



Judicial Council of California · Administrative Office of the Courts

455 Golden Gate Avenue · San Francisco, California 94102-3688

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on: June 27, 2014

Title	Agenda Item Type
Trial Court Allocations: Children's Waiting Room Distribution	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
None	June 27, 2014
Recommended by	Date of Report
Trial Court Budget Advisory Committee	June 11, 2014
Hon. Laurie M. Earl, Cochair	Contact
Mr. Zlatko Theodorovic, Cochair	Steven Chang, 415-865-7195 steven.chang@jud.ca.gov

Executive Summary

The Trial Court Budget Advisory Committee recommends that the Judicial Council adopt a policy and procedure for courts to request a children's waiting room distribution, for the purpose of operating and maintaining children's waiting rooms, from the applicable collected first paper civil filing fees that are deposited into the Trial Court Trust Fund. The Superior Courts of Monterey and Butte Counties are requesting a children's waiting room distribution of \$5 effective July 1, 2014.

Recommendation

The Trial Court Budget Advisory Committee recommends that the Judicial Council:

1. Adopt the policy and procedure for courts to request a children's waiting room distribution that is described in the report.
2. Require courts to reapply for a children's waiting room distribution under the conditions described in this report and, if and when the council denies a reapplication, consider directing the applicant to return any unspent distributions to the Trial Court Trust Fund.

3. Consider the requests of the Superior Courts of Monterey and Butte Counties for children's waiting room distributions of \$5 effective July 1, 2014.

Previous Council Action

The Judicial Council has never adopted a process pursuant to Government Code¹ section 70640 for courts to request a children's waiting room (CWR) distribution nor considered a court's request for a children's waiting room distribution (see Attachment A). The only requirement related to operating a CWR adopted by the council appears to be standard 10.24 of the Standards of Judicial Administration:

Each court should endeavor to provide a children's waiting room located in the courthouse for the use of minors under the age of 16 who are present on court premises as participants or who accompany persons who are participants in court proceedings. The waiting room should be supervised and open during normal court hours. If a court does not have sufficient space in the courthouse for a children's waiting room, the court should create the necessary space when court facilities are reorganized or remodeled or when new facilities are constructed.

Recommendation 1: CWR Distribution Request Policy and Procedure

The TCBAC recommends that the Judicial Council adopt the following policy and procedure for a court to request a children's waiting room distribution.

- A court's presiding judge or executive officer must submit a request to the director of the AOC Fiscal Services Office 45 days prior to the date of the council meeting at which the court is requesting consideration.
- The request must include the following information:
 - Date of the council meeting at which the court is requesting consideration.
 - Requested effective date of the distribution (July 1 or January 1).
 - The scheduled opening date of the CWR(s).
 - Description of the CWR(s).
 - The date when the court intends to make expenditures related to operating its CWR(s).
 - The requested distribution amount between \$2 and \$5. Courts can request the AOC Fiscal Services Office to provide an estimate of annual distributions.
 - The amount of unspent distributions (*for reapplications only*).
- Require the TCBAC to make a recommendation to the council on each court's request since a CWR distribution reduces the funding that supports all courts' base allocations.

Rationale for recommendation 1

Section 70640(e) authorizes courts after January 1, 2006, to apply to the Judicial Council for a CWR distribution and requires that applications be made according to trial court financial

¹ All subsequent code references in this report are to the Government Code.

policies and procedures authorized by the Judicial Council. Beginning January 1, 2006, distributions are to be effective January 1 or July 1 of any year.

The TCBAC should review a request for a CWR distribution because a new distribution from the uniform first paper civil filing fee reduces the monies that would otherwise support all courts' Trial Court Trust Fund (TCTF) base allocations (see Attachment C). Excluding those fees and distributions that are returned to courts in the amount that was collected (e.g., replacement of 2% automation funds), all civil fee and criminal assessment revenues deposited into the TCTF support only courts' TCTF base allocations for court operations.

Alternatives considered

The TCBAC considered but is not recommending the following requirements for court requests:

- The planned annual budget for staffing and other expenditures to operate the CWR(s);
- A description of the supervision of the CWR that the court intends to provide; and
- Acknowledgement that the court will not spend distributions on capital outlays, which is prohibited by section 70640(c).

