

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2023-2024 Regular Session

AB 875 (Gabriel)
Version: February 14, 2023
Hearing Date: June 27, 2023
Fiscal: Yes
Urgency: No
AM

SUBJECT

Courts: data reporting

DIGEST

This bill requires individual county courts to transmit to the Judicial Council specified data, including the number of unlawful detainer cases filed each month, how many cases involved fee waivers, and how many defendants were actually represented by counsel, and requires the Judicial Council to post this information in a publicly available electronic spreadsheet that may be downloaded from its internet website. The bill also requires disclosures about small claims cases involving the COVID-19 rental relief provisions.

EXECUTIVE SUMMARY

The Shriver Act provides grants to fund pilot programs designed to ensure that legal counsel is available for people dealing with life-altering civil matters in court, including for unlawful detainer cases. A significant portion of statewide funding for tenant representation in unlawful detainer proceedings is now being derived from the Shriver Act. This bill seeks to generate data regarding unlawful detainer cases in the state in order to assist in identifying areas where these scarce resources may be needed most.

The bill is sponsored by the County of Los Angeles and supported by various organizations. The bill is opposed by the Judicial Council of California.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Authorizes the Judicial Council to develop one or more pilot projects to test the concept of "Civil Gideon" by providing legal representation for persons at or below 200 percent of the federal poverty level who require legal services in civil matters involving housing, domestic violence and civil harassment restraining orders,

probate conservatorships, guardianships of the person, elder abuse, or actions by a parent to obtain sole legal or physical custody of a child. (Gov. Code § 68651(b)(1).)

- 2) Establishes summary civil proceedings by which landlords may seek a court order for the eviction of tenants from their rental property, generally referred to as unlawful detainer. (Code Civ. Proc. § 1159 *et seq.*)
- 3) Provides that the provisions of the unlawful detainer law are subject to the COVID-19 Tenant Relief Act of 2020. (*Ibid.*)
- 4) Specifies, as a part of the COVID-19 Tenant Relief Act, temporary timelines and procedures for unlawful detainer actions to provide relief to tenants who lost income as a result of the COVID-19 pandemic through 2025. (Code of Civ. Proc. § 1179.1 *et seq.*)

This bill:

- 1) Requires each superior court to report to the Judicial Council the total number of each of the following data points for unlawful detainer cases, aggregated by ZIP Code:
 - a) cases filed each month;
 - b) cases in which defendants were represented by counsel at case closing;
 - c) cases in which a fee waiver was granted;
 - d) cases that were subject to default, stipulated, or other types of pretrial judgments;
 - e) cases that went to trial, and of those that went to trial, how many were a bench trial and how many were a jury trial;
 - f) cases that were dismissed before trial at the plaintiff's request; and
 - g) cases that resulted in judgment for the plaintiff or for the defendant.
- 2) Requires each superior court to report to the Judicial Council the following case summary data on COVID-19 Rental Debt in Small Claims Court, aggregated by ZIP Code:
 - a) the number of cases filed each month; and
 - b) the number of cases in which a fee waiver was granted.
- 3) Requires the Judicial Council to post the information gathered pursuant to 1), above, on its internet website in the format of a spreadsheet that may be downloaded.

COMMENTS

1. Stated need for the bill

The author writes:

Californians across the state are evicted from their homes without any recourse. Many end up living on the streets. This eviction crisis is one of the primary reasons that despite the tens of thousands of homeless people being permanently housed each year, the street count does not decrease. Without precise data to know the number of evictions during a period of time, where the evictions are happening and how those numbers are changing, policy makers and service providers cannot provide the best solutions to the problems.

To better develop, implement, and evaluate solutions to address this eviction crisis, local jurisdictions, legal service providers, and policymakers need more complete and uniform eviction court filing data.

2. Background

a. Shriver Act

In 2009, then-Assemblymember, now-Los Angeles City Attorney Mike Feuer proposed that California embark on a project to put the Civil Gideon concept to the test. He introduced AB 590 (Ch. 457, Stats. 2009), the Sargent Shriver Civil Counsel Act, so named in honor of then-California First Lady Maria Shriver's father, who was a major proponent of legal aid. AB 590 passed both houses of the Legislature on a bipartisan basis and was signed by then-Governor Schwarzenegger on October 11, 2009.

The Shriver Project is funded by a \$25 fee in various court filing fees and it is administered by the Judicial Council. Pursuant to the Act, legal aid agencies, in partnership with their local county courts, must present proposals to the Judicial Council. The proposals must focus on at least one of the civil matters identified as having such profound impact on litigants' lives that legal counsel should be appointed: housing-related matters, domestic violence and civil harassment restraining orders, probate conservatorships, guardianships of the person, elder abuse, or actions by a parent to obtain sole legal or physical custody of a child. In addition, the projects are supposed to involve implementation of court procedures, personnel, training, and case management and administration methods that reflect best practices to ensure unrepresented parties in those cases have meaningful access to justice, and to guard against the involuntary waiver of those rights or their disposition by default.

