Issue 1 – DJJ Savings and Realignment Reversal**

**Governor’s Proposal.** The May Revise requests a reduction of \$4.8 million General Fund and 45.7 positions in 2012-13, increasing to \$6.1 million and 61.2 positions by 2014-15 as a result of 1) reducing Division of Juvenile Justice (DJJ) administrative staff, 2) ending juvenile parole on January 1, 2013 instead of July 1, 2014 as required by Chapter 729, Statutes of 2010 (AB 1628), and 3) reducing DJJ’s age of jurisdiction from 25 to 23 for all wards committed to DJJ on or after July 1, 2012. Lastly, this request would increase General Fund revenues by \$19.9 million per year beginning in 2012-13 by establishing a fee of \$24,000 for each offender committed by a juvenile court to DJJ.

Trailer bill language is required to implement each piece of this proposal, with the exception of reducing the number of DJJ administrative staff.

The May Revise also includes an increase of \$11.2 million General Fund to reflect the removal of the Juvenile Justice Realignment proposal included in the Governor’s Budget.

### **Background.**

#### **DJJ Administrative Position Reductions**

The May Revise proposes that by reducing additional field and headquarters administrative positions, DJJ would achieve savings of \$2.7 million and 25.3 positions in 2012-13 and \$3.1 million and 30.0 positions by 2014-15. CDCR’s Workforce Cap Reduction Plan, as proposed in the 2012-13 Governor’ Budget, reduced DJJ’s headquarters budget by \$4.1 million and 5.0 positions in 2011-12 and \$5.0 million and 13.6 positions in 2012-13 and ongoing (excluding DJJ paroles).

#### **Discharge Remaining Juvenile Parolees on January 1, 2013**

By discharging the remaining juvenile parolees on January 1, 2013 instead of July 1, 2014, DJJ would achieve savings of \$2.1 million and 20.4 positions in 2012-13 decreasing to \$1.5 million and 16.1 positions by 2014-15. AB 1628, transitioned all offenders released from DJJ after November 1, 2010 to local probation. DJJ continues to supervise offenders that were released prior to November 1, 2010. AB 1628 specified that all remaining juvenile parolees would be discharged on June 30, 2014. This proposal would instead discharge all remaining juvenile parolees on January 1, 2013. DJJ currently estimates that there will be 450 juvenile parolees in 2012-13 and 285 in 2013-14. However, parolees would have served a minimum of 26 months on parole if discharged on January 1, 2013.

In addition, DJJ projects that 74 parolees in 2012-13 and 31 in 2013-14 will violate their conditions of parole and be returned to a DJJ facility. By eliminating juvenile parole 18 months earlier, those violations will not occur.

Lastly, by eliminating juvenile parole 18 months earlier, DJJ would be able to eliminate 1.0 position from the Board of Parole Hearings (BPH). In total, with the reduction of this position and other reductions taken as part of the Governor's Budget and May Revision, DJJ would maintain 5.0 BPH staff for juvenile facility releases.

### **Age of Jurisdiction**

By reducing DJJ's age of jurisdiction from 25 to 23, DJJ would be able to achieve an estimated savings of \$1.5 million and 15.1 positions in 2014-15. There would be no savings associated with this change until 2014-15 because the population would be reduced through attrition and the average length of stay is three years.

Currently, California is one of only four states that retain jurisdiction up to the age of 25 (Oregon, Montana and Wisconsin are the other three states). The vast majority of states (33 in total) retain jurisdiction up to the age of 23, Kansas retains jurisdiction up to age 21, and other states retain jurisdiction up to the ages of 18, 19, or 20. County jurisdiction in California ends at age 21. With the passage of Chapter 175, Statutes of 2007 (SB 81), the most serious and violent juvenile offenders are sentenced to DJJ rather than local facilities. Therefore, the majority of youth in DJJ are under jurisdiction until the age of 25.

### **Establish a Base Fee of \$24,000 Per Year**

By establishing a fee of \$24,000 per year for each offender committed by a juvenile court to DJJ, state revenue would be increased by \$19.9 million in 2012-13 and ongoing. Prior to January 1, 2012, counties paid an annual base fee of \$215 per month for the most serious offenders and a sliding scale fee that ranged from \$22,000 to \$44,000 annually for lower level offenders. After the passage of SB 81 and the associated population reductions of lower-level offenders, the fees paid by counties diminished. If the sliding scale fees that were in effect prior to January 1, 2012 were applied to the existing population, they would result in revenues of approximately \$3.5 million in 2012-13.

