

SUBCOMMITTEE NO. 5

Agenda

Senator Nancy Skinner, Chair
Senator John M.W. Moorlach
Senator Jim Beall



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State Capitol - Room 113

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ITEMS FOR VOTE-ONLY**5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION (CDCR)**

1. ***Tattoo Removal Program.*** The May Revision includes a reduction of \$1,400,000 General Fund in 2019-20 and \$369,000 General Fund in 2020-21, 2021-22 and 2022-23 to revise the level of funding for the inmate tattoo removal program included in the Governor's January Budget. This results in total funding of \$1.1 million and 1.0 position in 2019-20, and \$2.1 million and 1.0 position in 2020-21, 2021-22 and 2022-23, General Fund for the tattoo removal program.

Given the potential post-release employment benefits, along with the significant interest and participation of the existing program, CDCR surveyed participants in the gang debriefing process (a formal, multi-step gang disassociation process) to assess whether there was interest in a tattoo removal program. The survey found that 91 percent of Debrief Processing Unit people (who are in the process of debriefing) and 39 percent of Transitional Housing Unit people (who have completed the gang debriefing process) were interested in participating in a tattoo removal program. The current tattoo removal contract is funded by CalPIA, and cannot be expanded without additional resources. Based on current contract rates and the estimated number of eligible participants, CDCR developed a plan to expand services statewide. CDCR is proposing to offer tattoo removal services to people who are nearing release to the community, as well as people who have completed the debriefing process. According to the Strategic People Management System (SOMS), roughly 15 percent of people currently have highly visible tattoos. Based on the number of people with highly visible tattoos who are nearing release or who have participated in the debriefing process, CDCR estimates that 3,032 people could receive treatment each fiscal year.

Expanding the program also requires additional administrative staff and funding for custody overtime. CDCR is requesting one Staff Services Manager I (Specialist) (SSMI) to provide contract oversight, develop and oversee the expansion of the program, and to track and report data. CDCR will also need Correctional Officer (CO) overtime hours to escort inmates and provide supervision during tattoo removal services. Captains at each institution will serve as the local Tattoo Removal Program Coordinators. The Coordinators will ensure offenders interested in the program meet the criteria and are scheduled treatment appointments with the approved contractor. Correctional Officers at each institution will escort offenders to the appointment. The contractor will be required to take "before" photos, and institutional staff will take "after" photos for updated inmate identification cards. In addition, a survey or quality control form will be required to document each offender undergoing the tattoo removal treatments to ensure tattoo removal services are successful, safe, and compliant.

Staff Recommendation. Approve as budgeted.

2. ***Support for Victims Services.*** The May Revision includes \$2 million Inmate Welfare Fund in 2019-20 and ongoing to support the Office of Victims and Survivor Rights and Services' Victim People Dialogue program and to establish or expand Innovate Programming Grants targeting victim impact programs. The fund would provide grants to non-profit organizations focused on helping inmates understand the impact of crime on victims.

LAO Assessment and Recommendation. According to the LAO, the CDCR would use a small portion of the funds in 2019-20 for start-up activities, including conducting outreach to victims and inmates and developing a tracking system to monitor one of the programs. It appears that these start-up activities may not be an allowable use of the IWF. This is because current law requires all IWF funds used for programs focused on offender responsibility to be passed through to non-profit organizations and not to be used by department staff or for administration of the program. The administration informed the LAO that it agrees with this concern and will attempt to fund these start-up activities within existing resources. As such, the LAO recommend the Legislature reduce the 2019-20 funding amount accordingly.

Staff Recommendation. Approve \$2 million Inmate Welfare Fund ongoing to directly support victim impact programs as authorized by Penal Code 5006. Direct CDCR to absorb the \$75,000 for the database upgrade and evaluation component within existing General Fund resources.

3. ***Sign Language Interpreter Services.*** The May Revision includes a General Fund increase of \$1,504,000 and 12 positions to provide Sign Language Interpreter positions to provide services to inmates for whom sign language is their primary method of communication. According to the Strategic Offender Management System, there are currently 79 inmates who require SLI services, and 11.0 authorized Support Service Assistant (SSA I) positions. One SSA I is assigned to each institution where SLI inmates are housed, with two additional assigned to the Substance Abuse Treatment Facility (SATF) based on the inmate population need and agreements with plaintiffs.

CDCR has increased hearing impaired inmate participation in programs, services, and activities by 13,468 hours since last year alone (6,236 hours for 2017 versus 19,704 hours in 2018). This is over a 1,000 hour increase in programming per month, and does not include hours for SLI services required during Rules Violation Report hearings, interviews, medical appointments, inmate requests to attend religious services, monthly training for job assignments, etc.

Each position provides approximately six hours of sign language interpreter services per day. SSAIs are scheduled fewer than eight hours due to the intense nature of signing communication and must be allowed intermittent breaks (usually after 20 minutes of signing). The remaining time is used to travel to different facilities to conduct assignments, attend meetings and trainings, etc.

Programming at these institutions is 7 days per week, and begins at 7:00 am and goes until 6:00 pm. CDCR is requesting to establish posted positions to cover these programming hours by adding twelve (12.0) SSAIs to the nine institutions currently providing SLI services. Positions will be allocated based on mission as well as general numbers of SLI inmates that will require services. According to CDCR, this solution enables a more stable programming schedule for the disabled inmates for both second and third watch, and on weekends.

Staff Recommendation. Approve as budgeted.

4. ***Workforce Innovation and Opportunity Act, Data Sharing.*** The May Revision includes trailer bill language to allow the California Department of Corrections and Rehabilitation and California Prison Industry Authority to access relevant quarterly wage data necessary for the evaluation and reporting of their respective program performance outcomes as required and permitted by various state and federal laws pertaining to performance measurement and program evaluation under the federal Workforce Innovation and Opportunity Act.

Staff Recommendation. Approve as proposed.

5. ***Council on Criminal Justice and Behavioral Health Reappropriation.*** The May Revision includes a one-time reappropriation of \$415,000 Mental Health Services Act funds (Proposition 63) for 2019-20 for CCJBH. The 2018 Budget Act provided CCJBH with an ongoing allocation of \$795,000 in MHSA funds ongoing to support one position at \$125,000 and \$670,000 for stakeholder consumer contracts for individuals with mental illness who are involved in the criminal justice system. With a one-time \$415,000 reappropriation in FY 2019-20 CCJBH can award roughly \$1,100,000 in contracts (\$670,000 approved last year plus the \$415,000 requested this year) for individuals and organizations that represent (or advocate for) the programs and priorities of individuals (or families and children and youth) who are formerly incarcerated and living with mental health challenges.

Staff Recommendation. Approve the proposal.

