JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue • San Francisco, California 94102-3688
www.courts.ca.gov

CIRCULATING ORDER MEMORANDUM TO THE JUDICIAL COUNCIL

Circulating Order Number: CO-22-04

Title
Allocations and Reimbursements to Trial Courts: Pretrial Release Funding and Allocation Methodology

Rules, Forms, Standards, or Statutes Affected
N/A

Recommended by
Judicial Branch Budget Committee
Hon. David M. Rubin, Chair
Trial Court Budget Advisory Committee
Hon. Jonathan B. Conklin, Chair

Action Requested
VOTING MEMBERS ONLY: Submit votes by responding to the transmittal e-mail.

Please Respond By
Noon on July 28, 2022

Date of Report
July 22, 2022

Contact
Deirdre Benedict, Supervising Analyst
415-865-7543
deirdre.benedict@jud.ca.gov

California Rules of Court, rules 10.5(h) and 10.13(d) allow the Judicial Council to act on business between meetings, including urgent matters, by circulating order. This memorandum is not a Judicial Council meeting, circulating orders are conducted via electronic communications. Prior public notice of a proposed circulating order is not required. Circulating orders may be noticed and public comments may be accepted in writing according to an established time frame for receipt; public comments received after the deadline will not be delivered to Judicial Council members.

Executive Summary

The Judicial Branch Budget Committee recommends Judicial Council approval of the Trial Court Budget Advisory Committee recommendation for fiscal year 2022–23 pretrial release allocations of $70 million General Fund for the trial courts in accordance with methodologies outlined in Senate Bill 129 (Stats. 2021, ch. 69) and including minimum funding floors.

Recommendation

The Judicial Branch Budget Committee unanimously recommends approval of the Trial Court Budget Advisory Committee recommendation that the Judicial Council approve fiscal year 2022–23 pretrial release allocations of $70 million General Fund for the trial courts in accordance with methodologies outlined in SB 129 and including minimum funding floors.

Relevant Previous Council Action

At the Judicial Council's business meeting on October 1, 2021, the council approved the 2021–22 allocations of $137.9 million for the trial courts in accordance with methodologies outlined in SB 129 and including minimum funding floors. As required in the legislation, half of the approved 2021-22 funding ($68.95 million) was distributed to the 41 courts that did not receive Pretrial Pilot Program funding (provided in the Budget Act of 2019). The remaining $68.95 million was distributed to all courts.

Analysis/Rationale

Senate Bill 129 (Link A), which amended the Budget Act of 2021, provides funding for "the implementation and operation of ongoing court programs and practices that promote the safe, efficient, fair, and timely pretrial release of individuals booked into jail" (Sen. Bill 129, § 4, item 0250-101-0001, provision 9).

Each court may retain up to 30 percent of the funding for costs associated with pretrial release programs and practices. Courts are required to contract for pretrial services with their county's probation department or any county department or agency other than those that have primary responsibility for making arrests or prosecuting criminal offenses,[1] and provide those departments with the remainder of the funds.

The Judicial Council is required to distribute funds annually to all courts based on each county's relative proportion of the state population 18 to 25 years of age. The current annual budget available to the courts for the Pretrial Release Program is $68.95 million.[2] These funds must be encumbered or expended by June 30, 2023. The breakdown of these ongoing allocation recommendations is reflected in Attachment A.

A minimum funding floor of $200,000 is recommended for ongoing funding in 2022–23. This recommendation is based on analysis of planned budgets versus actual spending by small courts[3]

[1] SB 129 specifically provides that the Superior Court of Santa Clara County may contract with the Office of Pretrial Services in that county, and that the Superior Court of San Francisco County may contract with the Sheriff's Office and the existing not-for-profit entity that is performing pretrial services in the city and county for pretrial assessment and supervision services.

[2] SB 129 authorizes the Judicial Council to retain up to 5 percent of the amounts available to the courts for costs associated with implementing, supporting, and evaluating pretrial programs in courts.

[3] The court-size category is based on the authorized number of judicial positions (AJP) within a county: small (2–5 AJP), small-medium (6–15 AJP), medium (16–47 AJP), and large (48+ AJP).

participating in the Pretrial Pilot Program in 2019–20 and 2020–21. It is also equivalent to the floor used in the funding methodology for the California Community Corrections Performance Incentives Act of 2009 (Sen. Bill 678).[4] Judicial Council Criminal Justice Services staff continue to monitor and evaluate whether the floor provides small and small-medium courts with the resources necessary to meet the mandates of the legislation.

On May 5 and June 1, 2022, Criminal Justice Services staff presented the 2022–23 allocations of the pretrial release funding to the Trial Court Budget Advisory Committee and Judicial Branch Budget Committee for consideration and approval.

Policy implications

No policy implications are associated with this report.

Comments

This proposal was not circulated for public comment.

Alternatives considered

The Judicial Branch Budget Committee could have applied a formulaic method of providing proportional funding to all trial courts. The funding floor included in this recommendation is based on budget information from courts participating in the Pretrial Pilot Program to ensure that both small and small-medium courts have the resources necessary to comply with the legislation.

Fiscal and Operational Impacts

SB 129 authorizes the Judicial Council to retain up to 5 percent of the amount available to the courts for costs associated with implementing, supporting, and evaluating pretrial programs in courts. Agency staff will assist courts with legal, educational, and technical support to help courts implement their pretrial programs and meet the legislative requirements.