The Budget Act of 2011 included a revenue trigger that required counties to pay the state \$125,000 for each offender committed to DJJ. The trigger went into effect on January 1, 2012. There was strong opposition to the trigger from the local level on the basis that it compromised counties' ability to implement public safety realignment. In response to those concerns, as well as the high cost of housing offenders in DJJ, the Governor's Budget proposed the elimination of DJJ, which also raised strong opposition due to public safety concerns.

**Legislative Analyst's Office (LAO).** In February, the LAO recommended approving the Governor's January proposal to close DJJ and require counties to manage all juvenile offenders. While they still believe that proposal would promote efficiency and accountability in juvenile justice, the LAO finds that the alternative savings measures included in the Governor's May Revision also warrant consideration. However, they do note that the Governor's proposal to lower the DJJ age jurisdiction carries the risk that more juvenile cases would be filed in adult court rather than juvenile court. Because

there is no upper limit on the adult court's age jurisdiction, prosecutors may opt to pursue more eligible juvenile cases in adult court as a way to secure longer sentences. To the extent this occurs, there could be some additional state prison costs in the future.

**Recommendation.** Approve as budgeted.

## California Correctional Health Care Services

### Issue 1 – Baseline Adjustment

**Governor’s Proposal.** The May Revise proposes an increase of \$128.4 million General Fund and 273.6 positions in 2012-13. This funding is to 1) restore \$124.5 million in previous unallocated budget reductions, 2) provide \$1.6 million for the California Health Care Facility, and 3) provide \$2.3 million for the activation of the Folsom Women’s Facility.

#### **Background.**

#### **Baseline Budget Reductions**

From 2009-12 through 2011-12, California Correctional Health Care Services (CCHCS) received three unallocated reductions totaling \$409 million. In addition to these reductions, CCHCS has a savings target for realignment of \$99.7 million in 2012-13. These reductions total \$508.7 million, of which, CCHCS projects to be able to achieve \$384.2 million. As such, CCHCS is requesting \$124.5 million and 243 positions in 2012-13.

(dollars in millions)

<b>Restoration of Reductions</b>	
2009-10 Unallocated	\$151.8
2010-11 Unallocated	\$94.0
2011-12 Unallocated	\$163.2
2012-13 Realignment Savings	\$99.7
<b>Total</b>	<b>\$508.7</b>
CCHCS Projected Savings	\$384.2
<b>Budget Restoration</b>	<b>\$124.5</b>

#### **California Health Care Facility (CHCF)**

The May Revise proposes \$1.6 million General Fund and 11.7 positions for the CHCF in 2012-13. The Governor’s Budget CHCF proposal, which was previously approved by the Subcommittee, did not include resources associated with the renovation of the Dewitt Correctional Facility (Dewitt). However, the CDCR’s Blueprint now includes the renovation of Dewitt to provide a continuum of care between CHCF and Dewitt. As

such, this proposal includes resources for positions that were excluded from the Governor's Budget proposal.

**Folsom Women's Facility**

The May Revise proposes \$2.3 million and 18.9 positions in 2012-13, growing to \$3.5 million and 30.2 positions in 2013-14 for the activation of the Folsom Women's Facility. This facility is also included in CDCR's Blueprint and will provide supplemental female housing for the remaining two female facilities.

**Legislative Analyst's Office (LAO).** The LAO notes that the Receiver's office does not have a specific plan for how it will achieve the level of year-over-year reductions outlined in this proposal. Therefore, it is unclear whether actions they have recommended in recent years—such as increased use of telemedicine and centralized utilization management—could reduce inmate health care expenditures even further. The Receiver's office has indicated that it is currently in the process of revising its methodology for allocating medical staff among the state's prisons. The revised staffing plan, which is due to be completed in the fall of 2012, will allocate staff among prisons based on inmate medical acuity such that prisons with higher proportions of medically ill inmates will be allocated relatively more medical staff. The new methodology is expected to significantly reduce the overall number of prison medical staff and should allow the Receiver to achieve a significant share of the budgeted reductions.

The LAO recommends that the Legislature adopt budget bill language that requires the Receiver to provide a report to the Legislature on the revised staffing plan upon its completion. At a minimum, the report should include (1) data on the overall number of staff currently and proposed to be allocated to each of the state's prisons, by classification, (2) the number of eliminated positions, by classification, (3) a detailed description of the methodology used to develop the revised staffing packages, and (4) the estimated savings achieved in the budget year and ongoing. Such a report would help the Legislature to evaluate the degree to which the proposed staffing changes will result in the savings that the Receiver has committed to achieving.

**Recommendation.** Approve the request with the addition of budget bill language requiring the Receiver's office to report to the Legislature on the revised staffing plan upon its completion.