6. ***Medical Adjustment for Reentry Facilities.*** It is requested that Item 5225-001-0001 be decreased by \$1,550,000 and Item 5225-008-0001 be decreased by \$5,053,000 to reflect revised medical and dental costs for people in reentry facilities.

Staff Recommendation. Approve as budgeted.

7. ***Receiver- Medical Classification Model Update.*** The May Revision includes \$27,919,000 General Fund and 102.4 positions in 2019-20 and ongoing to reflect the Receiver's update to the Medical Classification Model changes that will increase staffing levels for health care operations throughout California's prison system.

Staff Recommendation. Approve as budgeted.

8. ***Receiver- Contract Medical Augmentation.*** The budget includes an augmentation of \$61.9 million for the CA Correctional Health Care Services contract medical services.

Staff Recommendation. Approve as budgeted.

0390 CONTRIBUTIONS TO THE JUDGES' RETIREMENT SYSTEM

9. ***Mallano Lawsuit Judgment.*** The May Revision includes a \$40 million General Fund augmentation to reflect funding for the class action lawsuit related to the *Judges' Retirement System (JRS)*, *Ma/Jana v. John Chiang* (Superior Court of California, County of Los Angeles, Case No. BC-533770), to satisfy the court-ordered post-judgment award of back salaries, associated benefits, and interest related to retired judges. Additionally, it is requested that provisional language be added to Item 0390-001-0001 to specify that any funds appropriated to this item for the Ma/Jana post-judgment settlement in excess of the amount actually required for the payment of those claims shall revert to the General Fund within 45 days after final payment has been made.

In the case of Robert M. Mallano, et al. v. John Chiang, Controller of the State of California (SCO), the Judges' Retirement System (JRS), and the Judges' Retirement System II (JRS II), the judge issued a Statement of Decision which orders judicial salary increases to be given to the judges for the fiscal years 2008-09, 2009-10, 2010-11 and 2013-14 plus 10 percent interest per annum for each year that the judicial salaries were not increased within those fiscal years.

Staff Recommendation. Approve as budgeted.

10. Judges' Retirement System Contributions. The May Revision includes a \$6,226,000 General Fund augmentation to reflect an increase in state retirement contributions to JRS. Government Code section 75101 requires the state provide General Fund payments to the system in an amount equal to 8 percent of aggregate annual salaries of judges covered by the system. These changes increase General Fund costs to \$219,344,000, from the \$213,118,000 General Fund included in the Governor's Budget. This increase in the state retirement contribution to JRS is due to changes in the number of retired members, and an increase in member salaries.

Staff Recommendation. Approve as budgeted.

0250 JUDICIAL BRANCH

11. Trial Court Reserves. The May Revision includes trailer bill language be added to increase the cap on trial court reserves from one percent to three percent. Since 2014, trial courts have been restricted to only carrying over one percent or less in reserves from the prior year operating budget. In 2018-19, this equals approximately \$27 million statewide. Increasing the cap enables courts to retain funding to cover immediate costs for budgeted expenses such as payroll and other ongoing operating expenses in the event of an unanticipated one-time disruption in funding, gives courts the flexibility to address local needs that are unique to certain jurisdictions, and allows courts to adjust to mid-year cost changes.

Staff Recommendation. Approve as budgeted.

12. Trial Court Employee Benefits Adjustment. The May Revision requests that Items 0250-101-0932 and 0250-111-0001 each be decreased by \$3,404,000 to reflect the updated health benefit and retirement rate changes for trial court employees.

Staff Recommendation. Approve the adjustment as budgeted.

13. Trial Court Trust Fund Revenue Shortfall Adjustment. The May Revision requests that Item 0250-113-0001 be decreased by \$10,991,000 to reflect a reduction to the amount to backfill revenue shortfalls based on the most current estimates of Trial Court Trust Fund fee revenues for fiscal year 2019-20.

Staff Recommendation. Approve the adjustment as budgeted.

14. Legal Aid for Renters in Landlord-Tenant Disputes. The May Revision is requesting an additional \$20 million one-time General Fund for the Equal Access Fund. The budget already includes \$20.4 million General Fund and \$5.5 million Trial Court Trust Fund ongoing for the Equal Access Fund to provide grants to over 100 nonprofit service organizations to provide legal assistance to low-income Californians, particularly the indigent, homeless, disabled, elderly, and

victims of domestic violence. These services include, but are not limited to: legal technical assistance, training, advice and consultation, and representation.

Staff Recommendation. Approve language as proposed.

15. *Dependency Counsel Title IV-E Funding.* The May Revision includes \$1.5 million ongoing General Fund for the Judicial Council to administer federal reimbursements for court-appointed dependency counsel costs. The May Revision includes federal reimbursements, which are estimated to be \$34 million, to supplement the amount of funding provided in the Governor's January Budget.

The Governor's January Budget included \$20 million ongoing General Fund (approved by subcommittee 5 on 5/9/2019) Therefore, the total dependency counsel funding due to these augmentations will therefore be brought up to \$190.7 million annually beginning in 2019-20.

Staff Recommendation. Approve as budgeted.

16. *Courts of Appeal Workload.* The May Revision includes \$5 million General Fund in 2019-20 and ongoing for the Courts of Appeal to address general operation cost increases, workload growth due to more complex litigation, new case duties related to recent law changes seeking retroactive decisions, and voter approved initiatives requiring Courts of Appeal review.

Staff Recommendation. Approve as budgeted

17. *Language Access Expansion in each California Court.* The May Revision includes \$9.6 million General Fund in 2019-20 and \$9.3 million General Fund in 2020-21 and ongoing for the expansion of interpreter services into all civil proceedings, the ability to cover the increased costs in criminal proceedings, and court interpreter salary & benefit increases.

Staff Recommendation. Approve as budgeted.

8120 COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING (POST)

18. *State Penalty Fund Trailer Bill Language.* The May Revision includes trailer bill language to amend Government and Penal Code to abolish the Peace Officers' Training Fund, which is no longer used by POST and designate the State Penalty Fund as its successor fund.

Staff Recommendation. Approve as proposed.

0820 DEPARTMENT OF JUSTICE (DOJ)

19. *Peace Officers, Video and Audio Recordings, Disclosure (AB 748).* The budget includes \$447,000 General Fund and three positions in 2019-20 and \$412,000 General Fund in 2020-21 and ongoing to the DOJ to implement AB 748 (Ting), Chapter 960, Statutes of 2018. The bill establishes a standard for the release of body-worn camera footage by balancing privacy interests with the public's interest in the footage. Specifically, it allows a video/audio recording that relates to critical incidents involving peace officers to be withheld for 45 calendar days if disclosure would substantially interfere with an active investigation. The requested resources would be housed within the department's Division of Law Enforcement to review, redact where

appropriate, and determine if video and audio recordings of critical incidents that are requested can be disclosed to the public.

