

# SUBCOMMITTEE NO. 5

# Agenda

Senator Nancy Skinner, Chair  
Senator Joel Anderson  
Senator Jim Beall



Thursday, May 17, 2018  
9:30 a.m. or upon adjournment of Session  
State Capitol - Room 113

Consultant: Christopher Francis

## PART B

<u>Item</u>	<u>Department</u>	<u>Page</u>
<b>Vote-Only Items</b>		
0250	Judicial Branch	
Issue 1	Stability for Legal Aid	4
Approved as proposed. <b>Vote: 2-1(Anderson NO)</b>		
Issue 2	Courts Honest Budget Adjustment	5
Approved as proposed. <b>Vote: 2-1(Anderson NO)</b>		
Issue 3	Chief Justice's Priorities	5
Adopted staff recommendation to approve the Governor's proposal along with budget bill language that does the following:		
<ul style="list-style-type: none"><li>Distributes the \$75 million to trial courts according to the JC's Workload Allocation Funding Methodology (WAFM) model that was modified and subsequently approved by the JC on January 12, 2018.</li><li>Directs the LAO to jointly work with the Department of Finance to re-evaluate WAFM—with technical assistance from the judicial branch as necessary—and offer potential recommendations for change by November 1, 2019. The intended outcome would be a workload-based model that can be used for both estimating trial court needs and allocating trial court operations funding in the future.</li></ul>		
<b>Vote: 3-0</b>		
Issue 4	Self-Help Centers in Trial Courts	6
Adopted staff recommendation to approve augmentation of \$19.1 million on a limited-term basis through 2020-21. Adopt budget bill language directing the Judicial Council to conduct an		

independent comprehensive cost-benefit analysis of self-help services and provide a report on its findings by November 2020. **Vote: 3-0**

Issue 5 Self-Represented Litigants e-Services Web Portal Spring Letter 6

Approve as proposed. **Vote: 3-0**

Issue 6 County Law Libraries Proposal 6

Approve as proposed. **Vote: 3-0**

Issue 7 Pilot Project for Online Adjudication of Traffic Violations 6

Adopted staff recommendation to do the following:

- Approve proposal, and May adjustments with placeholder trailer bill language that includes, at a minimum, the following provisions:
- Requires an ability to pay calculation which includes an 80 percent presumptive baseline reduction of fees that may be overridden by a judge
- Adds pilot counties that have minimum population thresholds
- Includes evaluation language and a sunset date

**Vote: 3-0**

Issue 8 Deferral of Sentencing Trailer Bill Language 6

Adopted placeholder trailer bill language. **Vote: 2-1(Anderson NO)**

Issue 9 Unfunded Appellate Judgeships Proposal 7

Approved as proposed. **Vote: 3-0**

Issue 10 Court Reporters in Family Law Proposal 7

Staff recommendation to approve the following: 1) \$10 million in BY 2018-19, 2) \$20 million in BY 2019-20, and 3) \$30 million in BY 2020-21 and ongoing. Adopt placeholder trailer bill language.

**Vote: 3-0**

Issue 11 Traffic Tickets and License Suspensions 7

Approved staff recommendation. This includes:

Adopting placeholder trailer bill language that includes, at a minimum, the following provisions:

- Requires that after a person who has an FTA satisfies the order of the court to appear, the court shall lift any driver's license hold. The court shall not issue a bench warrant for a failure to appear.
- Requires the court to mail a courtesy warning notice to the defendant at least 20 days before sending a notice to the Department of Motor Vehicles (DMV) that the defendant failed to appear in court, when the court seeks to notify DMV of a failure to appear, pursuant to specified law

**Vote: 2-1(Anderson NO)**

5225 Department of Corrections and Rehabilitation (CDCR)

Issue 12 Supportive Housing Pilot for Mentally Ill Parolees 8

Approved staff recommendation. This includes:

- Approve proposal with a \$5 million General Fund one-time allocation and placeholder trailer bill language.

