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FACT SHEET

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Conversion of Subordinate Judicial Officer Positions to Judgeships

Government Code section 69615 seeks to restore an appropriate balance between judgeships and subordinate judicial officers (SJOs) in the trial courts by providing for the conversion of 162 SJO positions to judgeships. The decision by the Legislature to allow for the conversion of SJO positions to judgeships was based on a number of studies related to the use of SJOs in the trial courts. A 1999 report by the National Center for State Courts found that many SJOs serving during that time period were “simply judges under a different title.” A 2002 report by the SJO Working Group to the Judicial Council clarified the duties appropriate to SJOs and those appropriate exclusively to judges. A 2007 update of the judicial workload assessment drew on the 2002 report and quantified how much of the trial court judicial caseload was appropriate to SJOs. This report identified the 162 SJO positions that the California Legislature has designated for conversion to judgeships in 25 trial courts. The 2007 study data was updated in 2015 to reflect workload estimates for SJOs in relation to more recent filings data, for those case types appropriate for SJOs to hear.

The Origins of Subordinate Judicial Officers

SJOs are provided for in article VI, section 22 of the California Constitution, which allows for the “appointment by trial courts of record of officers such as commissioners to perform subordinate judicial duties.” Although the Constitution does not specify the exact meaning of “subordinate judicial duties,” the dearth of new judgeships during the 1990s led many trial courts to create new SJO positions to cope with a growing workload.

Precise numbers are difficult to determine, but the 1990s saw a proliferation in the number and type of SJO positions in the trial courts. By 1999, a report by the National Center for State Courts found that most court commissioners and juvenile

referees rarely performed subordinate judicial functions and by virtue of their caseloads were acting as judges under a different title.¹

Subordinate Judicial Duties

Drawing on the work of the 1999 report, the Judicial Council directed the Administrative Director of the Courts to establish a Subordinate Judicial Officer Working Group to make recommendations on several policy issues concerning subordinate judicial officers. The resulting report by the working group evaluated judicial duties in criminal, family, juvenile, and civil law and made recommendations about the appropriate use of SJOs in these different areas of law².

In criminal law, the working group concluded that the power to imprison is a core judicial function and sought to circumscribe the use of SJOs in duties that would involve this core judicial function. The working group determined that the adjudication of family cases is a core judicial function and only provided exceptions for child support commissioners, primarily because these positions are funded in part by the federal government.

The working group determined that subordinate judicial duties in juvenile matters were limited to truancy and “minor juvenile delinquency matters that cannot result in imprisonment.” In civil law, the working group recommended limiting the subordinate judicial duties to small claims cases, uncontested civil matters, discovery motions, pretrial motions, and settlement conferences and mediation. The Judicial Council accepted the report of the working group at its August 2002 business meeting.

Quantifying the Workload of Subordinate Judicial Officers

In 2007, the Judicial Council’s Office of Court Research (OCR) used its judicial case-weights to distinguish between the workloads of judges and SJOs. The bulk of judicial workload appropriate to SJOs—and the workload that is most easily calculated—is work associated with infractions and small claims filings. Because the report of the Subordinate Judicial Officer Working Group found that an SJO’s authority should be the same as a judge’s authority in these case types, the entire workload of these cases can be assigned in the judicial workload model to SJOs.

¹ See Robert W. Tobin, *California Subordinate Judicial Officer Field Study: A Technical Assistance Report* (National Center for State Courts, Aug. 1999).

² See Judicial Council of Cal., Subordinate Judicial Officer Working Group Rep., *Subordinate Judicial Officers: Duties and Titles* (July 2002). The URL is available at the end of this fact sheet.

Data are less readily available for determining the number of truancy matters or uncontested civil cases in the courts. As a result, estimates of workload appropriate to SJOs apart from infractions and small claims are necessarily less precise. In the 2007 report to the Judicial Council updating the judicial workload estimates, OCR identified 25 courts in which a total of 162 SJO positions should be converted to judgeships.³

Legislative Mandate to Convert Subordinate Judicial Officers

In 2007, the California Legislature passed and the Governor signed Assembly Bill 159. AB 159 added section 69615 to the Government Code with the intent of restoring “an appropriate balance between subordinate judicial officers and judges in the trial courts by providing for the conversion, as needed, of subordinate judicial officer positions to judgeships in courts that assign subordinate judicial officers to act as temporary judges.”

Government Code section 69615 provides that no more than 16 positions may be converted in each fiscal year and that the Judicial Council establish an allocation schedule for the conversion of positions. In addition, section 69615 indicates that SJO positions may be converted to judgeships when all of the following conditions are met:

- A vacancy occurs in a subordinate judicial officer position in an eligible superior court.
- The Judicial Council files notice of the vacancies and allocations.
- The proposed action is ratified by the Legislature.

Implementation of Subordinate Judicial Officer Conversion

Since 2007, the Judicial Council has worked closely with the 25 trial courts with SJO positions eligible for conversion. A total of 132 positions have been converted since enactment of Government Code section 69615. In fiscal year 2011–2012, Assembly Bill 2763 (Stats. 2010, ch. 690) amended Government Code section 69615 to provide for the conversion of 10 additional commissioner positions every year if the conversion would result in the assignment of judges to family and juvenile assignments previously assigned to commissioners. Since fiscal year 2001–2012, 4 additional SJO positions were converted to judgeships, with the courts converting these vacant positions indicating that these family and juvenile calendars are now

³ Judicial Council of Cal., *Update of the Judicial Workload Assessment and New Methodology for Selecting Courts with Subordinate Judicial Officers for Conversion to Judgeships* (Feb. 23, 2007). The URL is available at the end of this fact sheet.

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presided over by judges. Although funding for additional positions was approved for fiscal years 2013–2014 (Gov. Code, § 69617), 2014–2015 (Gov. Code, § 69618), and 2015–2016 (Gov. Code, § 69619), no additional SJO positions above the 16 authorized per year have been converted under this authority.

In addition to the policy to expedite conversions described above, in 2015 council research staff refreshed the workload data used to determine which courts had eligible conversions. A list of eligible positions to convert was established for the remaining conversions, and courts were notified of any changes in status based on the updated workload assessment.⁴

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Additional resources:

2002 Report of the Subordinate Judicial Officer Working Group to the Judicial Council, www.courts.ca.gov/sjowgfinal.pdf

2007 report to the Judicial Council quantifying the number of SJO positions that should be converted to judgeships,

www.courtinfo.ca.gov/jc/documents/reports/022307item9.pdf

Assem. Bill 159, www.leginfo.ca.gov/pub/07-08/bill/asm/ab_0151-0200/ab_159_bill_20071014_chaptered.pdf

⁴ See Judicial Council of Cal., *Subordinate Judicial Officers: Update of Conversions Using More Current Workload Data* (Aug. 21, 2015), www.courts.ca.gov/documents/jc-20150821-itemL.pdf (as of June 7, 2017).