Staff Recommendation. Approve \$135,000 and one position in 2019-20 and ongoing and adopt placeholder trailer bill language.

20. Dispositions Workload Increase. The budget includes \$203,000 General Fund and two positions in 2019-20, and \$188,000 General Fund in 2020-21 and ongoing to the DOJ's California Justice Information Services Division to process the increase in dispositions and corresponding criminal history record updates resulting from the passage of AB 865, AB 2599, AB 2942, and SB 1437.

Staff Recommendation. Reject this proposal.

21. New and Expanded Crimes. The budget includes \$145,000 General Fund and one position in 2019-20, \$136,000 General Fund in 2020-21 and ongoing to process the additional workload of 25 bills signed into law.

Staff Recommendation. Reject this proposal.

22. CA Internet Consumer Protection and Net Neutrality Act of 2018. The budget requests a permanent augmentation of three Deputy Attorneys General (DAG), two Associate Governmental Program Analyst (AGPA), two Staff Services Analyst (SSA), the legal complement of two Legal Secretaries, and an increase in spending authority of \$1,846,000 Unfair Competition Law Fund for 2019-20, and \$1,775,000 in 2020-21 and ongoing, to support the implementation of, and thereafter, to address the mandates associated with SB 822 (Wiener), Chapter 976, Statutes of 2018.

Staff Recommendation. Adopt LAO Recommendation and modify this proposal by adopting budget bill language specifying that funding can only be used if all court prohibitions preventing implementation or enforcement have expired or been removed.

23. Crime Prevention/Investigation: Informational Databases (AB 2222). The budget includes \$135,000 General Fund and one position in 2019-20 and \$126,000 General Fund in 2020-21 and ongoing to the DOJ to implement AB 2222 (Quirk), Chapter 864, Statutes of 2018. AB 2222 expands which law enforcement agencies are required to report information about firearms that are reported lost, stolen, or recovered. The position would be a permanent Field Representative position including wages, benefits, equipment, and operating expenses, to provide audit support to the department's Automated Firearms System (AFS).

Generally, sheriff and police departments are required to submit to DOJ, directly into the appropriate automated property system, descriptions of serialized property, or non-serialized property that is uniquely inscribed, that has been reported lost, stolen, found, recovered, held for safekeeping, or under observation. Specific to firearms, this information is submitted into AFS. Also with respect to firearms only, the information entered into AFS must remain in the system until the gun has been found, recovered, is no longer under observation, or it is determined that the record was entered erroneously. Additionally, police and sheriffs' departments are required to, and other law enforcement agencies may, report to DOJ any information in their possession necessary to identify and trace the history of a recovered firearm that is illegally possessed, has been used in a crime, or is suspected of having been used in a crime.

Staff Recommendation. Modify this proposal. Approve one new permanent Field Representative position at \$125,000 General Fund ongoing per Senate Appropriations analysis. .

24. Criminal Law: DNA Collection of minors (AB 1584). The budget includes \$149,000 General Fund in 2019-20, \$136,000 General Fund in 2020-21 and ongoing and one position to the DOJ to implement AB 1584 (Gonzalez-Fletcher), Chapter 745, Statutes of 2018 which prohibits law enforcement from collecting a buccal DNA swab or any biological sample from a minor without first obtaining written consent of the minor and approval of the minor's consent from a parent, legal guardian, or attorney.

The DOJ states that one position is needed to develop a training curriculum for the proper sample collection from juvenile offenders and to make the training curriculum available to agencies statewide. In addition to this training component, they raise the issues that there will be an influx of calls inquiring on samples that were previously collected from juveniles. The third component of the legislation calls for an expungement process for voluntarily submitted samples. Samples received by the DOJ's Data Bank Program require a thorough vetting process prior to expungement and the new position will assist with the increase in workload that AB 1584 will produce. The estimated costs for AB 1584 cannot be funded from the DNA Identification Fund as current DNA ID revenues are insufficient to cover these costs.

Staff Recommendation. Reject this proposal. The bill was keyed non-fiscal.

25. Sexual Assault Investigations Evidence Kits (AB 3118). The budget includes a one-time allocation of \$194,000 General Fund in 2019-20 to the DOJ to implement AB 3118 (Chiu), Chapter 950, Statutes of 2018, which requires all law enforcement agencies, medical facilities, crime laboratories, and any other facilities that receive, maintain, store, or preserve sexual assault evidence kits to conduct an audit of all untested sexual assault kits in their possession and report their data to the DOJ. This item was heard on May 2, 2019.

Staff Recommendation. Reject this proposal.

26. Payment of Settlements and Judgments. The May Revision includes a \$2,069,000 General Fund increase to pay for five settlements related to the Reproductive Freedom, Accountability, Comprehensive Care and Transparency Act along with provisional language stating the following:

Of the funds appropriated in Schedule (4), \$2,069,000 shall be available for settlements and judgements related to the Reproductive Freedom, Accountability, Comprehensive Care, and Transparency Act. Any unexpended funds shall revert to the General Fund.

Staff Recommendation. Approved as proposed.

ITEMS TO BE HEARD

5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION (CDCR)

Issue 27: General Population Adjustments and Notable Population-Based Proposals

May Revision Proposed Adjustments. The May Revision makes the following population adjustments based upon updated caseload projections and additional alternative custody program placements:

Adult Population Adjustment – The May Revision projects the average daily population of adult inmates at 127,993 in the current year, and 126,705 in the budget year. This is a decrease of 341 in 2018-19, and a decrease of 266 in 2019-20, as compared to the January estimates. In addition, the May Revision projects the average daily population of parolees to be 48,535 in the current year, and 50,442 in 2019-20, a decrease of 166 in the current year and an increase of 497 compared to the Governor's Budget projection.

The population adjustments, as shown in the proposal, are reflected by a net increase of \$2,057,000 and a net decrease of 135.6 positions, which is comprised of an increase of \$2,097,000 General Fund and a reduction of \$40,000 Inmate Welfare Fund.

Custody to Community Transitional Reentry Program. The May Revision includes \$8.4 million General Fund and 13.0 positions in 2019-20 to establish two 60-bed Custody to Community Transitional Reentry (CCTRP), one in Los Angeles and one in Beaumont for women who are incarcerated.

Juvenile Population Adjustment – The May Revision requests that Item 5225-001-0001 be increased by \$7,501,000 and 53.6 positions, reimbursements be increased by \$26,000, and Item 5225-011-0001 be decreased by \$573,000 and four positions. The May Revision reflects an estimated average daily population of 782 wards in 2019-20, which is 23 more wards than projected in the Governor's Budget.

Background on CCTRPs. The Custody to Community Transitional Reentry Program (CCTRP) allows eligible people with serious and violent crimes committed to prison to serve their sentence in the community at a CCTRP as designated by the CDCR, in lieu of confinement in prison and at the discretion of the Secretary. The CCTRP intends to provide a range of rehabilitative services that assist with alcohol and drug recovery, employment, education, housing, family reunification, and social support.

