



# Judicial Council of California

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## REPORT TO THE JUDICIAL COUNCIL

*Item No.: 23-035*

For business meeting on July 21, 2023

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**Title**

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

**Agenda Item Type**

Action Required

**Effective Date**

July 21, 2023

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

None

**Date of Report**

July 21, 2023

**Recommended by**

Trial Court Budget Advisory Committee  
Hon. Jonathan B. Conklin, Chair  
Ms. Rebecca Fleming, Vice Chair

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### Executive Summary

The Trial Court Budget Advisory Committee recommends approving the fiscal year 2023–24 pretrial release funding of \$68.95 million General Fund for the trial courts. This allocation is in accordance with methodologies outlined in Assembly Bill 221, including minimum funding floors. Funding through the pretrial release program provides 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.

### Recommendation

The Trial Court Budget Advisory Committee unanimously recommends approval of the recommendation that the Judicial Council approve fiscal year 2023–24 pretrial release allocations of \$68.95 million General Fund for the trial courts in accordance with methodologies outlined in Assembly Bill 221 and including minimum funding floors.

Recommendations were presented to the Judicial Branch Budget Committee on May 17, 2023, and approved for consideration by the Judicial Council.

The proposed allocations are listed in Attachment A.

## **Relevant Previous Council Action**

At its business meeting on October 1, 2021, the Judicial Council approved the fiscal year (FY) 2021–22 allocations of \$137.9 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. As required in the legislation, half of the approved FY 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.

The Budget Act of 2022 (Sen. Bill 154; Stats. 2022, ch. 43) appropriated \$70 million to the trial courts to continue implementing and/or operating their pretrial programs in FY 2022–23. Additionally, it allowed the trial courts to carry any unexpended balances of the \$70 million ongoing funding appropriated by SB 129 to June 30, 2023. The Judicial Council approved the FY 2022–23 allocations via circulating order on July 28, 2022.

## **Analysis/Rationale**

The 2023 Budget Act (Assem. Bill 221) provides \$68.95 million in FY 2023–24 in ongoing funding to the Judicial Council for distribution to the courts 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.<sup>1</sup>

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, and provide those departments with the remainder of the funds.<sup>2</sup>

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. These funds must be encumbered or expended by June 30, 2024. The breakdown of these ongoing allocation recommendations is reflected in Attachment A.

## **Funding floor**

The FY 2021–22 and FY 2022–23 pretrial release allocations included a recommendation to provide small and small-medium courts with a minimum funding floor of \$200,000 with a

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<sup>1</sup> SB 129 had allowed the Judicial Council to retain up to five percent (\$1.05 million) of the \$70 million for costs associated with implementing, supporting, and evaluating pretrial programs across the state. In the fiscal year 2023–24 Governor's Budget, the \$1.05 million allocated to the Judicial Council for administrative costs has been moved to item 0250-001-0001, reducing the original \$70 million to \$68.95 million.

<sup>2</sup> 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.

commitment from Judicial Council Criminal Justice Services (CJS) staff to monitor and evaluate the impact and necessity for the floor, and that staff would return to the Trial Court Budget Advisory Committee with a recommendation to either rescind or adjust the floor. The original \$200,000 floor is equivalent to the floor used in the funding methodology for the California Community Corrections Performance Incentives Act of 2009.<sup>3</sup>

The minimum funding floor has been in effect for fiscal years 2021–22 and 2022–23. During this time, 23 trial courts received the funding floor.<sup>4</sup>

In March 2023, CJS staff reached out to the 23 funding floor courts and provided three possible options to consider. They could request to (1) receive a floor of \$200,000; (2) receive a floor of \$100,000; or (3) receive the non-floor allocation. The options were determined after analysis of overall spending of the funding floor courts and should allow the courts to continue operating their pretrial programs. CJS staff reached out to the courts individually to solicit their feedback and asked them to take into consideration their court’s spending from the last two fiscal years and its ongoing expenses to operate the program. As a result, 22 courts requested to keep the funding floor, and one court requested to lower its floor to \$100,000.

