



## JUDICIAL COUNCIL OF CALIFORNIA

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# REPORT TO THE JUDICIAL COUNCIL

*Item No.: 21-059*

For business meeting on: November 19, 2021

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**Title**

Allocations and Reimbursements to Trial Courts | Early Disposition Program: Recommended Disbursement of Court Funding

**Agenda Item Type**

Action Required

**Effective Date**

November 19, 2021

**Rules, Forms, Standards, or Statutes Affected**

None

**Date of Report**

November 4, 2021

**Recommended by**

Judicial Council staff  
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### Executive Summary

The Budget Act of 2021 provided one-time funding of \$30 million to support trial courts addressing the COVID-19 pandemic-induced criminal backlog, by encouraging the establishment of early disposition programs. As directed by the Legislature, courts are required to provide data on the use of funding being requested from the Chief Justice's Temporary Assigned Judges Program, via the Judicial Council, to support their programs. Judicial Council staff developed a funding request process for courts, consistent with requirements in the budget bill language, and recommend the Judicial Council approve the first phase of funding disbursements to courts that requested funds to support their early disposition programs.

### Recommendation

Judicial Council staff from the Criminal Justice Services office and Temporary Assigned Judges Program recommend that the Judicial Council, effective November 19, 2021:

1. Approve the distribution of funding for the first phase of the Early Disposition Program from the Chief Justice’s Temporary Assigned Judges Program (listed in Attachment A: Early Disposition Program Phase One Funding Recommendations); and
2. Direct Judicial Council staff to distribute remaining funds for the Early Disposition Program to courts during the second phase of the project starting after January 2022, consistent with the approach recommended in this report for the first phase, including identified needs of the courts and the provision of data, as required.

### **Relevant Previous Council Action**

There was no previous Judicial Council action relevant to this item.

### **Analysis/Rationale**

In December 2020, the Chief Justice announced the launch of a program to fast-track the resolution of criminal cases and make retired judges available through the Temporary Assigned Judges Program (TAJP) to reinforce those efforts. This program is intended to help ease significant criminal case backlogs that have accrued as a result of the COVID-19 pandemic.

The Chief Justice provided judges from the TAJp to assist in this effort who could be assigned to conduct readiness conferences or cover matters for local trial court judges who would be assigned to these conferences. The Chief Justice also made some temporary changes to TAJp policies and procedures to facilitate the use of temporary assigned judges in these programs.

At the time the Chief Justice launched the program, assistance for courts was provided through the use of assigned judges from the TAJp. Because of budget constraints, staffing limitations, and other challenges caused by the pandemic, courts have not been able to fully implement early disposition programs to help reduce their significant backlogs. In recognition of these challenges and the significant backlogs facing the courts, the Chief Justice sought and received approval for the additional funding of \$30 million to assist courts in establishing these programs.

### **Program requirements in budget language**

The budget bill language authorizing funding of \$30 million for the Early Disposition Program provides the requirements and parameters on the use of these funds (see Attachment B: Early Disposition Program Budget Language). To initially receive funding, courts are required to provide data on the use of the funding, including the number of criminal cases that have already been referred to the early disposition programs and the number of resolved cases. Courts that plan to use funds to establish early disposition programs are required to provide information on their criminal case backlogs and the number of cases the court anticipates being referred to the program. The budget bill contemplates two phases of fund allocation, with funds remaining after the first phase available starting January 1, 2022.

Courts that receive funding through the Early Disposition Program will then be required to track cases referred to their program and provide data to the Judicial Council on their criminal case

backlog and the number of cases referred to and disposed of through use of the program. The Judicial Council is required to report to the Legislature on the use of Early Disposition Program funds by the courts.

### **Fund request and allocation process**

As contemplated in the budget bill language, Judicial Council staff developed a two-phase approach for courts to request funds to support their early disposition programs: \$20 million available for disbursement to courts requesting funds during the first phase, and the remaining \$10 million available for the second phase.

This multiphase plan for distributing funds for the Early Disposition Program is consistent with the approach approved for allocation of other funding sources by several Judicial Council advisory committees. Splitting the disbursement into two phases allows greater flexibility during the project to adjust to the changing needs of the courts and to meet the following project objectives:

- Provide courts more immediate access to critically needed funds to support their early disposition programs.
- Ensure that funds will be available and can be accessed by every court needing funding to support their early disposition programs.
- Establish a reserve of funds available for courts that may need additional time to plan for and establish their early disposition programs. This reserve would also be available for courts to augment any funds received during the first phase, should their program and funding needs change.

### **Court funding requests for phase one**

Judicial Council staff distributed a *Funding Request Form* to courts with a deadline of October 8, 2021, to request funds during the first phase of the project. This short time frame was required so that the Judicial Council could approve the first phase of funding disbursements at their November 2021 meeting, which would get critically needed funds to courts in a timely fashion.

Eight courts submitted funding requests for the first phase of the project: Alameda, Los Angeles, Orange, Riverside, Sacramento, San Mateo, Ventura, and Yolo. Judicial Council staff reviewed each request to ensure that the requested funds are being used consistent with the requirements outlined in the budget language. Staff also followed up with individual courts as needed to discuss the fund requests, seek clarification or modifications to a request, and answer any policy or program questions. The initial funding requests from these eight courts and the final recommended distribution of funding for the first phase of the Early Disposition Program is listed in Attachment A: Early Disposition Program Phase One Funding Recommendations.