Under CCTRP, one day of participation counts as one day of incarceration in State prison, and participants in the program are also eligible to receive any sentence reductions that they would have received had they served their sentence in State prison. Participants may be returned to an institution to serve the remainder of their term at any time with or without cause.

Female participants who volunteer for CCTRP will be placed into the program with a minimum of 45 days and a maximum of 30 months to participate prior to their release date. All of the participants receiving services through the CCTRP will be required to reside at the CCTRP program. CDCR will have the final decision regarding program placements and retains the right to remove participants from the program at any time.

CDCR currently has CCTRPs at the following locations:

- San Diego – 112 bed facility
- Santa Fe Springs – 112 bed facility
- Bakersfield – 75 bed facility
- Stockton – 50 bed facility
- Sacramento – 50 bed facility

According to the CDCR's Office of Research, the one-year conviction rate for participants of the program released in 2013-14 released to Parole or Post Release Community Supervision between September 2014 and October 2017 was 4.4 percent and those returning to CDCR at 1.3 percent.

Locations, staffing, and summary of funding. The CDCR states that there are 1,821 women who are incarcerated and from L.A. County, of which 1,086 will be eligible for release in two years. The proposed CCTRP L.A. site would be in northern Los Angeles County and close to the San Fernando Valley with staffing levels of Correctional Counselor III (one), Parole Agent II (two), and Correctional Counselor II specialist (two).

The CDCR states that there are 785 women who are incarcerated and from Riverside County, of which 391 will be eligible for release in two years. The proposed CCTRP Beaumont site would be in Beaumont within Riverside County with staffing levels of Correctional Counselor III (one), Parole Agent II (two), and Correctional Counselor II specialist (two).

Encompassing the total requests are facility staffing, contract acquisition costs, administrative support and vehicle leases. CCTRP participants have an Electronic Monitoring Device and the parole agent is responsible for installation and monitoring of the device as well as monitoring/responding to program violations, investigate and resolving alerts when a device malfunctions and/or is tampered with. The additional staffing would be analyst and staff services manager positions to provide contracting and auditing functions for the Women and Children's Services Unit, the unit responsible for supporting CCTRP.

LAO Assessment and Recommendation. Several Policy Changes Currently Being Implemented Are Expected to Impact Correctional Population. In 2019-20, several recent policy changes are anticipated to accelerate the release of certain inmates from prison. For example, the 2018-19 Budget Act provided resources for CDCR to refer inmates to courts for possible sentence reduction due to sentencing errors or because of their exceptional behavior while incarcerated. In addition, the LAO discovered that CDCR is in the process of using its authority under Proposition 57 to further increase credits inmates earn for participating in rehabilitative and educational activities starting in May 2019. The department is not currently required to notify the Legislature when it makes changes to its credit earning policies. For example, CDCR plans to increase the number of days inmates earn off of their prison sentences for earning a high school diploma from 90 days to 180 days. As a result of these policy changes, the inmate population is expected to decline and the parolee population is expected to temporarily increase. Both of these estimated impacts are not reflected in CDCR's current population projections. Given that the current population projections form the basis of the administration's population-related budget requests, it is possible that the requested level of resources may be more than the department will need.

Lack of Legislative Notification of Credit Changes Makes It Difficult to Account for Potential Population Impacts. Given the authority provided to CDCR under Proposition 57 to reduce inmates'

terms by awarding them credits for good behavior or participation in rehabilitative programs, CDCR will likely continue to make changes to credit policies that could significantly impact the inmate and parolee populations and the level of resources necessary to support them. The LAO also notes that changes to credits can have implications for sentencing, offender rehabilitation, public safety and other areas of interest to the Legislature. However, CDCR makes credit changes through the regulatory process, which means it is difficult for the Legislature to become aware of the changes in a timely manner. For example, as mentioned above, the Legislature was not directly notified of the department's recent credit changes, despite the fact that these changes could affect the department's resource needs.

In January, the LAO recommended that the administration revise its population projections to account for recent policy changes. While CDCR did update its population projections to account for the policy changes, the adult inmate population budget request is based on population projections that are not adjusted for these changes. This means that CDCR is requesting more funding than it is expected need based on its own adjusted population projections. The LAO thus recommends that the Legislature direct the administration to adjust its population budget request downward to account for the adjusted projections.

On the CCTRP proposal. At this time, CCTRP has not been evaluated in terms of its cost-effectiveness in reducing recidivism relative to a standard prison environment. Accordingly, while the program could have merit, the LAO believe it should be evaluated to assess its cost-effectiveness before it is expanded. As such, the LAO recommends the Legislature—regardless of whether it approves the proposed expansion—direct CDCR to contract with independent researchers to evaluate the cost-effectiveness of the program. The results of such an evaluation would assist the Legislature in determining future funding levels for the program. The LAO estimates that the cost of such an evaluation would likely not exceed a few hundred thousand dollars.

To the extent that the Legislature approves the proposed expansion, the LAO notes that there is a technical error with the proposal that would result in CDCR being over budgeted by a few million dollars. Specifically, it appears that program participants are being double counted in CDCR's inmate housing estimates. In addition, the LAO notes that the Legislature could consider reducing the funding for 2019-20 to account for a phased-in implementation.

Staff Recommendation. Hold Open

Issue 28: Receiver-Integrated Substance Use Disorder Program

May Revision. The May Revision includes \$71.3 million General Fund and 280.2 positions in 2019-20, growing to \$161.9 million General Fund with an additional 150.8 positions in 2020-21, and growing to \$164.8 million General Fund in 2021-22 and ongoing for the Integrated Substance Use Disorder Treatment Program (making the totals \$165 million General Fund annually and 431 positions by 2021-22) to implement an Integrated substance use disorder (ISUDT) program that would be CDCR and the federal Receiver for inmate medical care. According to the administration, the goals of this program are to treat substance use disorder as a chronic illness, reduce fatalities associated with it, and improve CDCR's rehabilitative environment. The total includes the following:

- ***Changes to Existing Programs (\$4 Million in 2019-20, Increasing to \$57 Million in 2020-21).*** CDCR contracts for the provision of Substance Use Disorder Treatment (SUDT) and Cognitive Behavior Therapy (CBT) programs. (CBT programs focus on addressing certain needs that, if left unaddressed, can increase recidivism, such as anger management.) Under the Governor's proposal, requirements for SUDT and CBT contractors would be revised. For example, contractors would be required to employ staff with greater qualifications, increase their pay rates, and use specific evidenced-based curricula.
- ***Establishes New Statewide Medication Assisted Treatment (MAT) Program (\$8 Million, Increasing to \$29 Million in 2021-22).*** Under this program, individuals with alcohol use disorder and opioid use disorder would generally receive various medications designed to reduce the likelihood that they relapse while undergoing SUDT. The Receiver currently operates limited MAT pilot programs at three prisons.
- ***Increases Medical and Corrections Staffing (\$59 Million).*** The administration proposes to increase medical staff to implement the MAT program and screen inmates for substance use disorders, among other duties. Additional correctional staff is also proposed to escort inmates and provide security during programming.