The minimum funding floor allocation has allowed small and small-medium courts to implement robust pretrial programs and provide services to their pretrial population. Many of the courts that received the minimum funding floor in fiscal years 2021–22 and 2022–23 have expended significantly above their non-floor allocations. For example, without the funding floor, the Superior Court of Sierra County would have received a total of \$2,511 per fiscal year. In 2021–22, the Sierra court expended \$193,375; in 2022–23, the court has already expended \$44,619 in the first half of the fiscal year and is on track to spend its entire funding floor allocation by the end of 2022–23.

If the minimum funding floor allocation is rescinded, small and small-medium courts will not have the financial resources to operate their pretrial programs. These courts will be forced to downsize their programs by eliminating critical positions and reducing services. Again, using the Superior Court of Sierra County as an example, in FY 2021–22 the court spent approximately \$150,000 on its pretrial service provider, approximately \$19,000 on court personnel, and approximately \$4,000 on indirect costs. This left approximately \$27,000 for operating costs or unplanned expenses. Even with the floor in effect, courts and their pretrial partners are still operating with limited financial resources. Ensuring that small and small-medium courts have stable funding allows them to continue to abide by the legislation set forth in SB 129.

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<sup>3</sup> Sen. Bill 678; Stats. 2009, ch. 608, [www.courts.ca.gov/documents/sb678.pdf](http://www.courts.ca.gov/documents/sb678.pdf).

<sup>4</sup> Alpine, Amador, Calaveras, Colusa, Del Norte, Glenn, Inyo, Lake, Lassen, Mariposa, Mendocino, Modoc, Mono, Nevada, Plumas, San Benito, Sierra, Siskiyou, Sutter, Tehama, Tuolumne, and Yuba will receive \$200,000. Trinity will receive \$100,000.

After a detailed analysis of planned budgets, actual spending, and individual outreach and conversations with the affected courts, CJS staff recommend the following for FY 2023–24:

- 22 courts to continue to receive the funding floor of \$200,000; and
- 1 court to receive a new funding floor of \$100,000.

CJS staff will 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. If this analysis changes, staff will return to the Trial Court Budget Advisory Committee with a recommendation to rescind or adjust the floor.

### **Policy implications**

No policy implications are associated with this report.

### **Comments**

This proposal was not circulated for public comment.

### **Alternatives considered**

Criminal Justice Services staff considered two alternatives to the funding floor:

- **Provide the 23 funding floor courts with the full funding floor allocation of \$200,000.** This option would reduce the overall allocation amount to the remaining 35 non-funding floor courts.
- **Provide the 23 funding floor courts with a non-funding floor allocation.** More than half of the courts expended or will expend over 100 percent of their non-funding floor allocation. Moreover, in FY 2023–24, 90 percent of the funding floor courts budgeted over 100 percent of their non-funding floor allocation. This option does not provide enough funding for the courts to continue operating their pretrial programs.

### **Fiscal and Operational Impacts**

Assembly Bill 221 allocates \$1.05 million to the Judicial Council for costs associated with implementing, supporting, and evaluating pretrial programs in courts. Agency staff continue to assist courts with legal, educational, and technical support to help courts operate their pretrial programs and meet the legislative requirements.