Attachments and Links

1. Attachment A: Recommended 2022–23 Pretrial Release Ongoing Allocations
2. Link A: Sen. Bill 129 (Stats. 2021, ch. 69), *https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB129*
3. Voting instructions
4. Voting and signature pages

Author

Deirdre Benedict
Supervising Analyst, Criminal Justice Services

[4] Stats. 2009, ch. 608, *www.courts.ca.gov/documents/sb678.pdf*.

Attachment A: Recommended 2022–22 Pretrial Release Ongoing Allocations

Court	Total no. of 18–24 yr. olds*	% of 18–24 yr. olds in CA population	$ allocation of $68.95M, based on % of 18–24 yr. olds
Alameda	136,997	3.749%	$ 2,412,294
Alpine	N/A†	N/A†	200,000
Amador	N/A	N/A	200,000
Butte	32,344	0.885%	569,525
Calaveras	N/A	N/A	200,000
Colusa	N/A	N/A	200,000
Contra Costa	93,037	2.546%	1,638,230
Del Norte	N/A	N/A	200,000
El Dorado	13,341	0.365%	234,913
Fresno	97,886	2.678%	1,723,613
Glenn	N/A	N/A	200,000
Humboldt	17,036	0.466%	299,976
Imperial	18,338	0.502%	322,902
Inyo	N/A	N/A	200,000
Kern	90,462	2.475%	1,592,888
Kings	16,621	0.455%	292,669
Lake	N/A	N/A	200,000
Lassen	N/A	N/A	200,000
Los Angeles	952,944	26.076%	16,779,791
Madera	15,152	0.415%	266,802
Marin	16,964	0.464%	298,708
Mariposa	N/A	N/A	200,000
Mendocino	N/A	N/A	200,000
Merced	30,639	0.838%	539,503
Modoc	N/A	N/A	200,000
Mono	N/A	N/A	200,000
Monterey	43,083	1.179%	758,621
Napa	12,011	0.329%	211,494
Nevada	N/A	N/A	200,000
Orange	289,774	7.929%	5,102,448
Placer	28,723	0.786%	505,765
Plumas	N/A	N/A	200,000
Riverside	236,238	6.464%	4,159,766
Sacramento	130,962	3.584%	2,306,027
San Benito	N/A	N/A	200,000
San Bernardino	223,409	6.113%	3,933,868
San Diego	340,813	9.326%	6,001,161

Court	Total no. of 18–24 yr. olds*	% of 18–24 yr. olds in CA population	$ allocation of $68.95M, based on % of 18–24 yr. olds
San Francisco	60,846	1.665%	1,071,399
San Joaquin	72,485	1.983%	1,276,343
San Luis Obispo	42,626	1.166%	750,574
San Mateo	56,002	1.532%	986,104
Santa Barbara	69,751	1.909%	1,228,201
Santa Clara	161,684	4.424%	2,846,992
Santa Cruz	40,529	1.109%	713,650
Shasta	13,633	0.373%	240,055
Sierra	N/A	N/A	200,000
Siskiyou	N/A	N/A	200,000
Solano	38,611	1.057%	679,877
Sonoma	40,081	1.097%	705,761
Stanislaus	51,695	1.415%	910,265
Sutter	N/A	N/A	200,000
Tehama	N/A	N/A	200,000
Trinity	N/A	N/A	200,000
Tulare	46,977	1.285%	827,188
Tuolumne	N/A	N/A	200,000
Ventura	78,658	2.152%	1,385,039
Yolo	44,160	1.208%	777,586
Yuba	N/A	N/A	200,000
Total	**3,654,512**		**$ 68,950,000**

* Source: U.S. Census Bureau, *American Community Survey*, Table S0101, *https://data.census.gov/cedsci/table?q=age%20by%20county&g=0400000US06.050000&tid=ACSST5Y2019.S0101&hidePreview=true&tp=true*.

The legislation specifies 18- to 25-year-olds; however, census data is only available for 18- to 24-year-olds.

† For courts that indicate "N/A," a minimal funding floor of $200,000 has been imposed to ensure adequate funding for small and small-medium courts to meet the legislative mandate.

Instructions for Review and Action by Circulating Order

Voting members

- Please reply to the email message with "I approve," "I disapprove," or "I abstain," by **noon on July 28, 2022.**

- If you are unable to reply by **noon on July 28, 2022**, please do so as soon as possible thereafter.

Advisory members

The circulating order is being emailed to you for your information only. There is no need to sign or return any documents.

CIRCULATING ORDER
Judicial Council of California
Voting and Signature Pages

Effective immediately, the Judicial Council approves the Trial Court Budget Advisory Committee recommendation that the Judicial Council approve fiscal year 2022–23 pretrial release allocations of $70 million General Fund for the trial courts in accordance with methodologies outlined in SB 129 and including minimum funding floors.

My vote is as follows:

☒ Approve ☐ Disapprove ☐ Abstain

Tani G. Cantil-Sakauye, Chair	/s/ Marla O. Anderson
/s/ Richard Bloom	/s/ C. Todd Bottke
/s/ Stacy Boulware Eurie	/s/ Kevin C. Brazile
/s/ Kyle S. Brodie	/s/ Jonathan B. Conklin
/s/ Carol A. Corrigan	/s/ Samuel K. Feng
/s/ David D. Fu	/s/ Carin T. Fujisaki
Brad R. Hill	/s/ Rachel W. Hill

My vote is as follows:

☒ Approve ☐ Disapprove ☐ Abstain

/s/
Harold W. Hopp

/s/
Dalila Corral Lyons

/s/
Gretchen Nelson

/s/
Maxwell V. Pritt

/s/
David M. Rubin

/s/
Marsha G. Slough

/s/
Thomas J. Umberg

Date: July 28, 2022

Attest:

Administrative Director and
Secretary of the Judicial Council