Recommendation 2: Requirement to Reapply for a CWR Distribution

The TCBAC recommends that the Judicial Council require courts to reapply for a distribution if they fall into one of two categories:

- Courts that have received a distribution prior to July 1, 2014 but are not currently operating a children's waiting room.
- Courts that receive a distribution effective July 1, 2014 or after but have not operated a children's waiting room six months after their planned opening date of the children's waiting room.

In addition the TCBAC recommends:

- If and when the council denies a court's request, it should consider directing the court to return any unspent distributions to the Trial Court Trust Fund.

Rationale for recommendation 2

If a court that is receiving a CWR distribution has no intention of operating a CWR, or at least not in the near future, the money could be better used for other purposes. CWR distributions are restricted revenue that can only be used for purposes authorized by section 70640, so there is no disadvantage to a court by having its distribution discontinued if it does not intend to open or reopen a children's waiting room.

Recommendation 3: Two Courts' Requests for a CWR Distribution

The TCBAC recommends that the Judicial Council consider two courts' requests for a children's waiting room distribution of \$5 effective July 1, 2014: the Superior Court of Butte County's

request (complete request included as Attachment D) and the Superior Court of Monterey County's request (complete request included as Attachment E.)

Rationale for recommendation 3

Section 70640 authorizes courts to apply to the council for a CWR distribution after January 1, 2006. Currently 19 courts receive a CWR distribution, ranging from \$3 to \$5 per collected filing fee (see first table in Attachment C). Sixteen courts received a distribution prior to January 1, 2006 and 3 courts have received a distribution after that date. The distribution amount for courts that received a distribution prior to January 1, 2006 was the amount of the CWR filing fee surcharge that the court's county board of supervisors had established as of December 31, 2005. From January 1, 2000 to December 31, 2005, GC section 26826.3 authorized counties to establish a filing fee surcharge no less than \$2 and no greater than \$5 for children's waiting rooms. In fiscal year 2012–2013, the total distribution to courts was \$3.7 million; \$21,064 was the lowest annual distribution for a court and \$990,928 was the highest.

If the two requesting courts had received a \$5 distribution in the prior three fiscal years, the average total distribution would have been \$25,979 for the Superior Court of Butte County and \$41,944 for the Superior Court of Monterey County (see second table in Attachment C).

Comments

None of the recommendations in this report were circulated for public comment. No comments concerning the TCBAC's recommendations were received.

Implementation Requirements, Costs, and Operational Impacts

By approving the two court's request for a CWR distribution, the council would reduce by about \$68,000 the total amount of uniform first paper civil filing fee revenues that would otherwise support all courts' TCTF base allocations for court operations. The actual amount would vary each year depending on the number of paid filings.

Attachments

1. Attachment A: Gov. Code, § 70640
2. Attachment B: Distributions from First Paper General Civil Unlimited Uniform Filing Fee (GC 70611) in Butte and Monterey Counties
3. Attachment C: Children's Waiting Room—Distribution Amount and Total Distribution
4. Attachment D: Request from the Superior Court of California, County of Butte
5. Attachment E: Request from the Superior Court of California, County of Monterey

Government Code Section 70640

(a) It is the policy of the state that each court shall endeavor to provide a children's waiting room in each courthouse for children whose parents or guardians are attending a court hearing as a litigant, witness, or for other court purposes as determined by the court. To defray that expense, monthly allocations for children's waiting rooms shall be added to the monthly apportionment under subdivision (a) of Section 68085 for each court where a children's waiting room has been established or where the court has elected to establish that service.

(b) The amount allocated to each court under this section shall be equal to the following: for each first paper filing fee as provided under Section 70611, 70612, 70613, 70614, or 70670, and each first paper or petition filing fee in a probate matter as provided under Section 70650, 70651, 70652, 70653, 70654, 70655, 70656, or 70658, the same amount as was required to be collected as of December 31, 2005, to the Children's Waiting Room Fund under former Section 26826.3 in the county in which the court is located when a fee was collected for the filing of a first paper in a civil action under former Section 26820.4.

(c) Notwithstanding any other provision of law, the court may make expenditures from these allocations in payment of any cost, excluding capital outlay, related to the establishment and maintenance of the children's waiting room, including personnel, heat, light, telephone, security, rental of space, furnishings, toys, books, or any other item in connection with the operation of a children's waiting room.

(d) If, as of January 1, 2006, there is a Children's Waiting Room Fund in the county treasury established under former Section 26826.3, the county immediately shall transfer the moneys in that fund to the court's operations fund as a restricted fund. By February 15, 2006, the county shall provide an accounting of the fund to the Administrative Office of the Courts.

