

ABA Journal

Independent courts are vital to democracy

Judicial independence is one of the most important principles of the rule of law. It is critical in defending people from intrusions and overreach by the government and preserving a free and democratic society.

James Madison, when drafting the Constitution, sought to guard against a “tyranny of the majority” by designing a government that was balanced, with three separate, co-equal branches—including an independent judiciary.

Article III, Section 1 of the Constitution protects the federal judiciary by granting lifetime appointments “during good behavior” and compensation that “shall not be diminished.” This means federal judges can’t be threatened with the loss of their jobs or a pay cut if they render an unpopular decision.

An independent judiciary envisions that courts should follow the rule of law, basing their decisions on constitutional principles, applying relevant statutes and legal precedents to the facts of each case. Unlike politicians, judges should be immune from public opinion and special interests and must decide cases according to the law, even when doing so may be unpopular.

But the structure set up by our nation’s founders is not enough to guarantee this very important tenet of our democracy.

Public trust is eroded when leaders attack judges’ character and competence. Disagreeing with a decision is one thing. But personal attacks on judges are attacks on our Constitution. The ABA and the legal community cannot tolerate assaults on the judiciary because they can chip away at the legitimate authority of that branch of government and give undue influence to the legislative and executive branches.

In many jurisdictions, state court judges face elections. Campaign contributions and interest group pressures during these elections, at the very least, create an appearance of influence and undermine public confidence in the impartiality of the judiciary. So do political attack ads that mislead the public about the legal process and the role of judges.

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Full Article Here:

http://www.abajournal.com/magazine/article/independent_courts_protect_democracy

Daily Journal

State budget deal includes more money for dependency counsel, legal aid

By Malcolm MacLachlan

SACRAMENTO — Gov. Jerry Brown and state legislative leaders announced a budget deal Tuesday that adds funding for courts and legal services.

The budget deal keeps several items passed late last week by the Legislature's Budget Conference Committee. These include \$22 million in new money for dependency counsel representation for minors, and \$10 million a year for two years to finance legal aid.

At a press conference, state Senate Budget Chair Holly Mitchell, D-Los Angeles, said the budget contains a breakthrough on "dependency counsel, an issue we have attempted to address for many years" and "amazing investments in the courts."

Representatives for the courts might disagree. Throughout budget negotiations, state Supreme Court Chief Justice Tani Cantil-Sakauye and representatives from the Judicial Council pushed for more money for day-to-day court operations.

This money never arrived. The courts also lost a key spending item late in the budget process. The Assembly had included \$15 million for court reporters in family court proceedings in their overall budget bill, AB 97. That money was missing from the final version that went into print over the weekend.

The final budget bill did include more than \$2 million Brown called for in his May budget revision to aid courts in the transition to a new software system for accounting and procurement.