
Senate Budget and Fiscal Review—Nancy Skinner, Chair

SUBCOMMITTEE NO. 5

Agenda

Senator Maria Elena Durazo, Chair
Senator Shannon Grove
Senator Dave Cortese
Senator Josh Newman



Public Safety, the Judiciary, Labor and Transportation

Thursday, May 6, 2021
State Capitol - Room 4203
10:00 a.m. or upon adjournment of session

Consultant: Christopher Francis, Ph.D.

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Vote Only Calendar for Governor’s Budget Proposals

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0250 Judicial Branch

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Public Comment

Vote Only Calendar for Governor's Budget Proposals from January and April 1

| Issue # | Department | Proposal | Fund Source and Positions | Notes | LAO Notes | Staff Recommendation |
|----------------|-------------------|--|---|--|--|-----------------------------|
| 1 | CDCR | Cellular Interdiction Program | \$1.8 million General Fund in 2021-22 and ongoing | To maintain the existing system at 18 institutions that prevents cell phones from connecting to cellular service inside the prison Heard on 2/4 | No concerns with this proposal | Approve as budgeted |
| 2 | CDCR | Increased Canteen Resources | \$2 million Inmate Welfare Fund (IWF) and 7.0 positions in 2021-22 and \$1.8 million IWF and 7.0 positions in 2022-23 | To meet growing demand for canteen items and provide increased and equal access to canteen for the incarcerated population. Heard on 2/4 | No concerns with this proposal | Approve as budgeted |
| 3 | CDCR | Receiver-Quality Management and Patient Safety | \$4.0 million General Fund and 23.0 positions in fiscal year 2021-22, \$7.5 million General Fund and 45.0 positions in fiscal year 2022-23, and \$11.7 million General Fund and 75.0 positions in fiscal year 2023-24 and ongoing | Expands the Quality Management System (QMS) to better address patient safety risks. The QMS California Correctional Health Care Services comprises two major interrelated programs: Quality Management and Patient Safety. Heard on 2/4 | The LAO notes an error regarding the number of positions requested beginning in 2022-23 and ongoing because the proposal does not take into account two planned prison closures. As such, there should be a reduction in two health program managers and two | Adopt LAO Recommendation |

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| | | | | | health program specialist positions in 2022-23 and ongoing, resulting in reduced costs of about \$500,000 General Fund annually. | |
| 4 | CDCR | Fire Alarm Replacement and Fire Suppression Repair Reappropriation at Mule Creek State Prison (MCSP), Richard J. Donovan Correctional Facility (RJD), and California State Prison-Sacramento (SAC) | A reappropriation of \$54.5 million General Fund | The proposed reappropriation is for the replacement of fire alarm systems and repair fire suppression systems The Department also requests provisional language to extend the expenditure and encumbrance period through June 30, 2024. The 2019 Budget Act included \$4.5 million General Fund in 2019-20 for performance criteria and \$54.5 million General Fund in 2020-21 for design-build activities to address fire alarm and fire suppression system deficiencies at MCSP, RJD, and SAC. Heard on 2/11 | No concerns with this proposal | Approve as budgeted |

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| 5 | Judicial Branch | One-time Deferred Maintenance | <p>\$30 million one-time General Fund in 2021-22</p> <p>This funding is also available for encumbrance or expenditure until June 30, 2024.</p> | <p>Address the most vital deferred maintenance in trial courts and appellate courts. These funds will support the modernization of building management systems, HVAC, elevators, and roof replacements for the projects on the attached 2021-22 deferred maintenance list.</p> <p>Heard on 2/18</p> | No concerns with this proposal | Approve as budgeted |
| 6 | Judicial Branch | Trial Court Facility Modifications | <p>\$18.9 million General Fund in 2021–22 and \$48.8 million in 2022-23</p> | <p>For the Judicial Council of CA (JCC) estimated share of the total cost of trial court facility modification projects that resolve deficiencies by expanding the fire and life safety (FLS) systems at the Central Justice Center (CJC) in Orange County and correcting FLS-egress deficiencies at the East County Regional Center (ECRC) in San Diego County.</p> <p>Funds would be used for these facility modification (FM) projects as follows: \$52.8 million for the JCC’s estimated share of the total project cost at the CJC in Orange County, and \$14.9 million (for the JCC’s estimated share of the total</p> | No concerns with this proposal | Approve as budgeted |

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| | | | | <p>project cost at the ECRC in San Diego County. As these are shared-use facilities between the JCC and local counties, the JCC and the counties of Orange and San Diego would be responsible for its share of the total project costs based on its percentages of occupancy.</p> <p>Heard on 2/18</p> | | |
| 7 | Judicial Branch | Trial Courts and Courts of Appeal Facilities, Maintenance, and Leases | 5.0 positions and \$53.5 million ongoing General Fund | <p>This proposal requests 5.0 additional positions to provide oversight of the trial court facilities services maintenance. The JCC portfolio spans the state’s breadth, with courthouses in 57 of the 58 counties totaling 28 million gross square feet. The size of the state makes access to all the facilities in the portfolio time-intensive due to the extensive travel that is required. Currently 43.0 JCC positions are dedicated to facility operations.</p> <p>Heard on 2/18</p> | No concerns with this proposal | Approve as budgeted |
| 8 | Judicial Branch | Construction Fund Consolidation Trailer Bill Language | | Includes trailer bill language that would combine the Immediate and Critical Needs Account (ICNA) and the State Court Facilities | Approve Governor’s Approach to Fund New Projects From General | Adopt placeholder trailer bill language to consolidate the State Court Facilities Construction Fund |

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| | | | | <p>Construction Fund (SCFCF) which were facing insolvency due to steady decreases in fine and fee revenue.</p> <p>Consolidation allows the remaining fund to be solvent in 2021-22. The Governor’s budget projects a SCFCF fund balance of \$177.5 million for 2021-22. This fund balance is from \$569.4 million in revenues, transfers from ICNA to SCFCF of \$232.1 million, and other adjustments \$391.9 million in expenditures and expenditure adjustments.</p> <p>The Governor’s budget does not propose any changes to the level of expenditures from the combined account. For example, it maintains spending on facility modification projects at \$65 million for 2021-22.</p> <p>Heard on 2/18</p> | <p>Fund, Shift Responsibility for Current SCFCF and ICNA Obligations to General Fund as Well, Rather Than Consolidate Accounts, Shift Nonconstruction-Related SCFCF and ICNA Expenditures to the General Fund, Shift SCFCF and ICNA Revenues to the General Fund, and Appropriate Funding for Trial Court Construction Based on Legislative Priorities.</p> | <p>and the Immediate and Critical Needs Account.</p> |
| 9 | Judicial Branch | Spring Budget Proposal: Stanislaus County-New Modesto Courthouse Reappropriation | \$250.49 million from the Public Building Construction Fund | <p>A reappropriation of for the construction phase of the Stanislaus County—New Modesto Courthouse. The construction start has been delayed due to an extended review period of the working drawings.</p> | No concerns with this proposal | Approve as budgeted |