In its inaugural round of funding, the Judicial Council selected 10 pilot programs for the Shriver Project. They included six housing-related legal services in Kern, Los Angeles, Sacramento, San Diego, Santa Barbara, and Yolo counties; three child custody related

legal services in Los Angeles, San Diego, and San Francisco counties; and a probate guardianship program in Santa Barbara County. Each project was initially authorized for a three-year period, subject to renewal, after which, the Project was scheduled to sunset.¹ The Judicial Council was required to begin studying the effectiveness and continued need for the Shriver program in 2020, and to report its findings and recommendations every five years thereafter. A significant portion of the statewide funding for tenant representation in unlawful detainer proceedings is now being derived from the Shriver Act.

b. Unlawful detainer

In California, almost all involuntary residential evictions must take place through the judicial process. Landlords may not simply kick a tenant out on their own. (Civ. Code § 789.3.) Instead, landlords must request an order from a judge. If, after giving the tenant an opportunity to respond, the judge agrees that the landlord is entitled to reclaim the rental property, the judge will issue a writ of possession in the landlord's favor. Sheriff's deputies then execute the writ of possession. First, they post a notice giving the tenants five days' advance warning of the impending lockout. Then, on the appointed day, the sheriff deputies will physically remove the tenants from the property, if they have not left already, and standby while the locks are changed. These judicial proceedings are known as unlawful detainers and they are governed by their own special statutes, Code of Civil Procedure Sections 1159 to 1179(a).

c. COVID-19 rental protections

As part of its response to the financial fallout from the COVID-19 pandemic, California enacted policies designed to prevent tenant households from losing their homes if they fell behind on rent. At their core, those policies now consist of two components: (1) legal protections against eviction for nonpayment of rent; and (2) an emergency rental assistance program (ERAP) to compensate landlords for that unpaid rent. Since October 2021, these two components have been linked: landlords may proceed to evict tenants who have failed to pay rent, but only after properly demonstrating to the court that they unsuccessfully attempted to obtain emergency rental assistance to cover the debt owed to them.

3. This bill requires reporting to the Judicial Council on information regarding unlawful detainer cases

In recognition that the need for legal assistance in civil matters outweighs the available funding to provide such legal assistance, this bill seeks to obtain data regarding unlawful detainer cases around the state with the hope that it can assist in identifying

¹ *Fact Sheet: Sargent Shriver Civil Counsel Act* (Aug. 2012) Judicial Council of California https://www.courts.ca.gov/documents/BTB_XXII_VB_2.pdf (as of Jun. 1, 2019).

areas where these scarce resources may be needed most. The bill requires individual county courts to transmit to the Judicial Council specified data, including the number of unlawful detainer cases filed each month, how many cases involved fee waivers, and how many defendants were actually represented by counsel. Additionally, the bill requires disclosures about small claims cases involving the COVID-19 rental relief provisions that the Legislature has adopted over the last several years.

4. Statements in support

The County of Los Angeles, a sponsor of the bill, writes:

The state's 58 county superior courts currently report aggregated UD case outcomes to the Judicial Council of California; however, reporting is inconsistent, and in some instances, it is not made public. As such, little is known about how landlords and tenants fare in courts, statewide. AB 875 would help to address gaps and inconsistencies in eviction-related data across the State, show the full scope of the eviction landscape, and enhance the budgeting, planning, and implementation of eviction prevention and defense programs across the State.

More specific data about cases and the case outcomes will also shed light on displacement trends in local communities and assist in keeping members of our vulnerable populations in their homes.

5. Statements in opposition

The Judicial Council of California writes in opposition unless amended stating:

In order to gather the required data points, all 58 superior courts would need to hire additional staff, potentially including research attorneys, to review unlawful detainer cases and pull out the individual data points, where they may be available within case notes or filing information. As AB 875 does not include any timeframes for data collection, it is difficult to determine the full scope of the workload for the courts. If data collection is only required from the bill's operative date of January 1, 2024, there will be significant ongoing workload costs associated with reviewing each unlawful detainer case that is filed. For reference, the courts show historical averages of approximately 140,000 unlawful detainer cases being filed statewide, each year. For a review of each of those cases, the courts anticipate needing 20 full time staff to review, collect, and enter the data into a system for reporting. The Judicial Council will also require significant funding for information technology staff to develop a system to collect and then store the data points for publishing to the council's website. To allow time to set up a statewide system that can interact with the

various case management systems in use throughout the state's courts, the council requires an amendment for a delayed implementation date.

The courts also require clarification on, or a potential amendment to remove, the inclusion of COVID-19 specific data. If this is meant to be an ongoing data collection requirement, the inclusion of COVID-19 related data creates confusion as the numbers of COVID-related unlawful detainer cases are steadily declining.

SUPPORT

County of Los Angeles (sponsor)
California Low-Income Consumer Coalition
County of Los Angeles Board of Supervisors
Los Angeles Homeless Services Authority
The People Concern
Western Center on Law & Poverty, Inc.

OPPOSITION

Judicial Council of California

RELATED LEGISLATION

Pending Legislation: None known.

Prior Legislation:

SB 843 (Committee on Budget, Ch. 33, Stats. 2016) lifted the sunset date from the Shriver Civil Counsel Act statute, thus extending the Project indefinitely.

AB 2271 (Gabriel, 2020), among other things, would have required courts to provide the Judicial Council with certain information regarding unlawful detainer cases. AB 2271 was never set for a hearing in this Committee.

AB 590 (Feuer, Ch. 457, Stats. 2009) enacted the Sargent Shriver Civil Counsel Act which raised fees on certain court filings and directed the proceeds to fund a series of grants for pilot projects to test the impact of providing legal representation to low-income individuals in probate conservatorship, eviction, and child custody matters.

PRIOR VOTES:

Assembly Floor (Ayes 77, Noes 0)
Assembly Appropriations Committee (Ayes 15, Noes 0)
Assembly Judiciary Committee (Ayes 11, Noes 0)
