



JUDICIAL COUNCIL OF CALIFORNIA

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

REPORT TO THE JUDICIAL COUNCIL

For business meeting on September 24, 2019

Title	Agenda Item Type
Trial Court Budget: Allocation Methodology for Cannabis Convictions Resentencing Funding	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
None	September 24, 2019
Recommended by	Date of Report
Trial Court Budget Advisory Committee Hon. Jonathan B. Conklin, Chair	August 30, 2019
	Contact
	Melissa Ng, 916-263-1754 melissa.ng@jud.ca.gov

Executive Summary

The Trial Court Budget Advisory Committee recommends that the Judicial Council approve the proportional allocation methodology for allocating funding provided in the Budget Act of 2019. This funding will support increased workload at the trial courts as a result of the enactment of Assembly Bill 1793 (Stats. 2018, ch. 993), which requires sentence modification of past cannabis conviction cases pursuant to the Control, Regulate and Tax Adult Use of Marijuana Act of 2016.

Recommendation

The Trial Court Budget Advisory Committee (TCBAC) recommends that the Judicial Council, effective September 24, 2019, approve the proportional allocation methodology based on the percentage of potentially eligible cases by county, as provided by the state Department of Justice (DOJ), to allocate funding provided in the Budget Act of 2019.

The allocation table for cannabis conviction resentencing funding is included as Attachment A to this report.

Relevant Previous Council Action

Allocation of trial court funds is one of the principal responsibilities of the Judicial Council. Government Code section 68502.5(c)(2)(A) requires the council to make a preliminary allocation for the trial courts in July of each fiscal year and a final allocation in January. At its business meeting on July 19, 2019, the council approved \$2.293 billion in base, discretionary, and nondiscretionary program allocations from the Trial Court Trust Fund (TCTF), which included the overall total allocation of \$13.9 million for cannabis conviction resentencing but did not allocate this funding down to the court level.

Analysis/Rationale

At its July 25, 2019, meeting, the TCBCAC unanimously recommended that the Judicial Council approve the proportional allocation methodology for the funds provided in the Budget Act of 2019 for cannabis convictions resentencing workload.

The Control, Regulate and Tax Adult Use of Marijuana Act (AUMA), or Proposition 64, was enacted by voters through a statewide general election on November 9, 2016. The AUMA allows for regulation of the cultivation, distribution, and use of cannabis for nonmedical purposes by individuals 21 years of age and older. Further, the AUMA permits individuals convicted of designated marijuana offenses to obtain a reduced conviction or sentence if the crime was for conduct now legal under the AUMA.

Current law requires the DOJ to notify the prosecution of all cases in their jurisdiction that are eligible for recall or dismissal of sentence, dismissal and sealing, or redesignation pursuant to AUMA. Current law also authorizes the prosecution to challenge the resentencing, dismissal and sealing, or redesignation if the person does not meet the eligibility requirements or presents an unreasonable risk to public safety. The prosecution is allowed to have until July 1, 2020, to review all cases and determine whether to challenge the recall or dismissal of sentence, dismissal and sealing, or redesignation. If the prosecution does not challenge the recall or dismissal of sentence, dismissal and sealing, or redesignation by July 1, 2020, the court is required to reduce or dismiss the conviction.

Courts are also required to notify the DOJ of the recall or dismissal of sentence, dismissal and sealing, or redesignation, and the DOJ is required to modify the state summary criminal history information database accordingly.

The Budget Act of 2019 provided \$13.9 million in 2019–20 and \$2.929 million in 2020–21 for workload related to processing DOJ-identified eligible cases, assuming that prosecutors will not challenge resentencing in approximately 95 percent of those cases. The estimate assumes \$72 per case for processing of unchallenged petitions and \$162 per case for objected petitions. The recommendation allocates funding based on each court's proportion of new workload associated with the processing of potentially eligible cases. This allocation methodology is similar to funding allocated for criminal justice realignment, which also allocates funds using a

proportional methodology based on the number of petitions received by court. Any unspent funds revert to the General Fund.

Policy implications

None.

Comments

No public comment was received for this item when it was considered by the Funding Methodology Subcommittee on June 17, 2019, or by the TCBAC on July 25, 2019.

Alternatives considered

Alternative 1: Allocate \$13.9 million in 2019–20 and \$2.929 million in 2020–21 using a pro rata allocation based on the Workload Formula allocation.

This alternative was not recommended for consideration since the funding is intended for specific workload relating to cases that are identified to be eligible for recall or dismissal of sentence, dismissal and sealing, or redesignation pursuant to AUMA.

Alternative 2: Allocate \$13.9 million in 2019–20 and \$2.929 million in 2020–21 using a pro rata allocation based on reported collection filings for Proposition 64 relief.