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| 10 | Judicial Branch | Spring Budget Proposal: Riverside County: New Mid-County Civil Courthouse Reappropriation. | \$75.79 million from the Public Building Construction Fund | For the construction phase of the Riverside County—New Mid-County Civil Courthouse. The construction start has been delayed due to an extended review period of the working drawings. | No concerns with this proposal | Approve as budgeted |
| 11 | BSCC | Increase Title II Spending Authority | One-time \$500,000 increase in spending authority | Increase in 2021-22 in BSCC's Title II state operations federal spending authority for BSCC to utilize federal funds to pay for a Reducing Racial and Ethnic Disparities consultant contract. Heard on 2/11 | No concerns with this proposal | Approve as budgeted |
| 12 | California Law Revision Commission | Additional Resources for the Committee on Revision of the Penal Code | 3 positions and \$494,000 in reimbursement authority from the Office of the Legislative Counsel (with a corresponding augmentation to that office's budget), in 2021-22 and ongoing | On behalf of the Committee on Revision of the Penal Code (Committee), to increase the Committee's efficiency and productivity and to address increased workload. Heard on 3/4 | No concerns with this proposal | Approve as budgeted |
| 13 | DOJ | Reparation Task Force AB 3121 (Weber), Chapter 319, Statutes of 2020 | \$1.1 million General Fund and 5 positions in 2021-22 and 2022-23 | The passage of AB 3121 establishes the Task Force to Study and Develop Reparation Proposals for African Americans (Task Force). DOJ will oversee the Task Force, which will consist of nine members appointed by a specific | No concerns with this proposal | Approve as budgeted |

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| | | | | <p>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.</p> <p>Heard on 3/4</p> | | |
| 14 | DOJ | Juvenile Court and Probation Statistical System Update (JCPSS) SB 823 (Committee on Budget and Fiscal Review), Chapter 337, Statutes of 2020 | \$1.9 million General Fund in 2021-22 and \$1 million in 2022-23 | <p>JCPSS is the primary statewide database of information collected from county agencies on all youth probation referrals, court actions, and final dispositions.</p> <p>SB 823 requires DOJ to, “submit a plan for the replacement of JCPSS with a modern database and reporting system.” SB 823 will require DOJ to submit a plan to the Legislature by January 1, 2023, to replace JCPSS with a modern database and reporting system. SB 823 also requires DOJ to convene a working group consisting of key stakeholders for this effort. To develop the plan, SB 823</p> | No concerns with this proposal | Approve as budgeted |

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| | | | | <p>requires DOJ to create a working group to consider a wide variety of factors including many with significant legal consequences, such as privacy, pre and post adjudication detention terms, operation of the juvenile detention system, and the operational feasibility of the new system.</p> <p>Heard on 3/4</p> | | |
| 15 | DOJ | <p>Personal information: Social Security Numbers: State Agencies AB 499 (Mayes), Chapter 292, Statutes of 2020</p> | <p>\$425,000 General Fund in 2021-22 and \$168,000 in 2022-23</p> | <p>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.</p> <p>To meet these mandates, DOJ will need to make modifications to various systems, including the Automated Criminal History System, the California Restraining and Protective</p> | <p>No concerns with this proposal</p> | <p>Approve as budgeted</p> |

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| | | | | <p>Order System, and the Wanted Person System. To make necessary information technology upgrades, DOJ intends to use consultant and staff resources.</p> <p>Heard on 3/4</p> | | |
| 16 | DOJ | Pawnbrokers, AB 1969 (Blanca Rubio), Chapter 185, Statutes of 2020 | \$491,000 Secondhand Dealer & Pawnbroker Fund in 2021-22 and \$114,000 in 2022-23 | <p>AB 1969 eliminates the requirement that the name and address of a seller or pledger of secondhand goods be reported to law enforcement when the seller or pledger verifies their identity with a Matricula Consular, and requires the state's database of secondhand property transactions to direct law enforcement to the dealer to obtain the seller or pledger's identity.</p> <p>AB 1969 requires DOJ to perform database upgrades/modifications to include the option of "on file" for specified data fields in lieu of required personal identifying information when a Matricula Consular is used. The resources would be used to perform database upgrades</p> | No concerns with this proposal | Approve as budgeted |

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| | | | | and modifications to comply with the mandates. Heard on 3/4 | | |
| 17 | DOJ | Firearms: Inspections AB 2061(Limón), Chapter 273, Statutes of 2020 | 2 positions and \$152,000 Dealers' Record of Sale Special Account in 2021-22, \$600,000 in 2022-23, and \$445,000 annually thereafter | AB 2061 will, beginning July 1, 2022, allow DOJ to inspect firearms dealers, ammunition vendors, or manufacturers participating in a gun show or event, to ensure that all transfers or sales are conducted in compliance with applicable state and local laws. The bill will also allow DOJ to inspect ammunition vendors to ensure compliance with applicable state and federal laws. Finally, the bill will allow the department to adopt regulations to administer the application and enforcement of laws relating to gun shows and ammunition vendors. Heard on 3/4 | No concerns with this proposal | Approve as budgeted |
| 18 | DOJ | Firearms Dealers: Conduct of Business AB 2362 (Muratsuchi) Chapter 284, Statutes of 2020 | \$301,000 Dealers' Record of Sale Special Account in 2021-22 and \$139,000 annually thereafter and one position | AB 2362 authorizes, commencing July 1, 2022, DOJ to impose civil fines on firearms dealers for breaches of regulations or prohibitions related to their firearms dealers license. Specially DOJ is authorized to impose a civil fine not exceeding \$1,000 for a violation of | No concerns with this proposal | Approve as budgeted |

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| | | | | <p>those prohibitions, and a civil fine not exceeding \$3,000 for a violation of those prohibitions when the licensee has received written notification from the department regarding the violation and fails to take corrective action, as specified, or the department determines the licensee committed the violation knowingly or with gross negligence.</p> <p>Proposed Use of Resources. To promulgate regulations, process an increase in citation assessments and forfeiture hearings for licensed dealers, update information technology infrastructure, and for licensing costs.</p> <p>Heard on 3/4</p> | | |
| 19 | DOJ | Firearms: Unsafe Handguns AB 2847 (Chiu), Chapter 292, Statutes of 2020 | \$674,000 Dealers' Record of Sale Special Account in 2021-22 and \$1.2 million in 2022-23 | AB 2847 requires, commencing July 1, 2022, all semiautomatic pistols not already listed on the Department of Justice (DOJ) roster of "not unsafe" handguns be equipped with chamber load indicators, magazine disconnect mechanisms, and microstamping technology. | No concerns with this proposal | Approve as budgeted |