Background. The Devastating Effects of SUD. SUD affect Americans on a daily basis. The Substance Abuse and Mental Health Services Administration defines SUD as "the clinically significant impairment, including health problems, disability, and failure to meet major responsibilities at work, school, or home" due to frequent alcohol and/or drug use. The opioid epidemic and related overdoses are a driver of SUD. Opioids are as a class of drugs that are both illegal, such as heroin, synthetic, such as fentanyl, and legal, such as oxycodone, hydrocodone, codeine, and morphine. The spike in opioid overdoses has impacted healthcare, the economy, and public safety. The Centers for Disease Control and Prevention (CDC) estimates an annual economic burden of \$78.5 billion in the United States because of opioid overdoses.¹ Moreover, these overdoses strip those impacted of their homes, cars, and families. They impact school-aged children and endangers child welfare. And, they are associated with high rates of Hepatitis C and HIV infections. Most significantly, opioid overdoses lead to rises in death rates across the United States.

The Opioid Overdose Crisis in the U.S. And California. Opioid overdose is a main contributor to high overdose death rates across the United States and California. The CDC reports that there were

¹ C.S.Florence, C. Zhou, F.Luo, L. Xu. The Economic Burden of Prescription Opioid Overdose, Abuse, and Dependence in the United States, 2013. *Med Care.* 2016;54(10):901-906.

70,237 drug overdose deaths in the United States in 2017, of which² 47,600 were from opioid use. An estimated 130 people die every day from opioid overdoses.³ And, drug overdose death rates had more than doubled from 2000 to 2016, from 6.2 to 13.3 per 100,000 persons.⁴ Overall, the numbers suggest that the United States has a significant crisis.

The epidemic has also significantly hit California and its prison population over the last decade. In 2017, California had 2,196 opioid overdose deaths, 429 fentanyl overdose deaths, and 4,281 opioid overdose emergency department visits (excluding heroin).⁵ In state prisons, the CCHCS reported that the overdose rate increased by four times—from 5.9 per 100,000 people in 2007 to 22.1 per 100,000 people in 2016. In total, there were 144 deaths that resulted from drug overdose in the past six years.⁶ CCHCS estimates that the prevalence of SUD among the CDCR population is approximately 80 percent or 100,000 patients, with “at least 26 percent” of these individuals having an opiate use disorder.⁷ The table below shows the number of drug overdose deaths in state prisons, as well as death rates in all U.S. and California state prisons. These statistics show that policy decisions must result in program development and expansion to address addictions within prisons. Heavy emphasis on such programs will decrease dependency on drugs and alcohol, reduce inmate-on-inmate violence, reduce recidivism and improve health outcomes.

Table 1: Comparison of drug overdose death rates across California and U.S. prisons.

Year	CCHCS DRUG OVERDOSES DEATHS (TOTAL)	CCHCS DRUG OVERDOSE DEATH RATE (per 100,000)	U.S. PRISONS OVERDOSE DEATH RATE (per 100,000)
2006	17	9.9	4
2007	9	5.3	3
2008	19	11.2	4
2009	14	8.3	4
2010	23	13.8	3
2011	12	7.4	4
2012	15	11.1	3
2013	24	18	4
2014	19	14.1	4
2015	19	14.7	--
2016	29	22.5	--
2017	38*	30	--

² H. Hedegaard, A.M. Miniño, M. Warner Drug overdose deaths in the United States, 1999–2017. NCHS Data Brief, no 329. Hyattsville, MD: National Center for Health Statistics. 2018.

³ CDC/NCHS, [National Vital Statistics System](https://wonder.cdc.gov), Mortality. CDC WONDER, Atlanta, GA: US Department of Health and Human Services, CDC; 2018. <https://wonder.cdc.gov>.

⁴ Ibid.

⁵ California Opioid Overdose Surveillance Dashboard. <https://discovery.cdph.ca.gov/CDIC/ODdash/>.

⁶ J. Clark Kelso. “Treatment to Reduce the Burden of Disease and Deaths from Opioid Use Disorder,” <https://cchcs.ca.gov/wp-content/uploads/sites/60/Reports/Drug-Treatment-Program.pdf>. 2018.

⁷ Ibid.

**According to the CDCR the 2017 data point is preliminary as four cases are still under review through autopsies, a process completed by the county, which can take up to 10 months. Statistics with a (--) indicate data was not obtainable at the time of this writing.*

