

Commission on the Future of California's Court System

Public Comment Session



February 8 – 9, 2016

Judicial Council Conference Center
Malcom M. Lucas Board Room
455 Golden Gate Avenue
San Francisco, California 94102

Agenda

To submit written comments in advance of the session, request in advance to speak at the session, or request Spanish language services, send an e-mail to: FuturesCommission@jud.ca.gov. (The deadline to request Spanish language services is **January 27, 2016**; the deadline to submit written comments is **February 3, 2016**.) For more information, please view the [comment procedures](#).

Important Agenda Information

- *Check-in will be available beginning at 9:30 a.m. on both days. Speakers must check in each day to ensure they are called to speak.*
- *The public comment session will begin at 10:00 a.m. on both days.*
- *For each concept, a 5-minute presentation will be conducted, followed by a public comment period for a **maximum** of 30 minutes.*
- *The concepts for each day will be presented in the order provided below.*
- *Timeframes have not been provided, as the number of speakers for each concept cannot be determined in advance. In the event that there are few speakers for a given concept, the public comment period may not take the full 30 minutes and the meeting facilitator will move on to the next concept.*
- *Morning and afternoon breaks will be taken at the direction of the meeting facilitator.*
- *A one-hour lunch break will be taken each day at approximately 12:00 – 1:00 p.m. or as determined by the meeting facilitator.*

Monday, February 8, 2016 – 10:00 a.m.

Audio of the public comment session will be broadcast real-time through the Futures Commission webpage available at <http://www.courts.ca.gov/futurescommission.htm>. The audiocast link is posted approximately 15 minutes before the session.

Welcome and Opening Remarks

Justice Carol A. Corrigan, Chair

Justice William R. McGuiness, Vice-Chair

- Concept 1 One Juvenile Court—Consolidated Juvenile Court Jurisdiction in California –**
Consider consolidation of all juvenile court cases (juvenile dependency and juvenile delinquency) under one unified juvenile court.
Click [here](#) for additional information.

Presentation (5 minutes)

Judge Stacy Boulware Eurie, Family/Juvenile Working Group Chair

Public Comment (maximum of 30 minutes)

- Concept 2** **Efficient and Effective Resolution in Family Courts** – Explore systems to be implemented statewide to assist in cooperative and early resolution in the family courts, including: a uniform statewide system of child custody mediation, the availability of early resolution tools for non-custody issues, and other procedures that would provide litigants in appropriate cases with simple paths to the relief they seek.
Click [here](#) for additional information.
- Presentation** (5 minutes)
Judge Lorna A. Alksne, Family/Juvenile Working Group Vice-Chair
- Public Comment** (maximum of 30 minutes)
- Concept 3** **Trial Court Administrative Support** – Explore and identify the most cost effective staffing model for the provision of trial court administrative services.
Click [here](#) for additional information.
- Presentation** (5 minutes)
Justice Kathleen E. O’Leary, Fiscal/Court Administration Working Group Chair
- Public Comment** (maximum of 30 minutes)
- Concept 4** **Trial Court Employment and Labor Relations** – Explore ways to ensure labor agreements are more consistent from court to court and that labor negotiations are conducted in the most effective and efficient manner while maintaining appropriate local control of employment decisions.
Click [here](#) for additional information.
- Presentation** (5 minutes)
Mike Roddy, Fiscal/Court Administration Working Group Vice-Chair
- Public Comment** (maximum of 30 minutes)
- Concept 5** **Court Record** – Explore ways to provide a cost-effective official record in all case types.
Click [here](#) for additional information.
- Presentation** (5 minutes)
Judge Robert J. Trentacosta, Fiscal/Court Administration Working Group Member
- Public Comment** (maximum of 30 minutes)
- Concept 6** **Technology-Enhanced Court Proceedings and Online Transactions** – Explore ways to leverage technology to enhance access to justice.
Click [here](#) for additional information.
- Presentation** (5 minutes)
Judge Robert J. Trentacosta, Fiscal/Court Administration Working Group Member
- Public Comment** (maximum of 30 minutes)
- Concept 7** **Self-Help Resource Center for Courts** – Consider developing a judicial branch Self-Help resource center that serves as a central location for court employees, administrators, and judicial officers to share and obtain self-help resources and provide model approaches for small, medium, and large sized courts.
Click [here](#) for additional information.