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| | | | | <p>AB 2847 eases compliance by requiring that newly developed semiautomatic pistol models etch microstamping characters on one place on the interior of the firearm, as opposed to two as currently required. Additionally, AB 2847 furthers implementation of the new UHA requirements by directing the Attorney General to remove three previously grandfathered handgun models from the roster for each new compliant handgun model that is introduced.</p> <p>Proposed Use of Resources. To promulgate regulations prompted by this measure and, potentially, related to IT system changes and litigation. Specifically, the DOJ states that changes need to be made to the Automated Firearms System, Dealers' Record of Sale (DROS), DROS Entry System (DES), and Consolidated Firearms Information System. The requested resources would be dedicated to ensuring that the functionality specific to AB 2847 remains operational as</p> | | |
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| | | | | subsequent changes are made to the impacted systems. Heard on 3/4 | | |
| 20 | DOJ | Continuation of CURES Help Desk Resources | Requests \$484,000 Reimbursement authority in 2021-22 and ongoing | To support the Controlled Substance Utilization Review and Evaluation 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. Permanent funding is being requested to continue addressing the workload resulting from the CURES consultation requirements. A commensurate CURES Fund augmentation has been included in the Department of Consumer Affairs' budget to support this proposal. Heard on 3/4 | No concerns with this proposal | Approve as budgeted |

ITEMS FOR DISCUSSION

0250 JUDICIAL BRANCH

Issue 21: Remote Court Proceedings

Governor’s Budget. The budget proposes the following:

1. Authorizes Remote Proceedings in All Civil Cases
 - The Governor proposes budget trailer legislation authorizing trial courts to conduct all proceedings (including trials and evidentiary hearings) in civil cases remotely when the court deems it appropriate and practicable. Judicial Council would be authorized to adopt statewide Rules of Court for implementation.
 - The proposed legislation also includes intent language that this authorization “be interpreted broadly to provide safe and reliable access to justice.”
2. Authorizes Remote Proceedings in All Infraction Cases
 - The Governor proposes budget trailer legislation authorizing trial courts to conduct all proceedings (including arraignments and trials) in infraction cases remotely upon consent of the defendant. Judicial Council would be authorized to adopt statewide Rules of Court for implementation.

Background. Technology Allows Individuals to Participate in Court Proceedings Remotely

- Remote proceedings involve one or more parties using technology—ranging from calling in by telephone or through video conferencing—to participate in a court case, rather than being physically present in court.
- The use of remote proceedings—including the types of technology used and the case types or proceedings they are offered in—differs by trial court and is guided by state law and court rules.

Remote Proceedings in Civil Cases

- State law, as well as statewide and local Rules of Court, authorize telephone appearance for certain proceedings (such as discovery motion hearings) in certain civil case types (such as unlawful detainer and probate cases).
- State law requires Judicial Council enter into a master agreement with at least one vendor to provide for telephone appearances in civil cases. However, state law authorizes trial courts to directly provide such services as well outside of the master agreement.

- State law also requires Judicial Council establish civil fees for each telephone appearance. The current fee, which is paid by each party, is generally \$94 (which may be waived by the court), with state law requiring that \$20 of this fee go to support trial court operations. Telephone appearance fees generate roughly \$7 million annually for trial court operations. The remainder of the fee supports the entity that provided the service.
- While state law does not specifically authorize videoconferencing in civil cases, state law authorizes courts to charge a “reasonable” fee to cover the costs of appearing in this manner.

Remote Proceedings in Criminal Cases

- For misdemeanor and felony cases, state law authorizes defendants (upon their consent) to appear through video conferencing in certain proceedings—such as arraignment. State law generally requires physical presence in other proceedings, such as preliminary hearings, unless waived by the defendant.
- A statewide Rule of Court authorizes the use of video conferencing in traffic infraction cases under certain conditions.

Remote Proceedings Temporarily Permitted on Broader Basis Due to Pandemic

- In response to the coronavirus disease 2019 (COVID-19) pandemic state of emergency declared by the Governor in March 2020, Judicial Council enacted emergency rules allowing trial courts to require remote proceedings in all case types—but requiring the consent of the defendant in criminal proceedings. These emergency rules will remain in effect until 90 days after the pandemic state of emergency is lifted or until amended or repealed by Judicial Council.
- Trial courts have flexibility in how they use this emergency authority. Most courts have pivoted quickly to use technology to help move proceedings in certain case types forward during the pandemic. However, due to differences in existing local court infrastructure and priorities, the use of remote proceedings can differ substantially by trial court. Additionally, trial courts continue to adopt new technology and modify how they use technology based on their experiences. Accordingly, the extent to which trial courts have implemented remote proceedings and how such proceedings differ by court is unclear.

LAO Assessment

Remote Proceedings Could Create Benefits. Expanding the use of remote proceedings merits legislative consideration as it could help increase equity and access to the courts by making it easier for court users (such as those who live far from the court) to interact with the court.

To the extent remote proceedings reduce the amount of time proceedings take, the Governor’s proposal could reduce litigation costs (such as from the number of hours attorneys bill their clients) and could help process cases more efficiently and effectively.

Consider Whether Proposed Authority Is Appropriate for All Case Types and Proceedings. While remote proceedings can create benefits, the Legislature will want to consider whether remote proceedings would be appropriate for use in all case types or proceedings. For example, it could make sense for certain family law proceedings to take place in-person, such as to ensure children involved are not inappropriately influenced by adults. Additionally, the Legislature will want to consider whether state law should include certain minimum standards for the use of remote proceedings to ensure that court users across the state have similar experiences. However, under the broad authority provided to the judicial branch, no such minimums would be required.

Proposal Leaves Significant Implementation Details to Judicial Branch. Additionally, the proposed budget trailer legislation lacks specificity and leaves nearly all implementation details to the judicial branch, with little role for the Legislature. This is because the proposed language defers answers to key implementation questions to the judicial branch. Answers to these questions can have significant impacts on trial court operations, court processes, and appropriate funding levels. These key questions include:

— **How Would Courts Use the Authority to Conduct Remote Proceedings?** It is unclear whether remote proceedings will be required by Judicial Council or local courts, how this authority would be used, and in which case types or proceedings it would be used. For example, under the proposal, Judicial Council or local trial courts could require that all civil proceedings take place remotely—or alternatively, none at all.