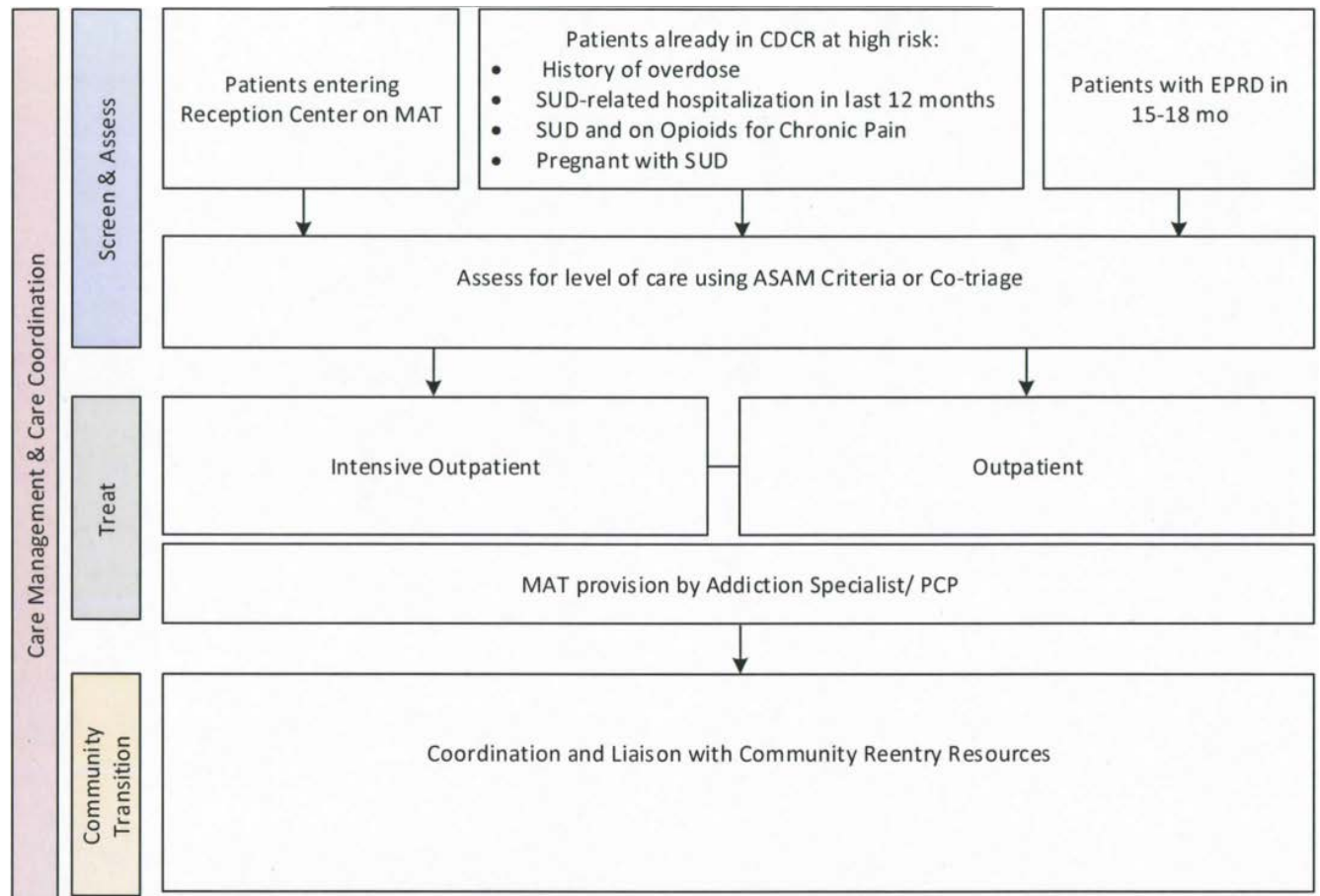
California has significantly expanded the Drug Medi-Cal Organized Delivery System (DMC-ODS) program to build a delivery system for SUD treatment in the community. The DMC-ODS program is county-based and participation has grown from about 12 out of 58 counties (20 percent) to 56 out of 58 counties (97 percent) in 2017. The increase in counties participating in a SUD treatment and providing MAT will greatly improve the success of released patients being able to continue with their MAT programs.

Phases and implementation. Because of the size and scope of the undertaking, the CDCR /CCHCS says will take time for CDCR/CCHCS to fully develop the infrastructure and capacity to implement a robust statewide ISUDTP that is able to offer SUD treatment to the population affected with SUD. This will require a phased approach to this program, which will be facilitated by CCHCS and DRP within CDCR, with full implementation over a five-year timeline. Below is a simplified walkthrough of the SUD program model.

In its initial phase, the proposed ISUDTP will focus on assessment and risk stratification for those at highest risk, revamping and expanding core SUD rehabilitative programming statewide, and strengthening the release process in order to assure successful transition back to the community. This request focuses on the first two years of this multi-year implementation timeline, and on assessing and treating patients who are: 1) entering Reception Centers (RCs) on MAT; 2) currently incarcerated patients identified as high risk; and 3) patients with estimated prison release dates (EPRDs) within the next 15 to 18 months. Based on these evaluations, patients may be referred to one of two treatment paths: Intensive Outpatient, or Outpatient. Within each treatment path, there are three distinct stages of care management and care coordination: 1) Screening and Assessment, 2) Treatment, and 3) Community Transition.

Targeted Population. Three distinct groups of patients are targeted as the first priority for this proposal:

1. Patients who enter prison already on MAT have presumably been assessed prior to their arrival and started on a care plan. The number of patients presenting to RCs on MAT is expected to steadily increase as a result of the expansion of MAT in county jails by the Department of Health Care Services (DHCS) and in the community through the Medi-Cal expansion program.
2. Patients already in prison who categorize themselves as high risk by: surviving resuscitative efforts following a drug overdose; a recent hospitalization for SUD-related comorbidity (e.g., osteomyelitis, or endocarditis) in the past year; having SUD and a coexisting chronic pain condition on chronic opioid therapy; having SUD during pregnancy; or other conditions associated with high risk for drug overdose.
3. Patients who are anticipating release from prison in the near future. Patients with untreated OUD are approximately 45 times more likely to die within the first two weeks of release compared with age matched controls in the community. Therefore, to allow enough time to implement a comprehensive treatment plan - estimated to require approximately 12 months to complete for most patients - CCHCS will target patients with an expected release date within 15-18 months. This group will comprise the largest proportion of the three targeted as our first priority.



The next charts show the monthly patient enrollment estimates and implementation milestones.

Screening and Assessments. At points of entry (i.e., RCs and Receiving and Release (R&R) centers), patients are screened by a licensed nurse through the Initial Health Screen. The nurse then links the patient to services to ensure continuity of care across a wide spectrum of services, settings, and staff, including the primary care team, NTPs, pharmacy services, addictions services, headquarters' (HQ) team, custody and the DRP programs. Screening and risk stratification of patients anticipating release within 15-18 months will be accomplished through administration of the NIDA Quick Screen and Modified Assist instruments, which require between 0.1 and 0.5 hours each, and can be administered by nursing and social work staff. The NIDA screening tools were adapted from earlier versions developed, validated, and published by the World Health Organization to be effective screening tools for identifying substance use and is specifically designed to fit into busy primary care clinical practices.

Subsequent multidimensional assessments to determine the level of SUD-related care for each patient, based on criteria published by ASAM, will be applied to all three patient groups identified to be at moderate to high risk for SUD related harm.

MAT and Community transition coordination. In addition to the counseling and structured therapeutic programming within each level of care, MAT provisioning is proposed for those with disorders amenable to supplemental MAT, specifically, OUDs and AUDs.