**Vote: 3-0**

Issue 13 Health Care Facility Improvement Program (HCFIP) Spring Letter 8

Reject this proposal. **Vote: 2-1(Anderson NO)**

Issue 14 Hepatitis C Treatment Funding 8

Approved as proposed. **Vote: 3-0**

Issue 15 Contraband Interdiction Program 8

Approved as proposed. **Vote: 3-0**

Issue 16 Training Initiatives 9

Approved as proposed with placeholder TBL. **Vote: 2-1(Anderson NO)**

Issue 17 Healthcare Services for Reentry Programs 9

Approved as proposed. **Vote: 3-0**

Issue 18 Correctional Counselor I Ratio Adjustment 9

Approved as proposed. **Vote: 3-0**

Issue 19 Juvenile Justice ID Card Trailer Bill Language 9

Adopted placeholder trailer bill language. **Vote: 3-0**

Issue 20 Innovative Programming Grants 9

Staff recommendation to approve this requested funding with an additional \$1.5 million General Fund in 2018-19 and an additional \$5 million General Fund in 2019-20 and ongoing approved. This provides a total of \$9 million per year, on a permanent basis.

**Vote: 2-1(Anderson NO)**

Issue 21 Juvenile Justice Reform 10

Staff Recommendation adopted to do the following:

- Approve proposal with May Revision amendments and adopt placeholder trailer bill language that includes, at a minimum, the following provisions:
- Ensures that length of confinement time for youth currently committed to DJJ and similarly situated youth committed to DJJ in the future will not be increased as a result of the change in maximum age of jurisdiction.
- Establishes the Young Adult Program at DJJ as a five-year pilot with specified evaluation and reporting requirements.

**Vote: 2-1 (Anderson NO)**

Issue 22 Academy- Division of Juvenile Justice 10

Approve as proposed. **Vote: 3-0**

Issue 23 Video Surveillance for Mental Health Units at CSP-Sacramento 10

Staff Recommendation adopted to do the following:

- Approve as proposed.
- Adopt supplemental reporting language (SRL) that includes information on the number and outcomes of inmate allegations against staff and inmate appeals as well as officer use of force in the units where cameras are installed.
- In addition, the SRL shall direct the department to provide the Legislature with any reports from court monitoring teams or other external groups that tour these housing units.

**Vote: 3-0**

**CALFIRE, CDCR, and California Conservation Corps.**

Issue 24 Ventura Training Center 11

Staff recommendation adopted to do the following:

- Approve proposal with placeholder trailer bill language that includes the following provisions:
- Mandates that all participants must have a high school diploma or GED equivalent prior to the program's completion.
- Include professional licensing provisions.

**Vote: 2-1(Anderson NO)**

**Various Departments**

Issue 25 State Penalty Fund Adjustment 11

Approved as proposed. **Vote: 3-0**

Issue 26 Reentry and Diversion Programs in California 12

Staff recommendation adopted to do the following:

- Approve one-time allocation of \$100 million General Fund towards reentry and diversion efforts which includes:
  - Provides \$15 million to fund Social Workers in Public Defender Offices: which allows for the hiring of social workers to support cases where minors are arrested and prosecuted in either juvenile or criminal court, depending on the need of the office. The social workers may also support youth re-entry and other critical youth related needs of the public defender office.
  - Directs \$50 million to community based organizations for reentry housing efforts
  - Grants \$35 million that focuses on diversion and reentry efforts
  - Adopt placeholder trailer bill language to improve reentry outcomes and divert low-level offenders from jail and prison.

**Vote: 2-1(Anderson NO)**

Issue 27 Driving Under the Influence Trailer Bill Language Proposal 12

Adopted placeholder trailer bill language. **Vote: 3-0**

**8120 Commission on Peace Officer Standards and Training (POST)**

Issue 28      Revising Hate Crime Model Policy      12

**Staff recommendation adopted to approve as proposed Vote: 3-0**

**5227      Board of State and Community Corrections (BSCC)**

Issue 29      Standards and Training for Local Corrections Trailer Bill Language      13  
 May Revise Proposal

**Staff recommendation adopted to approve as proposed Vote: 3-0**

Issue 30      California Violence Intervention & Prevention (CalVIP) Grant Proposal      13

**Staff recommendation adopted to approve as proposed Vote: 3-0**

Issue 31      New Earth Proposal      13

**Staff Recommendation to approve a one-time allocation of \$1.5 million General Fund was adopted.**

**Vote: 3-0**

**0820      Department Of Justice**

Issue 32      Tax Recovery and Criminal Enforcement (TRaCE) Task Force      13  
 Augmentation Proposal

**Staff recommendation adopted to approve as proposed Vote: 3-0**

Issue 33      Juvenile Court and Probation Statistical System Proposal      13

**Staff Recommendation to adopt placeholder trailer bill language approved. It required the following:**

- That the Department of Justice produces a plan for upgrading or replacing the JCPSS juvenile justice data system, including costs and options for modernization that will result in a capacity for recidivism-related analysis.
- That the plan should be developed in coordination with key stakeholders and experts, to identify the goals, options and costs related to system replacement. This could be achieved by the appointment of an advisory group or committee (including perhaps members of the JJ Data Working Group), or by designating specific agencies and organizations to cooperate with DOJ in plan development.
- That the plan should be produced and returned to the Legislature by March 1, 2019.