— **How Would Court Processes Change?** It is unclear how the judicial branch would change existing court processes in order to facilitate remote proceedings. For example, it is unclear how much notice (if any) court users would need to provide if they would like to appear remotely or what specific rules for conducting jury trials remotely there would be.

— **Would Fairness, Equity, and Other Issues Be Addressed and in What Manner?** It is unclear how issues related to fairness, equity, privacy, and public access would be addressed in remote proceedings. For example, it is unclear whether parties who lack the necessary equipment for remote proceedings could choose for proceedings to occur in person. (Under the proposed language for infractions, remote proceedings require the consent of the defendant.)

Impacts on Trial Courts Would Depend on Implementation. The lack of key implementation details, in turn, makes it difficult to determine how the Governor’s proposal would impact trial court costs and revenues, as well as future court facility needs, which could be significant. Specifically, these impacts include:

— **Additional One-Time or Ongoing Technology-Related Costs.** It is unclear the extent to which trial courts would incur additional one-time or ongoing costs (beyond those from the pandemic) for equipment and infrastructure to support remote proceedings. For

example, it is unclear the extent to which trial courts would need to provide certain court employees, such as court interpreters, with equipment or Internet access to operate remotely on an ongoing basis.

— **Court Operations Costs and Workload.** On the one hand, court costs and workload could increase. For example, the convenience of remote proceedings (particularly if offered at no cost to court users) could result in more individuals choosing to file cases than otherwise or interacting with the court in a manner that requires more resources (such as filing more motions in a particular case). On the other hand, court costs and workload could decrease. For example, depending on implementation, courts could address cases more quickly than otherwise.

— **Court Revenues.** The impact on civil fees that support trial court operations (such as telephone appearance fees) is unknown. For example, it is unclear whether the use of video conference proceedings will result in the reduction or elimination of telephone appearance fee revenues and whether Judicial Council or local courts will adopt a fee for the use of video conference proceedings. The LAO notes that, under existing practices, any revenue losses would likely be backfilled by the General Fund.

Ongoing Facility Needs. A significant shift of proceedings to a remote platform could impact ongoing facility needs. On the one hand, existing facilities may require modernization and maintenance to support extensive video streaming. On the other hand, the number or size of physical courtrooms needed could decrease.

LAO Recommendations

1. *Direct Judicial Branch Submit Implementation Plan.*

Given the potential benefits, the LAO thinks the expansion of remote proceedings is warranted. However, the LAO recommends that the Legislature direct the judicial branch to submit a detailed plan for how remote proceedings would be implemented by case and/or proceeding type. At minimum, this plan should answer the key implementation questions described earlier to ensure the judicial branch has fully evaluated how court operations and court users would be impacted.

After receiving this plan, the Legislature would be in a much better position to determine whether and how to modify the proposed legislation to ensure that the use of remote proceedings reflect its priorities. For example, the Legislature could decide to specify minimum procedural requirements or prohibitions on use in certain case types or proceedings.

To the extent the judicial branch is able to provide a plan in the next couple of months, the Legislature could consider this proposal as part of the 2021-22 budget. Otherwise, the Legislature could consider the proposal as part of the 2022-23 budget.

2. ***Could Implement Pilot in Less Complex Cases or Proceedings if Priority to Authorize Remote Proceedings in 2021-22.***

The LAO states that they recognize that the Legislature may be interested in providing immediate authorization before it receives an implementation plan. If so, the LAO would recommend the Legislature pilot remote proceedings for two years in less complex case types or proceedings (such as infractions and/or small claims cases that do not require jury trials) and require an evaluation by November 1, 2022. The LAO would recommend the Legislature ensure the pilot reflects its priorities for remote proceedings.

The pilot would inform legislative decisions on whether to extend, expand, or modify the authorization of remote proceedings in 2023-24 when the pilot would end. Testing remote proceedings in such a manner could help ensure that implementation issues are identified and resolved in areas that have less impact on court user lives before expanding to more complex case types and proceedings. This more measured approach, along with an implementation plan for the more complex cases and proceedings, allows for the minimization of unintended consequences and costs while key implementation questions are being addressed through the pilot.

Staff Recommendation. Hold open

Issue 22: Recidivism Reduction Strategies through Collaborative Courts

Background. Collaborative justice courts, also known as problem-solving courts, combine judicial supervision with rehabilitation services that are rigorously monitored and focused on recovery to reduce recidivism and improve offender outcomes.¹ Collaborative courts have a dedicated calendar and judge for specific types of offenders.

Adult criminal collaborative court programs combine intensive judicial supervision and collaboration among justice system partners with rehabilitation services to reduce recidivism and improve outcomes for moderate- and high-risk offenders with significant treatment needs. Although program models differ among court types and local jurisdictions, adult criminal collaborative courts are generally led by a judge and include an interdisciplinary team consisting of a defense attorney, a prosecutor, a representative from probation or parole, and treatment staff and/or case managers or other representatives specific to the particular court.

Collaborative courts focus on high risk/high needs cases and utilize evidence-based practices. Collaborative court participants are typically assessed for their risk of recidivating and for their mental health issues, substance-use disorders, and other treatment needs. Community supervision and treatment plans are created based on the information obtained from these assessments. Participants also attend regularly scheduled court sessions—usually one to four times a month—to discuss their adherence to individualized supervision/treatment plans and other program requirements. Graduated sanctions (e.g., admonishments, increased frequency of court sessions, and jail sanctions) are used to respond to noncompliant behaviors, and incentives (e.g., verbal praise, reduced frequency of court hearings, and transportation or food vouchers) are used to reward prosocial behaviors and encourage participants’ progress.

History. In January 2000, then Chief Justice Ronald M. George appointed the Collaborative Justice Courts Advisory Committee to explore the effectiveness of such courts and advise the Judicial Council about the role of these courts in addressing complex social issues and problems that make their way to the trial courts. Formation of the committee expanded the scope of the Oversight Committee for the California Drug Court Project, which was appointed by Chief Justice George as of July 1, 1996, and continued until December 31, 1999. On August 3, 2000, the Conference of Chief Justices and the Conference of State Court Administrators passed a resolution to support collaborative justice courts.

Numbers and types of collaborative courts. California currently has more than 400 collaborative courts in all but three small jurisdictions, with many jurisdictions having four or more types of collaborative courts. The most numerous types of collaborative courts include adult drug courts (84), adult mental health courts (52), veterans’ courts (46), dependency drug courts (35), juvenile drug courts (19), DUI courts

¹ Citation: <http://www.courts.ca.gov/programs-collabjustice.htm>

(23), reentry courts (20), homeless courts (18), community courts (11), and juvenile mental health courts (8). Newer courts such as girls' courts and CSEC courts for commercially sexually exploited children are also growing. The balance of collaborative courts includes dual diagnosis courts, family law drug courts, truancy courts, prop 36 courts. Participant caseload sizes vary depending on the type of court. Most drug court caseloads average between 75 and 100 participants while other collaborative courts tend to have smaller caseloads.