Presentation (5 minutes)

Judge Michelle Williams Court, Civil Working Group Member

Public Comment (maximum of 30 minutes)

Concept 8 Using Technology to Increase Access and Self-Help – Provide all court users with increased access and education through technology.

Click [here](#) for additional information.

Presentation (5 minutes)

Judge Lorna A. Alksne, Family/Juvenile Working Group Vice-Chair

Public Comment (maximum of 30 minutes)

Tuesday, February 9, 2016 – 10:00 a.m.

Audio of the public comment session will be broadcast real-time through the Futures Commission webpage available at <http://www.courts.ca.gov/futurescommission.htm>. The audiocast link is posted approximately 15 minutes before the session.

Welcome and Opening Remarks

Justice Carol A. Corrigan, Chair

Justice William R. McGuinness, Vice-Chair

Concept 9 Reduce the Number of Peremptory Challenges in Misdemeanor Criminal Cases –

Explore reducing the number of peremptory challenges in misdemeanor criminal cases.

Click [here](#) for additional information.

Presentation (5 minutes)

Judge J. Richard Couzens, Criminal/Traffic Working Group Vice-Chair

Public Comment (maximum of 30 minutes)

Concept 10 Reduce the Number of Continuances in Criminal Cases – Explore reducing the number of continuances in criminal cases.

Click [here](#) for additional information.

Presentation (5 minutes)

Judge Carrie McIntyre Panetta, Criminal/Traffic Working Group Chair

Public Comment (maximum of 30 minutes)

Concept 11 Reduce Certain Misdemeanors to Infractions – Explore reducing time-consuming, but less serious misdemeanors to infractions.

Click [here](#) for additional information.

Presentation (5 minutes)

Judge Andrew E. Sweet, Criminal/Traffic Working Group Member

Public Comment (maximum of 30 minutes)

- Concept 12 Civil Case Tiers** – Consider increasing the maximum jurisdictional dollar amounts for small claims and limited civil cases and developing a new civil tier with streamlined methods for litigating and processing cases with a value greater than those in the limited civil case tier, up to \$250,000.
Click [here](#) for additional information.
- Presentation** (5 minutes)
Judge Jeffrey B. Barton, Civil Working Group Member
- Public Comment** (maximum of 30 minutes)
- Concept 13 Complex Case Management Model** – Explore refining case management models utilized for complex cases to incorporate principles developed in dedicated complex departments so that these procedures can be utilized in appropriate cases irrespective of the size of the court.
Click [here](#) for additional information.
- Presentation** (5 minutes)
Judge Jeffrey B. Barton, Civil Working Group Member
- Public Comment** (maximum of 30 minutes)
- Concept 14 Improved Education and Processes for Self-Represented Litigants** – Consider developing a case management model for limited civil and small claims cases that combine early education for all Self-Represented Litigants with simplified and streamlined litigation procedures.
Click [here](#) for additional information.
- Presentation** (5 minutes)
Judge Patricia M. Lucas, Civil Working Group Vice-Chair
- Public Comment** (maximum of 30 minutes)
- Concept 15 Reduced Jury Size** – Explore the benefits of reducing jury size in civil limited, intermediate (proposed) and unlimited cases.
Click [here](#) for additional information.
- Presentation** (5 minutes)
Justice Judith L. Haller, Civil Working Group Chair
- Public Comment** (maximum of 30 minutes)

Concept 1: One Juvenile Court—Consolidated Juvenile Court Jurisdiction in California

Consider consolidation of all juvenile court cases (juvenile dependency and juvenile delinquency) under one unified juvenile court.

Why is this concept being considered by the Futures Commission?

Juvenile courts are charged with the responsibility of overseeing the lives of children and families when there has been an allegation that direct state intervention is needed to protect the child, the family, or the community. Under a consolidated system, juvenile courts would be able to enhance the effectiveness and efficiency of the juvenile court's orders by serving the family as a whole, ensuring a focus on the youth's well-being, and improving outcomes of cases by integrating services across all of the systems and agencies that serve youth and families in juvenile courts. The concept does not seek to expand the court's jurisdiction over additional children and families, but rather to ensure that once the court has found that jurisdiction is in fact legally justified, the approach at the dispositional phase can address all of the circumstances that brought the child and family before the court.