**Vote: 2-1(Anderson NO)**

Issue 34      Bureau of Medi-Cal Fraud and Elder Abuse Technical Redirection      14  
 May Revision Proposal

**Approve as proposed. Vote: 3-0**

Issue 35      Cybercrime Investigation Teams May Revision Proposal      14

**Reject this proposal. Vote: 3-0**

Issue 36      Sex Offender Registry May Revision Proposal      14

**Staff recommendation adopted. It includes:**

- Approve proposed funding.
- Adopt placeholder trailer bill language that includes, at a minimum, the following provisions:

- Directs the DOJ to submit a report outlining its plan for fully implementing the registry upon completion of Stage 2 of the California Department of Technology's Project Approval Lifecycle (PAL) process.
- Directs the DOJ to provide annual progress reports on key metrics to help monitor the status of the project. Examples of such metrics include tasks completed, changes to project costs or deadlines for project milestones, challenges or delays that have emerged, and issues or risks that may result in project schedule or budget changes.

**Vote: 3-0**

Issue 37      Statewide Forensics Services May Revision Proposal      15  
**Approve as proposed. Vote: 3-0**

Issue 38      Sexual Assault Kit Proposal      15  
**Staff recommendation adopted. It includes:**

- Approve a one-time allocation of \$6.5 million and adopt placeholder budget bill language that does the following:
- Specifies that this allocation shall be used for the purposed of reducing the statewide sexual assault kit backlog throughout California.
- Grants an allocation to counties and city/counties provided that they match the grant.

**Vote: 3-0**

Issue 39      Proposition 56 May Revision Technical Adjustment      15  
**Staff recommendation adopted: reject this proposal. Vote: 2-1(Anderson NO)**

**0280      Commission on Judicial Performance**

Issue 40      State Audit      16  
**Staff recommendation adopted: Reduce the CJP budget by \$500,000. Vote: 3-0**

**Discussion Items**

**5225      Department of Corrections and Rehabilitation (CDCR)**

Issue 41      Rehabilitative Achievement Credit Staffing      17  
**Staff recommendation adopted: Approved with placeholder TBL to track credits. Vote: 3-0**

Issue 42      Court Resentencing Petitions May Revise Proposal      17  
**Approved as proposed. Vote: 3-0**

Issue 43      General Population Adjustments      17  
**Approve May Revision adjustments. Vote: 3-0**

Issue 44      Institutional Staffing Needs      18  
**Chair's Recommendation to approve 8.0 third-watch positions and reject all other positions approved. Vote: 3-0**

Issue 45      Overtime Base Budget Adjustment      18  
**Approved as proposed. Vote: 3-0**

Issue 46      Medical Guarding and Transportation      18  
**Approved as proposed. Vote: 3-0**

Issue 47      Janitorial Services at the California Health Care Facility      19

**Staff recommendation adopted. Reject proposal and adopt BBL to conduct a feasibility study focusing on the transition and its effect on developmentally disabled workers. Vote: 3-0**

**Public Comment**

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**PROPOSED FOR VOTE ONLY****0250 JUDICIAL BRANCH**

- 1. Stability for 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.

*Equal Access Fund (EAF).* 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 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 included a two-year \$10 million augmentation for the Equal Access Fund.

*Cy Pres.* In the context of class action settlements, the cy pres doctrine permits a court to distribute unclaimed or non-distributable portions of a class action settlement fund to the “next best” class of beneficiaries for the *aggregate, indirect, prospective benefit* of the class. AB 103 (Committee on Budget), Chapter 17, Statutes of 2017, was a budget trailer bill that amended Section 384 of the Code of Civil Procedure, which governs the distribution of residual funds from class action litigation. Previous to the bill, there were three entities that these residue funds could be distributed to: 1) “nonprofit organizations or foundations to support projects that will benefit the class or similarly situated persons, or that promote the law consistent with the objectives and purposes of the underlying cause of action”, 2) child advocacy programs or 3) nonprofit organizations providing civil legal services to the indigent class. There was no requirement that any one group receive any minimum or maximum of the available funds. AB 103 mandates that 25 percent of the funds be distributed to the Equal Access Fund of the Judicial Branch and 25 percent be distributed to the Trial Court Improvement and Modernization Fund for collaborative courts or grants for Sargent Shriver Civil Counsel. The remaining 50 percent is distributed to the three groups listed above, which includes the possibility for legal aid to receive additional funding on top of the 25 percent earmark. The remaining 50 percent is distributed to the three groups listed above, which includes the possibility for legal aid to receive additional funding on top of the 25 percent earmark. While the current formula under AB 103 was intended to provide a stable funding source for legal aid, the money generated under cy pres is neither consistent nor reliable. The lack of steady revenue can cause a reduction of additional resources for organizations intended to benefit the class or similarly situated persons.