Staff Recommendation. This is an informational item. No action needed at this time.

Issue 23: Access to Justice for Court Users

Background. The following panel will highlight some services delivered to court users from the perspective of the service provider. This background document summarizes activities for each service provider participating in the panel:

Legal Aid. 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 reentry. 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. The Equal Access Fund and IOLTA ("Interest on Lawyer Trust Accounts") funding are the two relevant funding sources for legal aid in California.

The 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 ongoing General Fund appropriation. In subsequent years, the EAF began to receive a portion of court filing fees. 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, as of 2018, 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 2017 Budget Act included a two-year \$10 million augmentation for the Equal Access Fund. The 2018 Budget Act made that limited-term augmentation a permanent \$10 million General Fund augmentation, beginning in 2019-20, and ongoing, to support the EAF. The 2019 Budget Act included an additional \$20 million one-time General Fund for the Equal Access Fund.

IOLTA stands for "Interest on Lawyers' Trust Accounts." Rule 4-100 requires that attorneys who handle money belonging to their clients, including settlement checks, fees advanced for services not yet performed or money to pay court fees, deposit the funds in one or more clearly identifiable trust accounts. "All funds received or held for the benefit of clients by a member or law firm, including advances for costs and expenses, shall be deposited in one or more identifiable bank accounts labeled, 'Trust Account,' 'Client's Funds Account' or word of similar import..." If the amount is large or the funds are to be held for a long period of time, the attorney must place the money at interest for

the benefit of the client. However, if the client funds are not capable of earning income for the client in excess of the costs of securing such income, including staff time and expenses to segregate those amounts, then they are pooled in a single account with similar funds of other clients.

In California, IOLTA interest income supports approximately 100 nonprofit legal aid organizations that provide civil legal aid to indigent and low-income people, seniors and persons with disabilities. Similar to other recessions, the COVID-19 pandemic has led to a dramatic decrease in IOLTA funding, due to a decrease in the money kept in accounts by attorneys as well as a significant drop in the federal funds rate. From 2019 to 2020, IOLTA revenue dropped from \$46 million to \$26 million. In 2021 it is projected to fall even further.

County Law Libraries. The California Judicial Council has reported that 75 percent of civil cases nationally, and more than 80 percent of family law matters in California, involve at least one self-represented litigant. Many self-represented litigants in California cannot afford representation. The cost of hiring a private attorney is simply prohibitive for the majority of Californians. Legal aid, pro bono organizations and court-based self-help centers assist but can only address a very small portion of the need (and only a small portion of those in need are even eligible, because of income and subject matter limitations). The County Law Library system- the libraries provide access to legal information for Californians who are without the means to hire a lawyer and would be without help but for their local public law library.

In 1891 the State of California, recognizing the need for free public access to legal information, authorized the formation of county law libraries in all 58 counties and provided for their funding via civil filing fees. Up until 2005, the Legislature provided for local control over library revenue by periodically authorizing County boards of supervisors to increase filing fees to enable law libraries to fulfill their defined mission. From 1994 to 2005, 75 percent of all counties used this authority to raise the local law library portion of the civil filing fee to maintain an adequate level of funding and public access to legal resources. However, the Uniform Civil Fee and Standard Fees Schedule Act of 2005 (UCF) established a schedule for trial courts across the state and provided a sunset to the authority of counties to adjust filing fees. Over 90 percent of County Law Library funding comes from a small portion of civil filing fees (ranging from \$2 to \$50 per case, depending on the county and type of case). The civil filing fee revenue that County Law Libraries depend on has dropped since 2009. The 2018 Budget Act included a one-time \$16 million appropriation for County Law Libraries to address a decline in civil filing fee revenue.

Most recently, since March of 2020, law library revenue has fallen by nearly 40 percent statewide. The 2020 Budget Act included a one-time \$7 million in 2020-21 to backfill County Law Libraries for lost revenue due to the reduction in civil case filings from COVID-19.

Dependency Counsel. Court-Appointed Dependency Counsel became a state fiscal responsibility through the Brown-Presley Trial Court Funding Act AB 1197 (W. Brown), Chapter 944, Statutes of 1988, and SB 612 (Presley), Chapter 945, Statutes of 1988, which added section 77003 to the Government Code and made an appropriation to fund trial court operations. Welfare and Institutions Code section 317(c) requires the juvenile court to appoint counsel to represent all children in dependency proceedings absent a finding that the particular child will not benefit from the appointment. The court must also appoint counsel for all indigent parents whose children have been placed out of the home or for whom out-of-home placement is recommended, and may appoint counsel for all other indigent parents. The statewide funding

need for court-appointed counsel is based primarily on the number of children in court-ordered child welfare supervision. In 2018, federal Title IV-E policy changed to allow states to begin drawing down reimbursement for dependency counsel funding through the Federal Funded Dependency Representation Program (FFDRP). With the state dedication of stable General Funds and the newly available federal dollars, it was anticipated that caseloads would be reduced to at most 141 clients per attorney, a standard set by Judicial Council.

The Judicial Council has established a caseload standard of 141 clients per full time equivalent attorney and a total funding need of \$207 million to achieve this standard. Inadequate funding and subsequent high caseloads lead to high attorney turnover and lack of retention of qualified advocates for children. Effective counsel will ensure that the complex requirements in juvenile law for case planning, notice, and timeliness are adhered to, thereby reducing case delays, improving court case processing and the quality of information provided to the judge, and ultimately shortening the time children spend in foster care.

In each of the past two years, the state budget appropriated \$157 million General Fund for dependency counsel. According to stakeholders, the first opportunity for attorney groups to claim federal FFDRP matching funds came in 2019-20, but actual claims fell far short of state estimates. In Governor's January 2021-22 budget, the FFRDP drawdown is projected as \$49 million in 2019-20 and \$57 million anticipated ongoing.

During the COVID-19 pandemic, California saw a 7 percent increase in the foster care population due to court backlogs, mostly attributable to a 14 percent increase in Los Angeles County – approximately 5,000 more children and 5,000 more parents required representation throughout out the year.