(e) After January 1, 2006, the court may apply to the Judicial Council for an adjustment of the amount distributed to the fund for each uniform filing fee. A court that wishes to establish a children's waiting room, and does not yet have a distribution under this section, may apply to the Judicial Council for a distribution. Applications under this subdivision shall be made according to trial court financial policies and procedures authorized by the Judicial Council under subdivision (a) of Section 77206. Adjustments and new distributions shall be effective January 1 or July 1 of any year beginning January 1, 2006.

(f) The distribution to a court under this section per each filing fee shall be not less than two dollars (\$2) and not more than five dollars (\$5).

(Amended by Stats. 2007, Ch. 130, Sec. 135. Effective January 1, 2008.)

Distributions from First Paper General Civil Unlimited Uniform Filing Fee (GC 70611) in Butte and Monterey Counties

Distribution	State vs. Local	Current		Requested	
		Butte	Monterey	Butte	Monterey
Trial Court Trust Fund Base Allocation	State	\$317	\$321	\$312	\$316
Children's Waiting Room	State	\$0	\$0	\$5	\$5
Automated Record-Keeping and Micrographics	State	\$3	\$3	\$3	\$3
Judges' Retirement Fund	State	\$3	\$3	\$3	\$3
State Court Facilities Construction Fund	State	\$35	\$35	\$35	\$35
Immediate & Critical Needs Account	State	\$30	\$30	\$30	\$30
Equal Access Fund	Local	\$5	\$5	\$5	\$5
Dispute Resolution	Local	\$8	\$8	\$8	\$8
Law Library	Local	\$35	\$31	\$35	\$31
Fee Amount		\$435	\$435	\$435	\$435

Children's Waiting Room -- Distribution Amount and Total Distribution

Court	Distribution Amount	FY 2010-11 Total Distribution	FY 2011-12 Total Distribution	FY 2012-13 Total Distribution
Alameda	\$5	\$ 238,529	\$ 212,564	\$ 192,017
Contra Costa	\$5	\$ 175,725	\$ 149,662	\$ 131,087
El Dorado	\$5	\$ 27,018	\$ 22,899	\$ 21,064
Fresno	\$5	\$ 134,377	\$ 118,142	\$ 112,844
Los Angeles	\$3	\$1,169,325	\$1,073,404	\$ 990,928
Merced	\$5	\$ -	\$ 27,611	\$ 24,586
Orange	\$5	\$ 563,200	\$ 501,912	\$ 457,064
Riverside	\$5	\$ 415,311	\$ 354,166	\$ 320,048
Sacramento	\$5	\$ 323,393	\$ 313,193	\$ 296,199
San Diego	\$5	\$ 510,996	\$ 446,264	\$ 414,159
San Francisco	\$4	\$ 137,941	\$ 127,670	\$ 119,899
San Luis Obispo	\$5	\$ 37,181	\$ 31,817	\$ 29,848
San Mateo	\$5	\$ 104,466	\$ 87,975	\$ 80,444
Santa Barbara	\$5	\$ 54,364	\$ 50,492	\$ 47,540
Santa Clara	\$5	\$ 240,746	\$ 207,667	\$ 188,961
Solano	\$5	\$ 76,494	\$ 63,005	\$ 58,051
Sonoma	\$5	\$ 75,399	\$ 61,897	\$ 61,364
Stanislaus	\$5	\$ 77,655	\$ 66,457	\$ 61,806
Ventura	\$5	\$ 123,711	\$ 111,002	\$ 102,279
Total		4,485,831	4,027,799	3,710,187

Court	Requested Distribution Amount	Estimated		
		FY 2010-11 Total Distribution	FY 2011-12 Total Distribution	FY 2012-13 Total Distribution
Butte	\$5	\$ 25,746	\$ 26,051	\$ 26,140
Monterey	\$5	\$ 42,029	\$ 42,316	\$ 41,488



SUPERIOR COURT OF CALIFORNIA, COUNTY OF BUTTE

June 6, 2014

STEPHEN E. BENSON, JUDGE
MICHAEL P. CANDELA, JUDGE
MICHAEL R. DEEMS, JUDGE
DENNY R. FORLAND, JUDGE
ROBERT A. GLUSMAN, JUDGE
CLARE KEITHLEY, JUDGE
KRISTEN A. LUCENA, JUDGE
SANDRA L. MCLEAN, JUDGE
TAMARA L. MOSBARGER, JUDGE
JAMES F. REILLEY, JUDGE
BARBARA L. ROBERTS, JUDGE

