

## Memorandum 93-69

**Trial Court Unification: Comparison of 1993 Proposals**

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The attached table compares the more important elements of trial court unification under existing law, Senate Constitutional Amendment 3 (the unification measure), 1993 Judicial Council Report, staff recommendation, and initial Commission decisions:

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The staff can revise the table as staff recommendations and Commission decisions evolve during the course of this study.

Respectfully submitted,

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## Exhibit

### Comparison of 1993 Trial Court Unification Proposals

#### COURT STRUCTURE

##### Name of Trial Court

Existing Law	SCA 3	Judicial Council Report	Staff Recommendation	Initial Commission Decision
Superior, municipal, and justice courts. Art VI, § 1.	District court.	District court.	Superior court.	Superior court.

##### Districts (territorial)

Existing Law	SCA 3	Judicial Council Report	Staff Recommendation	Initial Commission Decision
Municipal and justice courts may be organized by intra-county district. Superior court is county-wide except in LA County. Art. VI, §§ 4, 5.	District court is county-wide, but by statute may be divided into branches or organized in circuits.	District court is county-wide, but with branches and circuits presumably controlled by court rule.	Same as SCA 3, except Legislature may delegate authority to determine branches and circuits	Determined by individual courts under influence of county, Legislature, or other funding authority.

##### Divisions (subject matter)

Existing Law	SCA 3	Judicial Council Report	Staff Recommendation	Initial Commission Decision
Superior court hears larger cases, municipal and justice smaller cases. There are special divisions in superior courts (family conciliation, juvenile) and municipal/justice (small claims). Prescribed by statute.	Silent on subject matter divisions. Presumably subject matter divisions could be authorized by statute or rule.	Rejects upper and lower divisions of district court. Divisions or departments (small claims, family conciliation, juvenile) could be created by statute or rule.	Divisions of unified court (small claims, traffic, probate, family law) could be created by statute or rule.	Rejected upper and lower divisions of superior court.

### Original Jurisdiction

Existing Law	SCA 3	Judicial Council Report	Staff Recommendation	Initial Commission Decision
Original jurisdiction: Supreme Court, courts of appeal, and superior courts in habeas corpus and extraordinary writs; in all other cases, superior or municipal/justice courts as provided by statute. Art. VI, § 10.	Same as existing law, except original jurisdiction of superior, municipal, and justice courts is consolidated in the district court.	Same as SCA 3. Cases in district court to be assigned to Category One or Category Two by court rule.	Same as SCA 3, except writs directed to superior courts should be within exclusive jurisdiction of appellate courts.	Same as staff recommendation, except appellate division of superior court may issue writs directed to that superior court.

### Appellate Jurisdiction

Existing Law	SCA 3	Judicial Council Report	Staff Recommendation	Initial Commission Decision
Supreme Court in death penalty cases, court of appeal in cases in superior court, and superior court in cases in municipal and justice courts. Art. VI § 11.	Supreme Court in death penalty cases, court of appeal in cases in district court, and appellate division of district court in cases prescribed by statute arising in that district court (concurrent?).	Supreme Court in death penalty cases, court of appeal in Category One cases (defined by rule), and district court in Category Two cases (defined by rule) arising within its territorial jurisdiction.	Supreme Court in death penalty cases, court of appeal in all other cases unless otherwise prescribed by statute, and appellate division of district court in cases within that district court as prescribed by statute.	Court of Appeal has appellate jurisdiction of all lower court cases except those in appellate division of lower court (misdemeanor and other cases provided by statute or court rule not inconsistent with statute).

### Venue

Existing Law	SCA 3	Judicial Council Report	Staff Recommendation	Initial Commission Decision
For municipal and justice courts, by district. Prescribed by statute.	Silent.	Venue within district court districts determined by local court rule.	To be determined by statute.	Not yet considered.

### Number of Jurors in Civil Cases

Existing Law	SCA 3	Judicial Council Report	Staff Recommendation	Initial Commission Decision
Art. I. § 16, says Legislature may provide 8-person jury in civil cases in municipal and justice courts (12 is the usual number), but there is now no statute so providing.	Does not amend the existing provision.	Amend constitution to provide 12-person jury in Category One civil cases (defined by rule), and permit Legislature to provide for 8-person jury in Category Two civil cases (defined by rule).	Amend constitution to permit Legislature to provide 8-person jury in civil cases generally.	No decision reached.

## JUDGES

### Experience

Existing Law	SCA 3	Judicial Council Report	Staff Recommendation	Initial Commission Decision
Ten years experience required for superior court judges, 5 years for municipal and justice court judges. Art. VI, § 15.	Ten years experience required for district court judges.	Same as SCA 3, except incumbent municipal and justice court judges would be exempted.	Same as SCA 3, adding authority for Council to require education for former municipal and justice court judges.	Same as staff recommendation.