Court Reporters. Court reporters serve a critical function in court proceedings. They stenographically preserve the words spoken in a wide variety of official legal settings such as court hearings, trials, and other pretrial litigation-related proceedings, namely depositions. Judicial court reporters work either in courtrooms as official reporters or in the private sector as freelance reporters who provide deposition services as well as reporting civil proceedings in court and arbitrations. Current law requires court reporters to make a verbatim record of court proceedings and to create transcripts from them. Without a transcript of the proceedings, litigants are: (1) unable to appeal decisions; (2) unable to draft orders effectively; and (3) unable to accurately recount what actually happened during proceedings. Recent Issues include the following:

1. In *Jameson v. Desta* in 2018, the California Supreme Court found that a litigant cannot be denied a court reporter due to an inability to pay for one (5 Cal.5th 594.). As part of the Budget Act of 2018, budget bill language was attached to the \$75 million by the Legislature. The language expressed the following: “ it is the intent of the Legislature that \$10,000,000 be utilized to increase the level of court reporters in family law cases. Further, it is the intent of the Legislature that the \$10,000,000 not supplant existing trial court expenditures on court reporters in family law cases.”
2. The per folio rate for original transcripts prepared by official court reporters and court reporters pro tempore have not been adjusted in 30 years while fees for copies purchased at the same time as the original transcript have only increased once in 105 years.

3. As well, for years, the Transcript Reimbursement Fund (TRF) has faced decreased funding resulting in litigants losing access to transcripts and impacting court efficacy through delayed hearings as a litigant awaits a transcript. Since 1981, the Court Reporters Board has administered the TRF, which is funded by annual license fees of Certified Shorthand Reporters. The purpose of the TRF is to provide transcript reimbursement costs to indigent litigants in civil matters. There are two pathways to access the TRF: One path is available to pro bono attorneys representing indigent litigants. The other path is available to indigent litigants representing themselves (pro per, pro se, in propria persona). There are certain criteria to determine eligibility.

Staff Recommendation. This is an informational item. No action is needed at this time.

0820 DEPARTMENT OF JUSTICE (DOJ)

Issue 24: DOJ Spring BCPs

Spring BCP Requests and Background.

1. ***Bureau of Gambling Control Licensing Positions and Support.*** The Governor's Budget requests \$3.4 million Gambling Control fund in 2021-22 and ongoing to process California Cardroom and Third-Party Providers of Proposition Player Services license applications. Specifically, this funding would (1) make permanent 20 existing positions currently supported by temporary funding and (2) add 6 new clerical support positions.

The Bureau of Gambling Control (BGC), within the DOJ, is the state law enforcement authority with special jurisdiction over gambling activities within the state of California and is the entity that conducts background investigations for the California Gambling Control Commission (Commission) on gaming license and work permit applications. The BGC regulates legal gambling activities in California to ensure that gambling is conducted honestly, competitively, and free from criminal and corrupt elements. The Division of Gambling Control (now the BGC) was created on January 1, 1998, with the enactment of the Gambling Control Act (Act).

The Act established a comprehensive plan for the statewide regulation of legal gambling. It provides a bifurcated regulatory system whereby the BGC serves in an investigative role and the Commission serves in an adjudicatory role. The Cardroom Gaming Unit within the bureau is responsible for the bureau's cardroom-related licensing responsibilities. There are four categories of applicants associated with gambling establishments:

1. All persons and/or business entities that have control or ownership interest in a gambling establishment, or third-party providers of proposition player services (TPPPPS).

2. A cardroom key employee license for all persons employed in a supervisory capacity or empowered to make discretionary decisions over the establishment's gambling operations.
3. A work permit is required of all persons employed in a gambling establishment for certain positions such as dealer, waitress/waiter, surveillance, etc.
4. TPPPPS Supervisors and Players.

Businesses or individuals submit applications to either obtain a license or renew a license, along with a processing fee, to the bureau. The bureau is then responsible for conducting background investigations and making recommendations to the Gambling Control Commission on whether licenses should be approved, renewed, or denied. The scope of each background investigation varies depending on the license type, applicant, and the complexity of the applicants' history, but normally includes in-depth research and analysis of each applicant's background through inquiries of various personal, public, and law enforcement sources. Also, the financial aspects of business owners and entitles are closely examined to verify that all persons with ownership/control interest in the gambling operation are identified and properly licensed. The length of time it takes to conduct such investigations depends on the type of license. For example, the investigations related to business owner license applications can be significantly more extensive than for a regular cardroom employee. These investigations include various inquiries, such as a criminal background check and a review of financial statements. The 2019 Budget Act approved \$4.4 million and the retention of 32 limited term positions for two years.

Table 2: Workload History for the Licensing Section

| Fiscal Year | 2015-16 | 2016-17 | 2017-18 | 2018-19 | 2019-20 |
|-------------------------------------|--------------|--------------|--------------|--------------|--------------|
| Beginning | 2,696 | 2,153 | 1,991 | 1,806 | 1,786 |
| Incoming Cases (Initial) | 3,811 | 4,129 | 3,947 | 3,995 | 4,776 |
| <i>Incoming Cases (Renewal)</i> | <i>1,568</i> | <i>1,437</i> | <i>1,208</i> | <i>2,304</i> | <i>1,334</i> |
| Cases Closed (Initial) | 3,403 | 4,209 | 3,107 | 3,104 | 4,223 |
| <i>Cases Closed (Renewal)</i> | <i>1,523</i> | <i>1,352</i> | <i>1,208</i> | <i>2,182</i> | <i>1,302</i> |
| Abandon/Withdraw/Other ² | 996 | 167 | 1,025 | 1,033 | 1,529 |
| Ending | 2,153 | 1,991 | 1,806 | 1,786 | 842 |

2. **Medi-Cal Fraud and Elder Abuse Workload.** The Governor's Budget requests \$10.5 million Federal Trust Fund and \$3.5 million False Claims Act Fund to allow full expenditure of a reoccurring federal grant which supports its current operations of eight regional offices.

The Bureau of Medi-cal Fraud and Elder Abuse is responsible for the investigation and prosecution of Medi-Cal fraud in both criminal and civil courts and the investigation and prosecution of elder and dependent adult abuse and neglect. On September 23, 2020, the Bureau of Medi-Cal Fraud and Elder Abuse became its own division: the Division of Medi-Cal Fraud and Elder Abuse. The DOJ states that the increasing federal Medicaid budget presents substantial challenges without the commensurate increase in State spending authority to keep up with the increasing demands related to fraud, abuse and neglect. From 2016 through 2019, the budget allotment for Medi-Cal has increased from \$538.9 million to \$705.8 million.

Staff Recommendation. Hold Open both proposals.

5227 BOARD OF STATE AND COMMUNITY CORRECTIONS (BSCC)**Issue 25: Strengthening Jail Oversight**

Spring BCP and Trailer Bill Language. The Governor’s Budget requests \$3.1 million General Fund and 14 positions ongoing to the BSCC for the oversight of county jails. This proposal also includes proposed trailer bill language to allow properly identified and authorized BSCC staff to enter a local detention facility without advance notice to conduct inspections to determine compliance with the Board’s regulations. This proposal would allow for BSCC to move from biennial inspections to annual inspections and would allow for additional technical assistance.