Hon. Tani G. Cantil-Sakauye, Chief Justice of California, and Members of
California Judicial Council
455 Golden Gate Avenue
San Francisco, California 94102-3688

Re: Children's Waiting Room Distribution

LEONARD D. GOLDKIND,
COURT COMMISSIONER

Dear Chief Justice Cantil-Sakauye and Members:

DAVID E. GUNN,
COURT COMMISSIONER

We respectively request for your consideration at the June 27, 2014 Judicial Council meeting that the Superior Court of California, County of Butte be provided a Children's Waiting Room (CWR) distribution pursuant to Government code section 70640. Listed below are additional information items related to our request:

KIMBERLY FLENER,
COURT EXECUTIVE OFFICER

RICHARD L. HOLST,
ASSISTANT COURT EXECUTIVE
OFFICER

PLEASE REPLY TO:

■ Butte County Courthouse
One Court Street
Oroville, CA 95965
Tel: (530) 532-7013
Fax: (530) 538-8567

□ Chico Courthouse
655 Oleander Avenue
Chico, CA 95926
Tel: (530) 532-7013
Fax: (530) 892-8516

- Requested effective date of distribution: July 1, 2014
- Scheduled opening date of CWR: Early 2015 (upon completion of our new North County Courthouse Facility which is anticipated 1/15/15)
- Description of the CWR: The CWR will be located in our new North County Courthouse Facility in Chico in a room specifically designed for such services. It is anticipated that we will utilize the distribution for contracted services along with furnishings/toys/books
- Anticipated date of CWR expenditures: Early 2015
- Requested distribution amount: \$5 per filing fee. Translates to an annual distribution of approximately \$25,979 (based on prior three fiscal years of filings).

This distribution, if approved, will help facilitate CWR services which will be offered for the first time in Butte County. There isn't a better way of highlighting these newly offered services than in connection with an opening of a new courthouse.

Sincerely,

Honorable Kristen A. Lucena
Presiding Judge



SUPERIOR COURT OF CALIFORNIA
COUNTY OF MONTEREY

240 Church Street • Salinas, California • 93901 • (831) 775-5400
www.monterey.courts.ca.gov

June 10, 2014

Hon. Tani G. Cantil-Sakauye
Chief Justice of California
Members of California Judicial Council
455 Golden Gate Avenue
San Francisco, California, 94102-3688

Re: Children's Waiting Room Distribution

Dear Chief Justice Cantil-Sakauye and Members:

We respectfully request for your consideration at the June 27, 2014 Judicial Council meeting that the Superior Court of California, County of Monterey be provided a Children's Waiting Room (CWR) distribution pursuant to Government Code section 70640. Listed below are additional information items related to our amended request:

- Requested effective date of distribution: July 1, 2014
- Scheduled opening date of CWR: Fiscal 15-16
- Description of the CWR: The CWR will be located in the Monterey Courthouse. It is anticipated that we will utilize the distribution for contracted services along with furnishings, toys, and books.
- Anticipated date of CWR expenditures: Fiscal 15-16
- Requested distribution amount: \$5 per filing fee. It is estimated that annual CWR restricted fund revenues will be \$55,000 annually.

This distribution, if approved, will help facilitate CWR services which will be offered for the first time in Monterey County.

Sincerely,

Teresa A. Risi
Court Executive Officer

Background:

Superior Court of California, County of Monterey is submitting an amended request to provide more detailed information as requested. The Court plans to open a Children's Waiting Room in the Monterey Courthouse where Family Law, Domestic Violence, Probate, and other Civil matters are heard, and Self-Help Services are provided. Currently, there are roughly 50 children in the Monterey Courthouse weekly who must wait in crowded halls while their parents are receiving services. The Court anticipates that the need for CWR services will grow because we plan to double our Judicial Officers assigned to Family Law matters.

The Court anticipates \$50,000 (fifty thousand dollars) on initial startup costs for furniture, toys and books. Additionally, the Court anticipates annual operating expenditures of \$83,000 (eighty-three thousand dollars) to provide full time contracted child care services in the Monterey Courthouse facility.