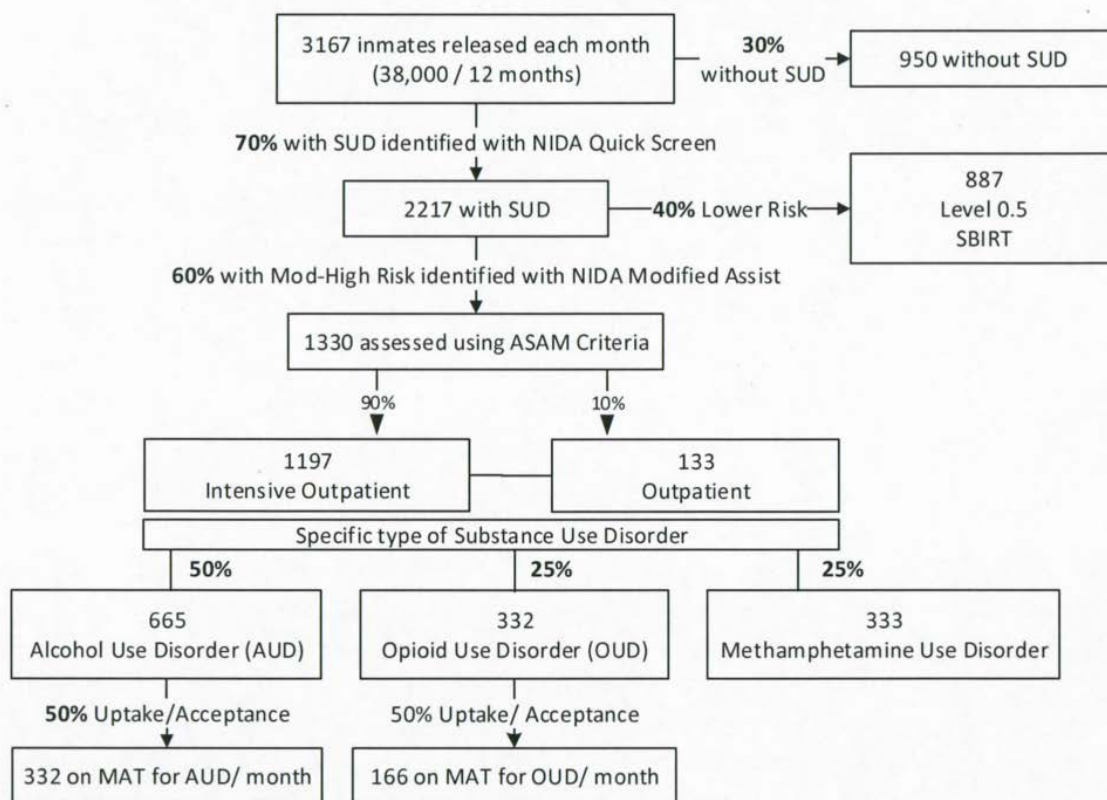
The Whole Person Care program is a model of care spearheaded by nursing services that is responsible for providing care coordination throughout the spectrum of incarceration from entry to release. The goals of the WPC program are to:

1) Provide comprehensive care coordination from RCs and R&Rs across care teams, external resources (hospitals, external specialty consultants). Triage and Treatment Area, and MAT.

2) Ensure comprehensive care coordination with the community transition teams at time of release, to include enrollment in a Medi-Cal plan, scheduling and arranging transportation to initial health appointments, securing records, and liaising with county resource partners, probation community supervision and parole, and other community health workers and/or other peer support.

Within the last 15-18 months of Incarceration, all patients will receive five weeks of Transitions Reentry Services by an interdisciplinary team. Services will include, but are not limited to, resume production, job interview preparation, finance management, and applications for Medi-Cal, CalFresh, Social Security, and the Department of Motor Vehicles. Achieving effective case management across the spectrum of health care, social services, and other resources to achieve a smooth and successful transition back to communities, while maintaining efforts in SUD recovery, will require coordination between CCHCS, CDCR, and county partners. The WPC program offers significant enhancements and bridges gaps in the services already in place that are offered by the Transitional Case Management Program and DAPO.

Table 1: Monthly Patient Enrollment Estimates for MAT Provision.



Integrated SUD Treatment Program - Health Care

Timeline	2019						2020						2021					
	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
Phase I Jul-19 to Dec-19 Milestones:																		
Hire All HQ Management and Supervisory Staff																		
Hire Addiction Medicine Providers																		
Hire All Institution Supervising RN Staff																		
Hire LCSW and NCPR Staff																		
Phase II Jan-20 to Jun-20 Milestones:																		
Hire HQ Admin/ Analytical Support Staff																		
Hire Pharmacy Staff																		
Hire Lab Staff																		
Hire Remaining LCSW and NCPR Staff																		
Hire Institution RN and Support Staff																		
Start Screening/ Assessment (ERD 15-18 mo) Statewide																		
Initiate MAT Statewide																		
Begin WPC Community Transition Program																		
Phase III Jul-20 to Jun-21 Milestones:																		
Implement SUDT at All Institutions Statewide																		
Continue Screening/ Assessment (ERD 15-18 mo) Statewide																		
Continue MAT Statewide																		
Fully Implement WPC Community Transition Program Statewide																		

LAO Assessment. Large Scale Implementation of Untested Program. While aspects of the proposed program are evidence-based, other aspects have not been evaluated. Furthermore, this particular combination of programs has not been tested to determine if it would be a cost-effective approach. As such, it is unclear how effective this program would be. This is particularly concerning given the scale of the proposal.

- Cost Estimates Subject to Significant Uncertainty.** The estimates used to determine the level of resources for various aspects of the proposal are based on limited information, such as studies from other states, and are subject to error. For example, the proposal includes \$5 million to prescribe naloxone—a drug designed to reverse opioid overdoses—to over 25,000 offenders released from CDCR on an annual basis. However, the administration estimates that only 4,000 individuals are released each year with opioid use disorders.
- Full Cost of Implementation Not Identified.** The administration indicates that it would take at least five years to fully implement the ISUDT program. However, it has only provided information on costs for the first three years of implementation. In addition, it is possible that additional infrastructure could be needed due to the large increases in staff, medication distribution, and SUDT and CBT programs.
- Potential Implementation Challenges.** The Receiver has indicated that there are significant challenges in hiring and maintaining medical staff. Despite this, the proposal assumes the state would be able to fill 300 medical positions in three years. Moreover, it is unclear how effectively the proposal would link offenders to treatment upon release and whether there is sufficient treatment capacity in the community for these offenders. This is problematic because community treatment is a key component of effective SUDT as offenders are at significant risk of overdose during the first two weeks after release.
- Limited Departmental Oversight of CBT Programs.** A recent audit by the State Auditor found that CDCR's CBT programs lack sufficient oversight to ensure that contractors comply with best practices. While the department is currently developing oversight tools for existing CBT curricula, it is uncertain whether such tools would be applicable to the new curricula being proposed. In addition, the May Revision does not propose additional resources or changes to ensure sufficient oversight of the CBT programs proposed.

LAO Recommendation. In view of the LAO's concerns, the LAO recommends that the Legislature implement the Governor's ISUDT program on a pilot basis—rather than statewide—at the three facilities that are currently piloting MAT programs (the Substance Abuse Treatment Facility in Corcoran, the California Institution for Men in Chino, and the California Institution for Women in Corona).