Background. Local governments are responsible for operating certain detention facilities (such as jails) to incarcerate people in various stages of the criminal justice system. Detention facilities often engage in high stakes activities—including delivery of health care and use of force—that can have life and death consequences for those incarcerated as well as staff. Accordingly, proper facility policies and operations are critical to ensuring safety and humane treatment, protecting the rights of those incarcerated, and minimizing exposure to legal liability.

Several states—including California—set minimum standards for the operation of local detention facilities and inspect facilities relative to those standards. Such programs can provide state assistance for and oversight of local detention facilities. The operation of local detention facilities is currently of particular interest to members of the Legislature in light of recent concerns raised around conditions of jails in California.

Overview of Local Detention Facilities. In California, counties are responsible for detaining, in secure facilities, both youth and adults who (1) have been arrested for a crime and are awaiting trial or court decisions or (2) are serving time for committing a crime. In addition, some city police departments operate detention facilities used to detain arrestees on a short-term basis. In total, there are about 550 local detention facilities in the state.

Adult Detention Facilities House Adults in Various Stages of the Criminal Justice System. There are 457 local detention facilities that house people in various stages of the adult criminal justice system. Of these, 281 are operated by counties and 176 are operated by cities. These facilities include:

- *Jails.* These facilities can house people for significant periods of time including while they are serving multiyear sentences, though also may hold people for short periods following arrest. Statewide, jails have a capacity of 80,000 and had an average daily population of 73,500 in 2019. Of this population, 67 percent were unsentenced, 82 percent were charged with or convicted of a felony, and 87 percent were male.

- *Short-Term Detention Facilities.* These facilities hold people for less than 96 hours, such as some police facilities that hold people following arrest. Statewide, short-term detention facilities have a capacity of 4,000. The state does not collect population data for these facilities.
- *Holding Cells.* These facilities hold people for less than 24 hours, such as courthouse cells that hold people for their hearings. The state does not collect capacity or population data for these facilities.

While counties operate all of the different types of facilities, cities generally operate holding cells and short-term detention facilities, though one city—Santa Ana—operates a jail.

Typically Operated by County Sheriffs or Police Chiefs. County detention facilities are generally operated by elected sheriffs while city detention facilities are operated by chiefs of police who are appointed by elected city officials. Sheriffs and police chiefs typically maintain internal policy and procedure manuals that instruct staff in matters of facility operations. For example, a jail’s policy regarding external visitors may outline when staff can deny or terminate a visit, such as if the visitor is under the influence of drugs or alcohol. Ultimately, sheriffs—who have broad and direct authority over facility operations—and county boards of supervisors—who allocate funding to sheriffs—are responsible for conditions inside county-operated detention facilities. Chiefs of police, as well as the city officials who appoint and oversee them, are responsible for conditions inside city-operated detention facilities.

Overview of BSCC: History, Responsibilities, and Governance. The BSCC was established in 2012, though similar agencies have existed in various forms since the 1940s. Under existing state law, BSCC is responsible for providing statewide leadership, coordination, and technical assistance to promote effective state and local efforts and partnerships in California’s adult and juvenile justice systems.

BSCC has four main responsibilities: (1) setting standards for and inspecting local detention facilities, (2) setting standards for selection and training of local correctional staff, (3) administering various state and federal grant programs related to recidivism reduction and prevention strategies, and (4) administering the state’s construction financing program for local detention facilities. The 2020-21 budget provides BSCC with \$348 million (\$136 million General Fund) to carry out these responsibilities. Of this amount, \$315 million is expected to be passed through to local governments and other entities. Of the \$33 million retained by BSCC, \$2.7 million—as well as 8.4 staff positions—supports the standards and inspections program.

The agency is overseen by a 13-member board. In addition to a chair, statute requires the board to include two administrators from the California Department of Corrections and Rehabilitation (CDCR), five local law enforcement officials, one county supervisor or administrative officer, a judge, two providers of rehabilitative services, and a member of the public. Ten members—including the chair—are appointed by the Governor and subject to Senate confirmation. The Judicial Council, Speaker of the Assembly, and the Senate Committee on Rules each appoint one member. Statute requires the board to select either a sheriff or a chief probation officer from among its members to serve as vice chair. The chair of the board is a full-time paid position while the remaining members receive reimbursement for any expenses

incurred as a board member, such as travel costs. The agency is managed by an executive director who is appointed by the Governor and subject to Senate confirmation.

Local Detention Facility Standards and Inspections Program

BSCC Required to Perform Certain Activities Related to Facility Standards. The state first created minimum standards for local jails in the 1940s after a statewide survey of jails found them in need of improvement. The standards were first administered by the State Board of Corrections, which later evolved through various government reorganizations into BSCC. The standards have been revised over time—including with the addition of standards for juvenile detention facilities—and are currently codified in Titles 15 and 24 of the California Code of Regulations. Current state law requires BSCC to perform the following specific activities, which make up the core of the standards and inspections program:

- *Maintain Minimum Standards for Facility Construction and Operation.* BSCC is required to create minimum standards for construction and operation of local detention facilities, as well as review and consider revisions to the standards once every two years. This work is done primarily by ESCs and working groups generally consisting of detention facility managers and advocates for inmates and detained youth, as well as formerly incarcerated people. In selecting members for these groups, statute requires that BSCC staff seek to include individuals with expertise and diverse perspectives.
- *Inspect Each Facility Every Two Years.* BSCC is required to inspect each local detention facility once every two years to assess compliance with the above standards. Inspectors review policy manuals and other written documentation of facility processes and procedures to assess their compliance with the standards. In addition, inspectors assess whether operations match policy by touring the facility; interviewing staff, inmates, and detained youth; and reviewing documentation of operations (such as log books and grievance forms). Following the inspection, BSCC staff continue to work with facility staff to develop and implement a corrective action plan if areas of noncompliance are identified.
- *Report on Facilities' Compliance With Standards.* Statute requires BSCC to provide inspection reports to facility administrators and certain other local officials, such as the presiding judge in the county. BSCC is required to post all inspection reports on its website and submit a summary report to the Legislature every other year. This summary report must include a list of noncompliant facilities, the specific standards these facilities did not meet, and the estimated cost to each facility of achieving compliance. We note, however, that BSCC does not report estimated costs for compliance. According to BSCC, such information is not collected and would be speculative.