Under the current construct, many children re-enter the juvenile court system shortly after exiting because of subsequent abuse or neglect or criminal behavior, system-involved youth have significantly lower educational outcomes than their peers who are not system involved or in foster care, and youth who come before the juvenile court have higher rates of mental health and substance abuse disorders than their peers. In addition, the current juvenile system involves parents of juvenile justice youth in only a piecemeal fashion, which does not fully involve them in all of the helpful services and support that may prevent future delinquent behavior by the youth. Similarly, when dependent children engage in alleged unlawful behavior, a consolidated court could provide services and enhance community safety without disrupting the path to permanency that is underway via the child welfare system.

Collaboration between child-serving entities (child welfare, probation, and mental health) is less effective because of separate jurisdictional processes, institutional mandates, funding, and terminology. Current jurisdictional constructs impede full delivery of all necessary services and interventions and distract from the shared responsibility to stabilize and protect the child, family, and community at large. All of these factors are high contributors to the low success rates for juveniles that frequently enter—and stay in—the system.

Goals and potential strategies

The Futures Commission is looking into the potential benefits and challenges of consolidating the juvenile court under one jurisdictional statute, with the goal of reducing recidivism, promoting self-sufficiency, and eliminating the need for further government intervention. Strategies that are being considered include: ensuring that due process rights of children and parents are not diminished by making parents of juvenile justice children parties to actions, similar to parents in dependency actions; creating a system that takes into account the family context in which the offending behavior occurred; allowing a court to address a child's welfare and safety needs while following due process requirements in addressing accountability for criminal behavior; operationalizing information sharing to improve effectiveness and efficiency of court dispositional orders; enhancing the use of evaluated mental health screenings, assessment, and treatments; expanding the understanding of childhood trauma and its impacts on adolescent development; and increasing the potential for using a broadly restorative approach to resolve conflicts when appropriate to do so.

The Futures Commission will explore factors such as funding, information sharing/confidentiality issues, agency coordination, regulatory and statutory compliance, best practices, training/culture change, and data collection/accountability.

[Back to top](#)

Concept 2: Efficient and Effective Resolution in Family Courts

Explore systems to be implemented statewide to assist in cooperative and early resolution in the family courts, including: a uniform statewide system of child custody mediation, the availability of early resolution tools for non-custody issues, and other procedures that would provide litigants in appropriate cases with simple paths to the relief they seek.

Why is this concept being considered by the Futures Commission?

Family courts handle some of the most important decisions in the lives of California families, including decisions that impact personal safety, living arrangements, child custody and visitation, support, and property distribution. Reducing the time and costs it takes to resolve family law matters would benefit the parties, their children, their extended families, the courts, and society.

Currently, substantial differences exist in the way California courts provide for early resolution of family law disputes. Although California law mandates that mediation be offered in all contested child custody cases, some counties authorize mediators to make custody recommendations to the judge on behalf of the parents (child custody recommending counselors; see Cal. Family Code § 3183), and other counties provide confidential mediation or follow a different procedure.

For non-custody issues in family law court (child support, property division, and other dissolution matters), courts offer differing opportunities for early resolution. And in many courts, procedures are unavailable that would provide litigants with simple paths to the relief they seek.

Goals and potential strategies

In exploring efficient and effective resolution in family law court, the Futures Commission will look at opportunities for providing swifter and, where possible, less contentious resolution of family law matters. The strategies being considered include:

- Evaluating and researching whether to recommend a uniform statewide system for child custody mediation, including the review of existing mediation systems, such as a tier model.
- Evaluating the impact and cost of providing families with efficient and effective early resolution tools for all non-custody family law issues, such as online dispute resolution.
- Considering procedures that would provide litigants with simple paths to the relief they seek, such as one-day divorce programs in appropriate cases.

[Back to top](#)

Concept 3: Trial Court Administrative Support

Explore and identify the most cost effective staffing model for the provision of trial court administrative services.

Why is this concept being considered by the Futures Commission?