This proposal contains two components:



- That the two-year \$10 million augmentation granted in BY 2017-18 for the EAF be made permanent with \$10 million ongoing starting in BY 2019-20.
- Adopts placeholder trailer bill language that does the following:
  - Reestablishes California's previous cy pres rule without specific earmarks to the organizations previously listed.
  - Requires attorneys to disclose to the court their connection or relationship to a cy pres recipient that creates the appearance of impropriety.
  - Requires the California Research Bureau, starting on January 1, 2024, to publish a report every five years on cases awarding cy pres distributions.

**Staff Recommendation.** Adopt placeholder trailer bill language and approve the proposed funding for the EAF.

2. **Courts Honest Budget Adjustment.** The Legislature proposes a budget adjustment of \$67.5 million in 2019-20, which increases by \$67.1 million in 2020-21 and then increases by \$69 million in 2021-22. These figures are based on the Legislative Analyst Office's estimates for the cost of providing an annual increase for the judicial branch through 2021-22. These numbers reflect cost-of-doing-business increases for all judicial and court employee salaries and benefits as well as operating expenses and equipment, but do not include most facility related expenses (such as court construction debt service and facility modification projects).

**Staff Recommendation.** Approve adjustments as proposed.

3. **Chief Justice's Priorities.** The Governor's January budget proposes an increase in funding to support various proposals, nearly all of which is ongoing, including:
  - \$75 million discretionary funding for allocation to trial courts by the Judicial Council (JC).
  - \$47.9 million for allocation to certain trial courts that are comparatively underfunded relative to other trial courts.
  - \$34.1 million to backfill a further decline in fine and fee revenue to the Trial Court Trust Fund, increasing the total backfill to \$89.1 million in 2018-19. A backfill has been provided since 2014-15.
  - \$25.9 million for increased trial court health benefit and retirement costs.

**Staff Recommendation.**

4. **Self-Help Centers in Trial Courts.** The Judicial Council requests an ongoing augmentation of \$19.1 million General Fund beginning in 2018-19 to implement recommendations of the Chief Justice's Commission on the Future of the California Courts regarding self-represented litigants. This item is part of the Governor's January budget.

**Staff Recommendation.**

5. **Self-Represented Litigants e-Services Web Portal Spring Letter.** The Judicial Council proposes a General Fund augmentation of \$3.236 million in 2018-19, \$1.9 million in 2019-20, and \$709,000 ongoing beginning in 2020-21, to design, build, and maintain a statewide Self-Represented Litigants e-Services Web Portal to enable those without legal

representation to research, e-file, and track noncriminal cases via an online portal. This proposal also requests four positions at the Judicial Council of California to provide support in administering and maintaining the statewide e-Services Web Portal. This item is part of the Governor's January budget.

**Staff Recommendation.** Approve this proposal.

- 6. County Law Libraries Proposal.** This proposal requests a one-time allocation of \$16.5 million for County Law Libraries to account for the difference between civil filing fee revenue in 2009 and currently.

**Staff Recommendation.** Approve the one-time allocation for \$16.5 million General Fund.

- 7. Pilot Project for Online Adjudication of Traffic Violations.** The Administration requests that Item 0250-001-0001 be decreased by \$1,040,000, and that Items 0250-101-0932 and 0250-111-0001 each be increased by \$1,040,000 to reflect a technical correction for the Pilot Project for Online Adjudication of Traffic Violations proposal included in the Governor's Budget.

**Governor's January budget.** The Judicial Council requests \$3.4 million and seven positions in FY 2018-19 and an ongoing amount of \$1.365 million and seven positions to design, deploy and maintain software to adjudicate traffic violations online in designated pilot courts.

**Staff Recommendation.**