- The LAO also recommends that the pilot include oversight to ensure that contractors follow best practices and an independent evaluation by researchers to determine the effect of the program on substance use in prisons, inmate health, and offender outcomes upon reentry, including recidivism and overdose death.
- Based on the administration's estimates for a statewide program, the LAO estimates that a pilot of this magnitude would cost less than \$10 million in 2019-20 and would be unlikely to exceed \$20 million at full implementation.
- The LAO's recommended pilot would allow the Legislature to assess the effectiveness of the program and determine whether it should be implemented statewide. It would also allow the department to collect data to better determine the costs and resources necessary to expand the program to other facilities.
- To the extent the Legislature would like to implement a statewide ISUDT program, the LAO recommends modifying the Governor's proposal to address some of the LAO's concerns. Such modifications include requiring (1) a more gradual implementation, (2) an annual progress report from CDCR and the Receiver on the program's implementation and costs, and (3) an independent evaluation once the program is fully implemented.

Staff Recommendation. Hold Open.

0250 JUDICIAL BRANCH**Issue 29: Judgeships**

May Revision. The May Revision includes \$30.4 million General Fund in 2019-20 and \$36.5 million General Fund in 2020-21 and ongoing to allocate 25 of the 48 remaining trial court judgeships authorized by AB 159 (Jones), Chapter 722, Statutes of 2007.

It is also requested that Trial Court Security be increased by \$2,917,000 General Fund for accompanying trial court security costs. Trial Court Security was realigned from the state to the counties through the 2011 Public Safety Realignment, and Proposition 30 (2012) requires the state to provide annual funding for newly required activities that have an overall effect of increasing county costs in this realigned program. Per this requirement, one bailiff is allocated to support each new judgeship. The funding would therefore be \$2,917,000 General Fund in 2019-20 and \$3,500,000 General Fund in 2020-21 & ongoing for trial court security.

Background. The judicial branch is constitutionally required to accept all filings that come to the courts. However, trial court judgeships have not kept pace with workload growth, meaning that courts must prioritize workload, giving precedence to any case with a constitutionally-mandated deadline and deferring others without such requirements. In 2005, the Judicial Council decided to seek 150 new trial court judgeships over three years. The status of these judgeships is as follows:

- **50 Authorized and Funded.** In 2006, the state enacted SB 56 (Dunn), Chapter 390, Statutes of 2006, which authorized 50 new judgeships. The 2007-08 Budget Act subsequently appropriated funding for those judgeships.
- **50 Authorized, But Not Funded.** In 2007, the state enacted AB 159 which authorized another 50 new judgeships. However, no funding was appropriated for these judgeships. Initially, funding for these 50 judgeships would have allowed appointments to begin in June 2008. Because of budget constraints, funding was delayed until July 2009 to shift the fiscal impact from 2008-09 to 2009-10; however, no funding was included in the 2009 Budget Act to support the 50 judgeships. The 2018 Budget Act provided funding for two judgeships out of the 50, to be allocated to the Riverside Superior Court, but otherwise the 48 remaining judgeships continue to be unfunded.
- **50 Neither Authorized Nor Funded.** The last 50 judgeships have not been authorized via enacted statute nor less funded.

Assessment of current needs. Table 1 below shows a breakdown of the Judicial Branch's currently authorized judgeships, filled judgeship positions, authorized but unfunded AB 159 judgeships as well as judicial need.

	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19
Authorized Judgeships*	1,682	1,695	1,715	1,726	1,732	1,738
Filled Judgeships Positions*	1,560	1,579	1,597	1,618	1,601	TBD
Vacant and Unfunded AB 159 Judgeships	50	50	50	50	50	48
Judicial Need (according to Judicial Needs Assessment)**	263.9	269.8	269.8	269.8	188.5	186.5

*As of July 1st, of each fiscal year; year to year changes are due to Subordinate Judicial Officer conversions.

**Excludes Unfunded AB 159 Judgeships; includes two judgeships authorized and funded in the 2018 Budget Act

In 2006, Government Code section 69614 was enacted, requiring the Judicial Council to report to the Legislature and the Governor on the need for new judgeships in each superior court using the uniform criteria for the allocation of judgeships described in subdivision (b). The latest report, *The Need for New Judgeships in the Superior Courts: Preliminary 2018 Update of the Judicial Needs Assessment* shows a need for 127 new judgeships in the superior courts. Table 2 below is from that report and shows the needed judgeships by county.

Table 2. Need for New Judgeships, by Court

	A	B	C	D
Court	Authorized and Funded Judicial Positions	2018 Assessed Judicial Need	Number of Judgeships Needed* AJN – AJP (B – A)	% Judicial Need over AJP (C / A)
Imperial	11.3	12.3	1.0	9
Tehama	4.3	5.4	1.0	23
Merced	12.0	13.2	1.0	8
Sutter	5.3	6.6	1.0	19
Humboldt	8.0	9.4	1.0	13
Shasta	12.0	14.4	2.0	17
Kings	8.6	11.0	2.0	23
Tulare	23.0	25.6	2.0	9
Placer	14.5	17.4	2.0	14
Ventura	33.0	36.3	3.0	9
Stanislaus	24.0	28.2	4.0	17
San Joaquin	33.5	38.6	5.0	15
Fresno	49.0	56.9	7.0	14
Kern	43.0	53.5	10.0	23
Sacramento	72.5	84.3	11.0	15
Riverside	80.0	116.2	36.0	45
San Bernardino	88.0	126.2	38.0	43
			127.0	

The shortfall is considerably higher in some counties because, according to the Judicial Council: 1) prior to statutory adoption of the council's methodology for allocating judgeships, judgeships were sometimes

allocated without using a common workload metric; 2) some counties have experienced higher filings growth than others; and 3) resource allocation has not kept pace with workload levels. The 2018 report showed that eight courts have a need at least 20 percent higher than authorized resources, with two courts showing a need 40 percent higher. Due to lower case filings, the overall statewide need for judges is less than identified in the previous Judicial Needs Assessment. A new assessment will be released in summer 2019 and will be used to update the courts that are most in need of judgeships.

This request estimates the total cost per additional judgeship, which includes judicial compensation, judicial operating expenses and equipment, court interpreters, and court staffing, at \$1,460,000. This is consistent with the addition of the two judgeships in the 2018 Budget Act.

LAO Assessment and Recommendation. The May Revision proposes \$30.4 million General Fund—increasing to \$36.5 million annually in 2020-21—to support 25 new trial court judges (and associated court staff) who will be distributed to those trial courts with the greatest judicial need based on their workload in accordance with the Judicial Needs Assessment (JNA), which identifies that 17 trial courts need 127 judges. (The judgeships would not be allocated until the JNA’s underlying workload methodology is fully updated in the summer of 2019, which could result in a changed level of identified need.) The LAO notes that while 17 trial courts lack a sufficient number of judges according to the JNA, other courts currently have roughly 130 more judgeships than justified by their workload. Thus, in addition to approving the Governor’s proposal, the Legislature could consider reallocating judgeships (as they become vacant) from courts with more than their assessed need to those with less than their assessed need as a way to redistribute judicial resources based on workload needs.

Staff Recommendation. Hold Open.