### **Attachments and Links**

1. Attachment A: Recommended FY 2023–24 Pretrial Release Ongoing Allocations

**Attachment A: Recommended FY 2023–24 Pretrial Release Ongoing Allocations**

<b>Court</b>	<b>Total 18–24 yr. olds*</b>	<b>% of total population of all CA 18–24 yr. olds</b>	<b>\$ allocation of \$68.95M, based on % of 18–24 yr. olds</b>
Alameda	135,182	3.76%	\$ 2,423,036.00
Alpine	N/A <sup>†</sup>	N/A <sup>†</sup>	\$ 200,000.00
Amador	N/A	N/A	\$ 200,000.00
Butte	31,407	0.87%	\$ 562,947.00
Calaveras	N/A	N/A	\$ 200,000.00
Colusa	N/A	N/A	\$ 200,000.00
Contra Costa	93,115	2.59%	\$ 1,669,016.00
Del Norte	N/A	N/A	\$ 200,000.00
El Dorado	13,056	0.36%	\$ 234,019.00
Fresno	97,463	2.71%	\$ 1,746,951.00
Glenn	N/A	N/A	\$ 200,000.00
Humboldt	16,955	0.47%	\$ 303,906.00
Imperial	17,919	0.50%	\$ 321,185.00
Inyo	N/A	N/A	\$ 200,000.00
Kern	90,413	2.51%	\$ 1,620,585.00
Kings	16,280	0.45%	\$ 291,807.00
Lake	N/A	N/A	\$ 200,000.00
Lassen	N/A	N/A	\$ 200,000.00
Los Angeles	928,491	25.82%	\$ 16,642,502.00
Madera	14,543	0.40%	\$ 260,672.00
Marin	17,233	0.48%	\$ 308,889.00
Mariposa	N/A	N/A	\$ 200,000.00
Mendocino	N/A	N/A	\$ 200,000.00
Merced	31,111	0.87%	\$ 557,641.00
Modoc	N/A	N/A	\$ 200,000.00
Mono	N/A	N/A	\$ 200,000.00
Monterey	42,995	1.20%	\$ 770,653.00
Napa	11,846	0.33%	\$ 212,331.00
Nevada	N/A	N/A	\$ 200,000.00
Orange	286,042	7.96%	\$ 5,127,087.00
Placer	29,035	0.81%	\$ 520,431.00
Plumas	N/A	N/A	\$ 200,000.00
Riverside	229,998	6.40%	\$ 4,122,541.00
Sacramento	131,291	3.65%	\$ 2,353,292.00
San Benito	N/A	N/A	\$ 200,000.00
San Bernardino	219,421	6.10%	\$ 3,932,956.00
San Diego	331,158	9.21%	\$ 5,935,758.00
San Francisco	58,770	1.63%	\$ 1,053,408.00
San Joaquin	73,498	2.04%	\$ 1,317,396.00
San Luis Obispo	42,233	1.17%	\$ 756,995.00
San Mateo	54,996	1.53%	\$ 985,762.00
Santa Barbara	69,263	1.93%	\$ 1,241,487.00
Santa Clara	160,587	4.47%	\$ 2,878,401.00
Santa Cruz	40,168	1.12%	\$ 719,981.00

<b>Court</b>	<b>Total 18–24 yr. olds*</b>	<b>% of total population of all CA 18–24 yr. olds</b>	<b>\$ allocation of \$68.95M, based on % of 18–24 yr. olds</b>
Shasta	13,703	0.38%	\$ 245,616.00
Sierra	N/A	N/A	\$ 200,000.00
Siskiyou	N/A	N/A	\$ 200,000.00
Solano	38,477	1.07%	\$ 689,671.00
Sonoma	39,257	1.09%	\$ 703,652.00
Stanislaus	51,569	1.43%	\$ 924,335.00
Sutter	N/A	N/A	\$ 200,000.00
Tehama	N/A	N/A	\$ 200,000.00
Trinity	N/A	N/A	\$ 100,000.00
Tulare	47,427	1.32%	\$ 850,093.00
Tuolumne	N/A	N/A	\$ 200,000.00
Ventura	77,220	2.15%	\$ 1,384,110.00
Yolo	43,566	1.21%	\$ 780,888.00
Yuba	N/A	N/A	\$ 200,000.00
<b>Total</b>	<b>3,595,688</b>	<b>100%</b>	<b>\$ 68,950,000.00</b>

\* Source:

<https://data.census.gov/cedsci/table?q=age%20by%20&g=0400000US06.050000&tid=ACST5Y2019.S0101 &hidePreview=true&tp=true>.

† 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, except Trinity, which will receive a funding floor of \$100,000.