This alternative was not recommended for consideration since the information, collected by Judicial Council Criminal Justice Services through biannual and quarterly surveys, only reflects activities that courts have taken prior to receipt of funding related to this workload. This is not a good indicator of outstanding workload or representative of all pending work that needs to be done at the courts.

Fiscal and Operational Impacts

If the recommendations to allocate funds are not approved, the trial courts may not be able to support the increased workload to implement the requirements of AB 1793.

Attachments and Links

1. Attachment A: Allocation Table for Cannabis Conviction Resentencing Funding

**Recommended Allocation for
Cannabis Conviction Resentencing Funding**

Attachment A

County	Total Eligible Convictions	% of Total	2019-20 Allocation	2020-21 Allocation	Total Allocation
Alameda	8,493	3.90%	\$ 541,530	\$ 114,103	\$ 655,633
Alpine	38	0.02%	2,423	511	2,934
Amador	267	0.12%	17,024	3,587	20,611
Butte	1,397	0.64%	89,075	18,769	107,844
Calaveras	294	0.13%	18,746	3,950	22,696
Colusa	283	0.13%	18,045	3,802	21,847
Contra Costa	3,311	1.52%	211,116	44,483	255,599
Del Norte	333	0.15%	21,233	4,474	25,707
El Dorado	979	0.45%	62,423	13,153	75,576
Fresno	3,382	1.55%	215,643	45,437	261,080
Glenn	338	0.16%	21,552	4,541	26,093
Humboldt	1,299	0.60%	82,827	17,452	100,279
Imperial	1,686	0.77%	107,503	22,651	130,154
Inyo	200	0.09%	12,752	2,687	15,439
Kern	3,383	1.55%	215,707	45,450	261,157
Kings	687	0.32%	43,804	9,230	53,034
Lake	569	0.26%	36,281	7,644	43,925
Lassen	252	0.12%	16,068	3,386	19,454
Los Angeles	68,418	31.38%	4,362,465	919,190	5,281,655
Madera	962	0.44%	61,339	12,924	74,263
Marin	579	0.27%	36,918	7,779	44,697
Mariposa	275	0.13%	17,535	3,695	21,230
Mendocino	1,175	0.54%	74,920	15,786	90,706
Merced	921	0.42%	58,725	12,374	71,099
Modoc	127	0.06%	8,098	1,706	9,804
Mono	81	0.04%	5,165	1,088	6,253
Monterey	1,624	0.74%	103,549	21,818	125,367
Napa	761	0.35%	48,523	10,224	58,747
Nevada	667	0.31%	42,529	8,961	51,490
Orange	16,130	7.40%	1,028,479	216,705	1,245,184
Placer	1,269	0.58%	80,914	17,049	97,963
Plumas	174	0.08%	11,095	2,338	13,433
Riverside	8,270	3.79%	527,311	111,107	638,418
Sacramento	6,421	2.95%	409,416	86,266	495,682
San Benito	303	0.14%	19,320	4,071	23,391
San Bernardino	10,892	5.00%	694,495	146,333	840,828
San Diego	28,446	13.05%	1,813,772	382,170	2,195,942
San Francisco	6,211	2.85%	396,026	83,444	479,470
San Joaquin	3,266	1.50%	208,247	43,878	252,125
San Luis Obispo	1,156	0.53%	73,709	15,531	89,240
San Mateo	2,419	1.11%	154,240	32,499	186,739
Santa Barbara	1,736	0.80%	110,691	23,323	134,014
Santa Clara	10,003	4.59%	637,811	134,389	772,200
Santa Cruz	1,354	0.62%	86,334	18,191	104,525
Shasta	1,877	0.86%	119,681	25,217	144,898
Sierra	77	0.04%	4,910	1,034	5,944
Siskiyou	556	0.26%	35,452	7,470	42,922
Solano	1,923	0.88%	122,614	25,835	148,449
Sonoma	2,781	1.28%	177,322	37,363	214,685
Stanislaus	2,178	1.00%	138,874	29,261	168,135
Sutter	258	0.12%	16,451	3,466	19,917
Tehama	927	0.43%	59,107	12,454	71,561
Trinity	604	0.28%	38,512	8,115	46,627
Tulare	2,731	1.25%	174,134	36,691	210,825
Tuolumne	515	0.24%	32,837	6,919	39,756
Ventura	1,692	0.78%	107,885	22,732	130,617
Yolo	697	0.32%	44,442	9,364	53,806
Yuba	367	0.17%	23,401	4,930	28,331
218,014	100.00%		\$ 13,901,000	\$ 2,929,000	\$ 16,830,000