By design, trial courts are responsible for providing the underlying infrastructure and administrative services necessary for ensuring day-to-day access to court services. The trial courts have complete budgetary discretion regarding how they staff to provide such services. As a result, each of the 58 trial courts throughout the state employ administrative staff to provide services including human resources/payroll, finance and procurement, facilities maintenance, and technology. Some courts provide administrative services by contracting with other courts, through outside vendors, and/or rely on Judicial Council staff. There has not been a comprehensive exploration or analysis of the costs and benefits of the various administrative staffing models at the trial court level. To ensure that the branch remains a good steward of public funds, the judicial branch should be aware of the costs and benefits of individually staffing for administrative services in each of the individual trial courts and whether there are other models that may result in cost savings and efficiencies for the courts.

Goals and potential strategies

In exploring the different staffing structures for trial court administrative services, the goal of the Futures Commission will be to identify the most cost effective means of providing trial court administrative services. Specifically, the Futures Commission will analyze the costs and benefits of how administrative services are staffed at each of the trial courts and explore whether there are other models that may promote efficiencies or provide cost savings.

[Back to top](#)

Concept 4: Trial Court Employment and Labor Relations

Explore ways to ensure labor agreements are more consistent from court to court and that labor negotiations are conducted in the most effective and efficient manner while maintaining appropriate local control of employment decisions.

Why is this concept being considered by the Futures Commission?

Despite the fact that the judicial branch is state-funded, there is great variation in trial court terms and conditions of employment. This variation results in inequities and inconsistencies across the state. Providing a more equitable and consistent approach to the collective bargaining process might result in demonstrable cost-savings for the judicial branch and may allow the trial courts to devote more resources to attracting and retaining the best employees and to enhancing local access to justice.

Under current law, each of the 58 trial courts is responsible for negotiating collective bargaining agreements with each employee organization representing its employees. As a result, many trial court employees performing the same job in different courts have different titles and/or pay, in some cases even with regional cost of living variances taken into account. Also, some courts have been able to provide their employees with cost of living adjustments and bonuses during the recent economic recession while other courts have provided no pay increases for multiple years and continue to furlough their staff. Furthermore, the current court-to-court variations in employment terms and conditions (i.e., variations in classification, compensation, benefits, personnel policies, etc.) may inhibit employee portability from one court to another.

Finally, with approximately 125 bargaining units spread across 58 trial courts, the resources dedicated to individual collective bargaining are considerable. Given the on-going cost increases associated with

employment and employee benefits, and on-going reductions to many local trial courts it behooves the judicial branch to explore possible efficiencies in its practices, including the existing labor practices.

Goals and potential strategies

In exploring ways to make labor costs more equitable and labor negotiations more efficient, the goal of the Futures Commission will be to develop a labor model that allows the judicial branch to be good stewards of public resources but preserves appropriate local court control of employment matters. Specifically, the Futures Commission will explore the costs and benefits of different models of bargaining (e.g., statewide, regional, and local bargaining) with the goal of identifying the most beneficial model for the judicial branch, its employees, organized labor, and the public.

[Back to top](#)

Concept 5: Court Record

Explore ways to provide a cost-effective official record in all case types.

Why is this concept being considered by the Futures Commission?

A verbatim record of court proceedings is a fundamental component of access to justice. Verbatim court records show what the parties said and what the court did throughout a proceeding. Without a verbatim court record of a proceeding, the parties and the public know only the final determination of the proceeding; they do not have a complete or accurate account of court or party actions. A party, especially a self-represented party, is less likely to understand or finalize a court's orders or pursue an effective appeal without a verbatim court record. Further, a verbatim court record memorializes a judge's disclosures to the parties made during the proceedings. Yet despite the importance of verbatim court records, current law and the decrease in court funding over the years impede the right of all parties, including the court, to have a verbatim record of court proceedings.

Under California law, verbatim reporting of proceedings by certified court reporters is required in only limited case types (i.e., felonies and juvenile proceedings). In other case types (e.g., civil and family law), no record is required at all. The use of electronic recordings as the official record of a court proceeding is prohibited except in misdemeanor cases, infraction cases (e.g., traffic citations), and limited civil cases. Furthermore, the transcripts of court proceedings are owned and sold to the court and the parties by the court reporter that transcribed the proceeding; courts do not own the transcripts of their proceedings. Thus, while parties may view the transcript in the court file, they cannot receive a copy from the file in most circumstances. Instead, they must seek out the court reporter and arrange for payment.