### Residency

Existing Law	SCA 3	Judicial Council Report	Staff Recommendation	Initial Commission Decision
Superior court judge must reside in the county (unconstitutional?). Municipal court judges in most counties must reside in the district. Justice court judges must reside in the county. Prescribed by statute.	Silent.	No residency requirement.	Authorize Legislature to prescribe residence requirements.	Same as Judicial Council Report.

### Election

Existing Law	SCA 3	Judicial Council Report	Staff Recommendation	Initial Commission Decision
Superior court judges elected county-wide. Municipal and justice court judges elected by judicial district. Art. VI, § 16.	District court judges elected by district (usually county-wide) or branch.	District court judges elected county-wide.	Same as Judicial Council Report, subject to provisions to accommodate Voting Rights Act.	Same as staff recommendation.

### Compensation

Existing Law	SCA 3	Judicial Council Report	Staff Recommendation	Initial Commission Decision
Legislature prescribes compensation of judges, but salaries may not be reduced during term of office. Art. III, § 4; Art. VI, §§ 5, 19.	No change.	Same as existing law.	Same as existing law. By statute, salaries of municipal and justice court judges should be increased to that of superior court judges.	Same as staff recommendation.

### Retirement Benefits

Existing Law	SCA 3	Judicial Council Report	Staff Recommendation	Initial Commission Decision
Legislature provides for retirement of judges. Art. VI, § 20.	No change.	Same as existing law. No reduction of retirement benefits from unification. No increase in benefits for judges already retired.	Same as Judicial Council Report.	Not yet considered.

### NON-JUDICIAL COURT PERSONNEL

#### Court Clerk

Existing Law	SCA 3	Judicial Council Report	Staff Recommendation	Initial Commission Decision
County clerk is ex officio clerk of the superior court. Art. VI, § 4. Municipal and justice courts appoint their own clerks. <i>Id.</i> § 5 and statute.	County clerk is ex officio clerk of the district court.	Delete constitutional provision on county clerks. District court should have power to select its own chief executive officer.	Same as Judicial Council Report.	Same as Judicial Council Report.

#### Sheriff, Marshal, or Constable

Existing Law	SCA 3	Judicial Council Report	Staff Recommendation	Initial Commission Decision
Sheriff serves superior court. Marshal or constable serves municipal and justice courts. Provided by statute.	Silent.	Courts decide what positions they need and select their own employees.	Consolidate bailiff functions in one office, a county office.	Not yet considered.

#### Other Court Personnel

Existing Law	SCA 3	Judicial Council Report	Staff Recommendation	Initial Commission Decision
Constitution says Legislature shall "provide" for superior and justice court officers and employees, and "prescribe" municipal court officers and employees. Art. VI, §§ 4, 5.	Revise constitution to say Legislature shall provide for officers and employees of district courts.	Delete constitutional provision so courts will decide what positions they need and select their own employees.	Same as Judicial Council Report.	Same as Judicial Council Report.

## JUDICIAL COUNCIL

### Membership

Existing Law	SCA 3	Judicial Council Report	Staff Recommendation	Initial Commission Decision
Judicial membership: Chief Justice and one other Supreme Court judge, 3 court of appeal judges, 5 superior court judges, 3 municipal court judges, and 2 justice court judges. Art. VI, § 6.	Same as existing law, except the 5 superior court judges, 3 municipal court judges, and 2 justice court judges would be replaced by 10 district court judges.	Same as SCA 3, plus adding 2 non-voting court administrators and such other non-voting members as the Council determines, and increasing terms of judicial and State Bar members from 2 to 3 years.	Same as SCA 3.	Same as SCA 3.

### Rule-making authority

Existing Law	SCA 3	Judicial Council Report	Staff Recommendation	Initial Commission Decision
Judicial Council may adopt rules for court administration, practice, and procedure not inconsistent with statute. Art. VI, § 6.	Same as existing law.	Judicial Council may adopt rules (1) for court administration whether or not inconsistent with statute, and (2) for practice and procedure not inconsistent with statute.	Same as existing law.	Not yet considered.

## TRANSITIONAL PROVISIONS

Existing Law	SCA 3	Judicial Council Report	Staff Recommendation	Initial Commission Decision
[Not applicable.]	Operative July 1, 1995. Personnel, location, pending proceedings, and records of superior, municipal, or justice courts become personnel, location, pending proceedings, and records of district court.	Essentially same as SCA 3.	Essentially same as SCA 3. Establish process to resolve personnel issues.	Defer. Staff to discuss with Judicial Council and report back.