BSCC Not Authorized to Enforce Standards. While statute requires BSCC to report which adult detention facilities are not in compliance with the standards, it does not give BSCC a mechanism to enforce the standards (such as by fining facilities). If BSCC finds juvenile detention facilities out of compliance, it is required by state law to promptly notify the facility operator and those who have authority to place minors in the facility. If the reason for noncompliance is not addressed within 60 days of the notification, state law prohibits minors from being

housed in the facility until the issue is remedied. However, as with the standards for adult facilities, state law does not authorize BSCC to enforce this prohibition.

BSCC Modifying Program. In recent years, high profile cases of inmate mistreatment covered in the media have raised concerns about conditions inside California jails. Many of these cases point toward systemic problems, not just isolated incidents. Following these concerns, and citing an overall insufficient level of accountability and oversight of jails across the state, the Governor directed BSCC in January 2020 to make the following changes to the standards and inspections program:

- *Ensure Standards Are Consistent With National Best Practice.* As part of its existing biennial standards revision process, BSCC staff have started providing the working group members with reading materials on possible best practices for operating detention facilities. Staff also ask members to confirm they are considering best practices in their revision process.
- *Prioritize Inspections and Technical Assistance for Facilities With History of Noncompliance.* BSCC has begun conducting additional inspections and providing technical assistance at facilities that were found in the previous inspection cycle to have more than two significant items of noncompliance. These additional inspections are focused on the facilities' specific areas of noncompliance and do not replace their standard biennial comprehensive inspection.
- *Highlight Noncompliance through Public Board Meetings.* BSCC plans to implement a new process to highlight cases of detention facilities failing to comply with standards. Specifically, BSCC will ask agencies that do not address areas of noncompliance within specified time periods to appear before the board at a public meeting to discuss why they are not compliant. However, attendance is optional and if an agency declines to attend, there are no further consequences associated with noncompliance.

LAO Assessment

Board in Need of Reform. In their recent report, [*A Review of State Standards and Inspections for Local Detention Facilities*](#), the LAO found that it is difficult to assess the effectiveness of the BSCC's standards and inspection program primarily because state law does not specify the mission or goals BSCC should pursue as it implements the program. This leaves significant discretion to BSCC and the administration in determining how to operate the program and undermines the Legislature's ability to assess whether the program is operating effectively and is consistent with legislative priorities. Based on conversations with BSCC staff and other stakeholders, there appears to be some consensus that the current informal mission of the program is generally to promote legal, humane, and safe conditions for inmates, detained youth, and staff. In addition, the LAO finds that the board pursues this mission primarily by focusing on the goal of providing service to local agencies by helping them determine and meet legal requirements. However, nothing prevents the current or future administrations from operating the program based on a different mission or goals.

To address these concerns, the LAO recommended that the Legislature take the following steps:

- ***Establish Clear Program Mission and Goals.*** The LAO recommended that the Legislature establish in statute that the mission of the program is to promote legal, humane, and safe conditions for detained youth, inmates, and staff in local detention facilities. To further this mission, the LAO recommended establishing four explicit goals for the program: (1) maintain standards that help local leaders determine and meet legal requirements; (2) facilitate transparency and accountability through standards and inspections; (3) promote equitable provision of legal, humane, and safe conditions; and (4) provide technical assistance and statewide leadership to facilitate systemic improvement in detention conditions.
- ***Balance Board Membership to Facilitate Oversight.*** The LAO found that the current BSCC membership does not have sufficient expertise and balance of perspectives to oversee local detention facilities based on the above mission and goals. This is because 6 of the 13 BSCC board members are currently administrators of correctional agencies, with at least 4 of them overseeing detention facilities that are subject to the BSCC standards and inspection program. As a result, they have an incentive to avoid approving standards that they believe would be difficult or costly to meet. Accordingly, the LAO recommended that the Legislature add board members with professional expertise in advocacy for and oversight of detention conditions. In addition, in order to create a better balance and enhance legislative oversight, the LAO recommended that more board members be subject to appointment by the Legislature.
- ***Require Plan to Align Program With Mission and Goals.*** The LAO found that various elements of the program are not aligned with the above mission and goals. For example, the LAO found that insufficient specificity in the current standards allows for subminimal policies and practices at local detention facilities—which does not support the goal of facilitating transparency and accountability around facility conditions. Accordingly, the LAO recommended directing BSCC to develop a detailed plan for how to align the program with the LAO’s recommended mission and goals. This will (1) enable the Legislature to determine whether any statutory changes are needed and/or whether to provide BSCC with additional resources to implement the plan and (2) facilitate future evaluation of program effectiveness.

Program Expansion Not Needed at This Time. To the extent that the Legislature reforms the board as the LAO recommended above, the LAO thinks that expanding the program before implementing the reforms is premature. This is because, upon receiving BSCC’s plan to align the program with the statutory mission and goals, the Legislature would be in a better position to assess BSCC’s resource needs and to ensure that any additional resources it provides would be used to support a programmatic mission and goals that are consistent with the Legislature’s priorities.

To the extent the Legislature chooses not to implement the reforms the LAO recommended, the LAO find that expanding the program is unnecessary. This is because the proposed expansion would support BSCCs current informal goal of providing service to local agencies by helping local leaders determine and meet legal requirements. In other words, the expansion would be primarily to increase the level of service BSCC provides to local agencies, such as by increasing the technical assistance it provides. However, BSCC has not provided evidence showing that local agencies are dissatisfied with the current level of service.

Unannounced Inspections and Electronic Data Entry Appear Worthwhile. Funding electronic data entry and providing BSCC with the option of conducting unannounced inspections appear to be worthwhile. Electronic data entry would result in data on facility standards compliance being housed in one data base as opposed to separate paper reports, making it easier to use for the Legislature, the board, local agencies, and stakeholders. Unannounced inspections would likely be a useful tool for BSCC inspectors in assessing facility compliance with standards. These changes would support both the LAO's proposed mission and goals for the program as well as the current, informal mission and goal of the program.

LAO Recommendations

Reform Board and Program. As discussed above and in their recent report, the LAO continue to recommend various changes to the board and the standards and inspections program.

Reject Program Expansion. In view of the above, the LAO recommends rejecting the 14 positions and \$2.9 million in associated funding to expand the standards and inspections program as it would be premature to provide the funds before reforming BSCC as the LAO recommends and appears unnecessary if the Legislature chooses not to reform the board. To the extent the Legislature reforms the board, it could consider expanding the program at that time.

Approve Funds for Electronic Data Entry and Authorize Unannounced Inspections. The LAO recommends that the Legislature approve the remaining \$150,000 in ongoing funding to support electronic data entry as well as the budget trailer legislation authorizing unannounced inspections as these changes would be worthwhile.

Staff Recommendation. Hold Open