Many courts no longer have the ability to pay for court reporters in proceedings where a verbatim court record is not required by law. If an official court reporter is not provided by the court in a general civil or family law proceeding, a party may arrange at its own expense for a certified shorthand reporter to transcribe the proceeding. Many litigants, especially family law litigants, are not be able to pay these fees or do not timely arrange for a court reporter. Since electronic recording of most civil and family law proceedings is not permitted by statute, the result is that transcripts are not available as an official record of an increasing number of court proceedings, including those proceedings that decide important issues of custody, support, visitation, and division of assets.

Goals and potential strategies

In exploring ways to provide a cost effective court record in all case types, the goals of the Futures Commission will be to ensure that: 1) a court record is available for a party to draft an effective court order; 2) a court record is available for appellate review, and 3) the public and judicial officers have an accurate account of court actions. Specifically, the Futures Commission will examine: 1) the costs and benefits of the various methods for creating a record (e.g., in-court court reporting, remote court reporting, and electronic recording); 2) the costs and benefits of expanding the case types in which a court record is required; 3) the costs and benefits associated with the current ownership of the court record; and 4) possible statutory changes.

[Back to top](#)

Concept 6: Technology-Enhanced Court Proceedings and Online Transactions

Explore ways to leverage technology to enhance access to justice.

Why is this concept being considered by the Futures Commission?

Advances in technology have revolutionized how people communicate and how businesses operate. Meetings and transactions are no longer limited to face-to-face exchanges because technology has made in-person interaction unnecessary in many instances. As a result, physical distances and time have become irrelevant for most business dealings. These technological advances, however, have not made their way into the courts where in-person interactions remain the primary basis of court proceedings and transactions. The lack of capitalization on the efficiencies created by technology impacts both the courts and the public. In-person interactions also result in additional security and facility costs for courts. The ongoing reduction to court funding over the last five years has exacerbated the burden of in-person interactions on court users. As courts have had to close courthouses and reduce staff because of budget cuts, people have had to travel further distances, spend more time in long lines, and wait longer for available court dates to resolve their court matters. Technological advancements and the new budget reality for courts necessitate a reimagining of court proceedings and transactions that rely more on technology and less on face-to-face interactions.

Additionally, courts are unable to share information across jurisdictions and some are even unable to share information within the same jurisdiction, due to incompatible case management systems. These communication gaps impede the courts' ability to have a full understanding of interrelated cases and may result in court orders being made based on incomplete information. For example, information regarding previously issued protective orders in a criminal case should be readily available in the matter of a family case. Further, justice system partners and members of the public have disparate access to information from county to county and there is no way to quickly and conveniently access information across jurisdictions.

Goals and potential strategies

In reimagining court proceedings and transactions, the goal of the Futures Commission will be to leverage technology to: 1) increase remote participation in court proceedings; 2) increase the type and extent of court matters that can be handled or even resolved through online transactions; and 3) ensure all court users (i.e., judicial officers, court staff, justice system partners, and the public) have access to appropriate case-related information across jurisdictions.

For increased remote participation in court proceedings, the Futures Commission will explore the costs, benefits, and limits of expanding existing technologies and programs that facilitate video appearances by attorneys and parties in criminal (including in-custody defendants) and civil matters, video witness

participation, video conferencing for pre-trial matters (e.g., case management conferences), and video interpreting.

For increased online court transactions, the Futures Commission will explore which transactions in criminal, civil, and family matters are best suited for online resolution and the accompanying costs, benefits, and limits of such online resolution. Such avenues may include online processing of specific case types (such as traffic infractions or small claim cases), electronic completion and submission of pleadings and other court filings, online dispute resolution in certain kinds of civil and family law matters (as an alternative to in-person mediation), and electronic sharing of discoverable materials.

To ensure access to appropriate case-related information across jurisdictions for all court users (i.e., judicial officers, court staff, justice system partners, and the public), the Futures Commission will explore solutions for allowing such information to be accessed from existing case management systems through a consolidated query.