### **Project administration**

Judicial Council staff have formed a collaborative team to administer the Early Disposition Program and support the courts throughout the project. The Judicial Council's Criminal Justice Services office will serve as the business sponsor for policy oversight and subject matter

expertise, while the Temporary Assigned Judges Program will be the program manager. Staff from Leadership Support Services and Budget Services will provide administrative and budget support.

### **Policy implications**

No policy implications are associated with this report.

### **Comments**

This proposal was not circulated for public comment.

### **Alternatives considered**

Some courts requested funding above the amounts recommended in this report (totaling \$25.6 million – see Attachment A), and one alternative is to make allocations in the amount that each court requested. However, several courts responded that they were unable to submit fund requests in time for the first phase and plan to request funds in the second phase. Setting aside a specific amount of funds for a second phase of funding (i.e., \$10 million) ensures sufficient funds will be available for courts that need additional time to plan for and establish their early disposition programs. The recommendation made to the Judicial Council provides these courts with funding to cover costs through the same period (i.e., December 2022), while leaving funds available for additional courts to request funding. Furthermore, the recommendation does not preclude courts that receive funding in the first phase to request additional funds during the second phase should their program or funding needs change.

### **Fiscal and Operational Impacts**

This recommendation is for the distribution of one-time funds that are included in the fiscal year 2021–22 budget. Hence, no additional costs or impacts are anticipated.

### **Attachments and Links**

1. Attachment A: Early Disposition Program Phase One Funding Recommendations
2. Attachment B: Early Disposition Program Budget Language

**Attachment A: Early Disposition Program Phase One Funding Recommendations**

**Early Disposition Program**

**Funding Recommendations for Phase One**

Court	Initial Funding Request	Recommended Funding Amount	Funding Purpose			Use of Funding for EDP		
			CREATE NEW PROGRAM	EXPAND EXISTING PROGRAM	EXTEND EXISTING PROGRAM	STAFFING	TECHNOLOGY/EQUIPMENT	JUSTICE PARTNER INVOLVEMENT
Alameda	\$1,127,278	\$1,127,278	•			•	•	
Los Angeles	\$13,524,528	\$9,222,232	•			•		•
Orange	\$6,446,247	\$4,370,068	•	•	•	•		
Riverside	\$2,579,405	\$1,805,584		•		•		•
Sacramento	\$841,275	\$559,515	•		•	•		
San Mateo	\$301,932	\$301,932	•	•		•	•	
Ventura	\$708,974	\$528,020			•	•	•	
Yolo	\$35,000	\$35,000			•	•		
<b>TOTAL</b>	<b>\$25,564,639</b>	<b>\$17,949,628</b>						

**Note:** Adjustments to initial requests provide courts with funding to cover costs through December 2022.

## **Attachment B: Early Disposition Program Budget Language**

8. Of the amount appropriated in Schedule (3), \$30,000,000 is available for allocation by the Chief Justice's Temporary Assigned Judges Program, via the Judicial Council, to support trial courts that are working to address the COVID-19 pandemic-induced backlog of criminal matters by encouraging courts to establish early disposition readiness conference programs. The Temporary Assigned Judges Program, via the Judicial Council, shall determine the amount of funding that is needed for those courts that have implemented or are in the process of implementing an early disposition readiness conference program and allocate that funding.
9. Defendants who participate in the courts' early disposition readiness conference programs and are represented by counsel have a right to appear through counsel and are not required to be personally present at the conferences. Readiness conferences established pursuant to this program may take place with counsel either in person or through remote appearance by leveraging the technologies and processes implemented by the courts during the pandemic.
10. In order to initially receive funding for establishing early disposition readiness conference programs, courts must provide data and information as required by the Chief Justice's Temporary Assigned Judges Program, via the Judicial Council, on the use of the funding, including the number of criminal cases that have already been referred to the early disposition readiness conference programs and the number of cases that have been resolved. In instances where courts have not yet established early disposition readiness conference programs, courts must provide information to the Judicial Council on their criminal case backlogs and the number of cases the court anticipates will be referred to the program.
11. Courts may use the funds described in Provision 8 for any purpose that enables the development of the early disposition readiness program, including for the following:
  - (a) Overtime hours or temporary court staff to ensure there is full staffing for the program.
  - (b) Justice system partners that have a demonstrated need for support to initiate or continue their participation in the program.
12. The funds described in Provision 8 may be allocated to fund temporary assigned judges to support the courts' early disposition readiness conference programs.
13. On or after January 1, 2022, the Chief Justice's Temporary Assigned Judges Program, via the Judicial Council, may allocate any remaining funding to courts to initiate new early

disposition readiness conference programs or that need additional funds to continue programs that have demonstrated success in addressing their backlog.

14. Courts that receive funding for early disposition readiness conference programs shall provide data to the Judicial Council on the use of the funds, the number of backlogged criminal cases, the number of criminal cases brought to the early disposition readiness conference program, and the number of criminal cases disposed of through use of the program. The Judicial Council shall report to the Legislature on the use of early disposition readiness conference program funds by the courts.
15. Upon approval of the Administrative Director of the Judicial Council, the Controller shall transfer up to \$30,000,000 to Item 0250-101-0932 for costs associated with early disposition readiness conference programs.