

## Memorandum 93-59

**Trial Court Unification: Original Jurisdiction**

Article 6, Section 10 of the California Constitution prescribes the original jurisdiction of the courts. With unification of the trial courts, SCA 3 makes necessary revisions to this section.

Sec. 10. The Supreme Court, courts of appeal, ~~superior~~ district courts, and their judges have original jurisdiction in habeas corpus proceedings. Those courts also have original jurisdiction in proceedings for extraordinary relief in the nature of mandamus, certiorari, and prohibition.

~~Superior District~~ courts have original jurisdiction in all causes ~~except those given by statute to other trial courts.~~

The court may make such comment on the evidence and the testimony and credibility of any witness as in its opinion is necessary for the proper determination of the cause.

Unification raises a number of other issues concerning original jurisdiction:

(1) If the district court has original jurisdiction in all cases, how will judges cope with the broad range of issues presented?

(2) How are writ procedures handled within the unified court?

(3) How are causes handled where the current statutory scheme provides a dual system of initial municipal court or justice court action and superior court review (e.g., appeals within the appellate jurisdiction of the superior court, small claim trials de novo, Penal Code Section 995 and 1538.5 motions). These matters are dealt with in Memorandum 93-60 (appellate jurisdiction).

(4) How are procedural differences, including the Economic Litigation procedures and local court rules, resolved in a unified court? This is dealt with in Memorandum 93-57 (district court).

**BROAD RANGE OF ISSUES**

One concern that has been expressed about placing original jurisdiction of all causes in one court is that it may present too broad an array of issues for judges to handle adequately, given the press of business. The Assembly Judiciary

Committee consultant's analysis of SCA 3 summarizes and responds to this concern.

The proposed constitutional amendment appears to contemplate a single trial court with general jurisdiction. However, it does not specifically prohibit "specialization" of case load. Historically, one criticism of unification plans has been that unification requires all judges to become generalists and does not allow courts to use the unique expertise of some judges to handle "specialized" calendars or actions.

While this bill does not specifically recognize "specialized" trial courts, it does not foreclose the possibility that courts may use the expertise of certain judges to handle primarily "specialized trial courts" by assignment and calendaring practices at the local level.

In fact, unification may actually provide greater opportunity for specialization among judges. This is one of the benefits of unification advocated in the ABA Standards Relating to Court Organization, which states that specialization should be achieved within the framework of a single trial court, provided there is periodic rotation of judges to assure that members of the court are familiar with the entire range of the court's functions and responsibilities.

Creation of specialized departments within the district court is not a matter of constitutional dimension. In fact, court rule should be sufficient for this purpose as it is now. The staff sees no need to address this matter in the Constitution or by statute. The parallel right of the Legislature to prescribe special departments is preserved in the constitutional reference to statutory practices and procedures. Article 6, Section 6 (Judicial Council rules for practice and procedure "not inconsistent with statute").

The 1993 Judicial Council Report reaches a similar conclusion on divisions within the district court.

[T]he creation of divisions or departments within the district court is a matter more properly dealt with by the judiciary itself through state-wide or local rules of court or by the Legislature through statutes. (*See, e.g.*, C.C.P. §§ 116.110-116.950 (Small Claims Court); C.C.P. §§ 1730-1772 (Family Conciliation Court); Wel. & Inst. Code § 200 et seq. (Juvenile Court)). There appears to be no principled reason for creating [divisions] by constitutional provision, but creating Small Claims Court, Family Conciliation Court and Juvenile Court by statutory provisions.

We would note in the Comment the authority of the court to establish departments or divisions and cross-refer to the authority of the Legislature.

#### WRIT JURISDICTION

Under the existing scheme the superior court has original jurisdiction, along with the appellate courts, in proceedings for extraordinary relief in the nature of habeas corpus, mandamus, certiorari, and prohibition. This includes authority to issue extraordinary writs to the municipal and justice courts.

What happens in a unified court? As the Third District Court of Appeal points out, "It is conceptually anomalous for a court to hear an appeal from itself or to direct a writ to itself."

The 1993 Judicial Council Report handles this situation by giving the district courts and their judges jurisdiction in writ proceedings over causes that were formally within the jurisdiction of the municipal and justice courts (Category Two causes). The Judicial Council anticipates that the appellate department of the district court will issue writs to judges sitting in Category Two cases.

The issue presented is parallel to that discussed in Memorandum 93-60 (appellate jurisdiction). Is it appropriate to have district court judges issuing writs against each other? Alternatively, is it possible to leave writ practice to the reviewing courts and not to the trial courts in a unified court system?

It would be conceptually clean to leave extraordinary writs in the nature of review to the appellate courts. The 1975 Cobey Commission report notes that the Supreme Court and courts of appeal already have original jurisdiction over prerogative writs, concurrent with that of the superior courts. "Stated most simply, writs directing or prohibiting an action, directed to a court or judge, should come from a higher level."

The staff has no idea of the numbers we are talking about, but will make an effort to ascertain the frequency of superior court writs directed to the municipal and justice courts. We would not want to eliminate trial court jurisdiction over all writs, since undoubtedly the great majority of superior court writs are directed not to lower courts but to administrative agencies and other noncourt entities.

Pending receipt of further information, the staff tentatively suggests that writs directed to district courts or judges be within the exclusive jurisdiction of the appellate courts. A draft to implement this resolution is set out below.

PROPOSED DRAFT

Sec. 10. The Supreme Court, courts of appeal, ~~superior district~~ courts, and their judges have original jurisdiction in habeas corpus proceedings ~~– Those courts also have original jurisdiction and~~ in proceedings for extraordinary relief in the nature of mandamus, certiorari, and prohibition , except that original jurisdiction for review of proceedings in the district courts is limited to the Supreme Court and courts of appeal .

~~Superior District~~ courts have original jurisdiction in all causes ~~except those given by statute to other trial courts .~~

The court may make such comment on the evidence and the testimony and credibility of any witness as in its opinion is necessary for the proper determination of the cause.

**Comment.** Section 10 is amended to delete the references to the superior courts and other trial courts. The amendment reflects unification of the superior courts, municipal courts, and justice courts in a single level trial court system. See Section 4 (district court) and former Section 5 (municipal court and justice court).

The first paragraph of Section 10 is amended to limit the former jurisdiction of superior courts to issue extraordinary writs to compel or prohibit action by the municipal and justice courts and their judges. Only the Supreme Court and courts of appeal may issue extraordinary writs for review of court proceedings in the district courts. The district courts retain jurisdiction to issue extraordinary writs to persons and entities outside the judicial branch.

Although the district court has original jurisdiction of all causes, nothing in this section limits the authority of the judicial branch by court rule to establish or provide for divisions or departments within the district courts dealing with specific causes, or the authority of the Legislature to prescribe special procedures or divisions for specific causes. See Section 6 (Judicial Council).

Respectfully submitted,

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