Throughout the process, the Futures Commission will remain cognizant of due process concerns, technology trends, and budget realities. Its ultimate goal will be to enhance access to justice while reducing the impact on court and public resources.

[Back to top](#)

Concept 7: Self-Help Resource Center for Courts

Consider developing a judicial branch Self-Help resource center that serves as a central location for court employees, administrators, and judicial officers to share and obtain self-help resources and provide model approaches for small, medium, and large-sized courts.

Why is this concept being considered by the Futures Commission?

Self-Help resources for the courts, its employees, administrators and judicial officers are numerous and available in many different locations. For example, the Judicial Council currently provides an extensive self-help web page with video tutorials while many courts have similar pages, some providing video tutorials, and/or online self-help clinics. Other courts offer in-person clinics and legal advisors, or provide self-help resources through the law libraries. Centralization will facilitate more efficient access and use of these resources by the court and the public.

Goals and potential strategies

In exploring the concept of a self-help resource center, the Futures Commission will focus on developing proposals that support a system that can easily provide assistance to court administrators, and judicial officers in providing self-help services to SRLs. The strategies being considered include developing and publishing “best practices” and guidelines for expansion of existing self-help resources; creating a virtual clearinghouse of self-help resources covering all applicable case types while encouraging courts to communicate and share lessons learned and best practices; encouraging all courts to include the goal of providing clear and comprehensive self-help services to litigants via mobile device in the most commonly spoken languages in their jurisdiction as part of their mission; and providing technical assistance to courts wishing to create, expand or modify their self-help resources.

[Back to top](#)

Concept 8: Using Technology to Increase Access and Self-Help

Provide all court users with increased access and education through technology.

Why is this concept being considered by the Futures Commission?

More and more Californians are conducting business online, including through their mobile devices, and the California courts should keep pace with current technology. Improved remote access to the courts would help court users conduct court business even when a courthouse is geographically distant, and would help them avoid the lines, crowds, and costs associated with court visits. Technology can also be used to make court services more understandable and accessible, particularly for self-represented litigants.

Goals and potential strategies

In considering increased access and self-help through technology, the Futures Commission is looking at ways to improve access to justice for all court users. The strategies to be explored include the following:

- Statewide electronic filing and the ability to conduct court business online, including access to court records and the ability to pay fees or apply for a fee waiver.
- Self-help information in a variety of languages and formats, including formats that can be accessed by telephone or online, such as workshops and videos.
- Online access to guided fillable court forms through a user-friendly program.
- Online answers to frequently asked questions.
- Video and telephonic appearances in appropriate cases.
- Online scheduling of court appearances and other court services, with remote reminders and alerts for upcoming appointments and appearances.
- The ability to provide attorneys and parties with a copy of a minute order or even a formal order, promptly after hearing.
- Elimination of language access barriers by means of bilingual staff and translation and interpreter services, including remote interpreter services.

[Back to top](#)

Concept 9: Reduce the Number of Peremptory Challenges in Misdemeanor Criminal Cases

Explore reducing the number of peremptory challenges in misdemeanor criminal cases.

Why is this concept being considered by the Futures Commission?

This proposal would assist in shortening the duration of misdemeanor criminal cases. The time to resolution of criminal cases has increased and over-burdened court calendars. This increase is due to a combination of factors, chief among them being the on-going reduction to court funding. Under California law, defendants are entitled to 10 peremptory challenges for most misdemeanor offenses. This number of challenges is out of sync with the practices of most states, many of which allow for three peremptory challenges for similar offenses. Only two other states allow for 10 peremptory challenges in misdemeanor cases. Generally, the more peremptory challenges allowed for a case, the more potential jurors must be summoned for the jury selection process and the more time consuming the jury selection process becomes. In addition, larger jury

pools result in courts expending more resources to manage the jury pool, more potential jurors foregoing at least one day of pay, and more employers losing employee productivity.

Goals and potential strategies

In exploring the reduction of peremptory challenges, the goal of the Futures Commission will be to find the right balance between efficient jury selection and maintaining the due process rights of defendants. Specifically, the Futures Commission will explore the practices of other jurisdictions, the potential impact on the length of jury trials, and the costs and benefits (to the public and the defendants) of reducing the number of peremptory challenges in misdemeanor cases.

[Back to top](#)

Concept 10: Reduce the Number of Continuances in Criminal Cases

Explore reducing the number of continuances in criminal cases.

Why is this concept being considered by the Futures Commission?

The average time for criminal case resolution has increased over the years. This increase is due to a combination of factors, chief among them being the on-going reduction to court funding. The California Legislature has found that excessive continuances substantially contribute to criminal court congestion with resulting adverse consequences for all parties involved. For victims, defendants and witnesses, continuances delay the resolution of a significant and often life-altering event. Additionally, continuances result in the overcrowding and increased expenses of local jails housing and transporting in-custody defendants, as well as increased costs in court labor. Despite these adverse consequences, continuances remain an accepted, even entrenched, practice in criminal courts.

Goals and potential strategies

In exploring ways to reduce the length of time for criminal case resolution, the goal of the Futures Commission will be to identify ways to achieve more efficient criminal case resolution while maintaining the due process rights of defendants. Specifically, the Futures Commission will explore the varying reasons for continuances, alternative solutions, reducing continuances by case type, and holding courts more accountable for the number of continuances.

[Back to top](#)

Concept 11: Reduce Certain Misdemeanors to Infractions

Explore reducing time-consuming, but less serious misdemeanors to infractions.

Why is this concept being considered by the Futures Commission?

Misdemeanors constitute a large percentage of the California criminal court caseload and command considerable resources from the court and the criminal justice system partners (e.g., prosecutors, the defense bar, and law enforcement agencies). Yet, not all misdemeanors have the same impact on public safety. In fact, there are several offenses that California classifies as misdemeanors that are treated as infractions (or their equivalent) in other states. Reducing less serious misdemeanors to infractions may be an effective way to save resources without negatively impacting the safety of the public.

Goals and potential strategies

In exploring the reduction of less serious misdemeanors to infractions, the goal of the Futures Commission will be to promote efficiency while maintaining public safety considerations and due process guarantees. Specifically, the Futures Commission will examine specific less serious misdemeanors, such as driving with a suspended license, the practices of other jurisdictions, and the costs and benefits to the accused, the courts, and other criminal justice agencies if the misdemeanors were reduced to infractions.

[Back to top](#)

Concept 12: Civil Case Tiers

Consider increasing the maximum jurisdictional dollar amounts for small claims and limited civil cases and developing a new civil tier with streamlined methods for litigating and processing cases with a value greater than those in the limited civil case tier, up to \$250,000.

Why is this concept being considered by the Futures Commission?

Litigation at all levels has become increasingly expensive resulting in a decreased access to justice, as well as diminished access to legal representation. The procedure for adjudicating cases should be consistent with the value of the case, since the high cost of litigation can outweigh the benefits of pursuing a case. In addition, attorneys are frequently reluctant to take lower value cases as the costs of representation outweighs the expected financial benefits of the litigation. The lack of representation can result in meritorious cases being kept out of court and when cases are filed, they are often resolved on the basis of the cost of litigation instead of on the merits of the dispute.

In addition, in light of inflation and the higher cost of living since the jurisdictional amount of small claims court was set, the current limit for cases set at \$10,000 for individuals and \$5,000 for businesses may no longer be a reasonable limit. The same is true for limited civil cases, where the current limit is \$25,000.

Goals and potential strategies

In exploring the expansion of the small claims and limited civil tiers and developing a new civil intermediate tier for the judicial branch, the Futures Commission will look at proposals that will focus on increasing access to justice while decreasing the cost and time for case processing. Some strategies and considerations for developing an intermediate tier of cases include: limited discovery with a mandated initial exchange of information; limitations on depositions; amended expert witness timelines; techniques to enhance the effectiveness of case management conferences; authorization for judges to order parties to attend an early discovery conference; and the use of technology including the increased use of telephonic and video appearances, e-filing and remote witness participation at trials and hearings, and the authorized use of electronic reporting.

[Back to top](#)

Concept 13: Complex Case Management Model

Explore refining case management models utilized for complex cases to incorporate principles developed in dedicated complex departments so that these procedures can be utilized in appropriate cases irrespective of the size of the court.

Why is this concept being considered by the Futures Commission?

Complex court case management strategies have been proven effective in optimizing efficient and merit based outcomes in complex cases. These strategies have been used mainly in larger courts, which have previously received grant funding to assist in developing dedicated complex departments. With such funding no longer available, there is a need to find a way for all courts to benefit from the strategies and successes of the complex court. Experience has shown early judicial involvement has beneficial effects such as reducing expense for the party, reducing time to settlement or trial, and encouraging efficient use of court resources.

Goals and potential strategies

In exploring the development of case management models for complex cases, the Futures Commission will focus on developing a proposal that will provide a transferable case management methodology to support all courts throughout the state, whether small or large, with or without a dedicated complex department to efficiently process complex cases. Some strategies may include developing case management plans and orders for different case types that can address a sequential roadmap for document discovery, percipient witness discovery and expert discovery; and management of the pretrial and trial preparation process with law and motion planned with court participation to make it both cost effective and outcome determinative when appropriate. Other strategies being explored include limitations on motions and demurrers; alternative processes for summary adjudication; amendment of expert witness discovery timelines; and trial management guidelines. In addition, the working group will consider the use of technology including e-filing, e-service, and remote witness participation at trials and hearings.

[Back to top](#)

Concept 14: Improved Education and Processes for Self-Represented Litigants

Consider developing a case management model for limited civil and small claims cases that combine early education for all Self-Represented Litigants with simplified and streamlined litigation procedures.

Why is this concept being considered by the Futures Commission?

There is an increase in the number of civil actions being pursued or defended by parties without attorneys. Self-represented litigants (SRLs) often do not understand the court's rules and procedures, which can result in the litigants losing the opportunity to make informed decisions regarding their cases. In addition, the SRLs' lack of knowledge about the court process results in an inefficient case processing which can be burdensome to the courts and detrimental to the litigants' court experience.

Goals and potential strategies

In exploring the concept of a case management model with improved early education and litigation procedures for self-represented litigants, the Futures Commission will be focusing on proposals that will improve access to justice for SRLs, allowing them to better understand the court's rules and procedures and improving their ability to make informed decisions regarding their case and the potential for settling it. In addition, simpler processes for litigating limited civil cases would help both SRLs and the courts in processing these cases. Some strategies being considered include: considering the impact of developing an education program for self-represented litigants in small claims and limited civil cases to be completed within 30 days of filing complaint or answer including course curriculum on an overview of civil procedure before and during trial; a summary of available self-help resources, that includes virtual self-help centers with "real-

time” interaction, and access to electronic resources like video tutorials and online clinics; and education partnerships with law libraries, law schools, bar associations/volunteer attorneys, and legal services organizations. Additional strategies focus on streamlining the litigation of limited civil cases and may include early mandated exchange of specified discovery information; expansion of mandatory expedited jury trials to more limited civil cases and unlawful detainer cases; and development of checklists with due dates and deadlines for self-represented litigants. Utilizing technology more in limited civil cases will also be explored including the use of an online system for completing pleading forms and the use of formulaic questions to gather the information needed to complete and file those forms (smart forms); as well as exploring online dispute resolution to supplement traditional alternative dispute resolution.

[Back to top](#)

Concept 15: Reduced Jury Size

Explore the benefits of reducing jury size in civil limited, intermediate (proposed) and unlimited cases.

Why is this concept being considered by the Futures Commission?

California juries have traditionally been comprised of 12 members, in both criminal and civil cases. Jury service places a personal and financial burden on individuals who are called to serve. Larger juries also impact the court, an important factor when the reductions in court budgets have resulted in court closures, staff reductions, and a diminished capacity to serve the public. Federal courts use juries with six members in civil cases while many other states do the same, or use juries with 8 members. Beginning in California in July 2015, those limited civil cases in which expedited jury trials are mandated will be decided by 8-member juries.

Goals and potential strategies

Reducing the jury size could ease the impact on the public’s civic duty, with fewer individuals needed to appear for jury selection or for jury service. The reductions would also ease the stress on court resources while expediting the trial process. Juries can be empaneled more quickly and cases can proceed more efficiently. In exploring a possible reduction in civil jury size, the Futures Commission will focus on a proposals that ensure that due process and fairness standards are upheld while trying to achieve increased efficiencies for the courts and cost savings to the branch and individuals.

[Back to top](#)