



## JUDICIAL COUNCIL OF CALIFORNIA

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# REPORT TO THE JUDICIAL COUNCIL

*Item No.: 21-145*

For business meeting on: October 1, 2021

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**Title**

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

**Agenda Item Type**

Action Required

**Effective Date**

October 1, 2021

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

None

**Date of Report**

September 15, 2021

**Recommended by**

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

**Contact**

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### Executive Summary

The Judicial Branch Budget Committee recommends approval of the Trial Court Budget Advisory Committee recommendation that the Judicial Council for allocate 2021–22 Pretrial Release funding of \$140 million General Fund for the trial courts in accordance with methodologies outlined in Senate Bill 129 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 2021–22 Pretrial Release Allocations of \$140 million General Fund for the trial courts in accordance with methodologies outlined in Senate Bill 129 and including minimum funding floors. (Recommended total allocations to the trial courts are listed in Attachment A.)

### Relevant Previous Council Action

The Judicial Council has taken no previous action on this item although the council has supported prior pretrial efforts by the trial courts. On August 9, 2019, the Judicial Council

awarded funds provided in the Budget Act of 2019 to 16 trial court projects (17 courts) to participate in a three-year Pretrial Pilot Program.<sup>1</sup> The pilot program will conclude June 30, 2022.

## **Analysis/Rationale**

Senate Bill 129 (Stats. 2021, ch. 69), 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, prov. 9). SB 129 appropriates funding of \$140 million in 2021–22, and \$70 million in ongoing funding to the Judicial Council for distribution to the courts for these purposes.

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

The current annual budget available to the courts for the Pretrial Release Program is \$137.9 million.<sup>3</sup> SB 129 specifies two formulas for the Judicial Council to use in distributing pretrial release program funding.

1. ***One-Time Pretrial Release Funding for Non-Pretrial Pilot Program Courts***

Half of the budget year funding (\$70 million) is to be distributed to the 41 courts that did not receive Pretrial Pilot Program funding (provided in the Budget Act of 2019), with funding allocated to the courts based on each county’s relative proportion of the state population 18 to 25 years of age. The funds are available for encumbrance or expenditure for three fiscal years, until June 30, 2024. The breakdown for these one-time funds is reflected in Attachment B.

2. ***Ongoing Pretrial Release Funding for All Courts***

The Judicial Council is required to distribute the remaining \$70 million in budget year funding to *all* courts based on each county’s relative proportion of the state population 18

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<sup>1</sup> Last year, to address the impact of the COVID-19 pandemic, the program expenditure and reporting requirements of the Pretrial Pilot Program were extended by Senate Bill 115, which provided the pilot courts with an additional year, until June 30, 2022, to encumber or expend funds allocated to the program.

<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.

<sup>3</sup> 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.

to 25 years of age. These funds must be encumbered or expended by June 30, 2022. It is anticipated that allocation of the ongoing \$70 million in pretrial release program funding for all the superior courts will be based on the same formula in future years. The breakdown for these ongoing funds is reflected in Attachment C.

### 3. ***Funding Floor***

A minimum funding floor of \$200,000 is recommended for both funding formulas. This recommendation is based on analysis of planned budgets versus actual spending by small courts<sup>4</sup> 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 (SB 678).<sup>5</sup> This floor will ensure that both small and small/medium courts have the resources necessary to comply with the legislation.

On August 5 and 13, 2021, Judicial Council Criminal Justice Services (CJS) staff presented the 2021–22 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. There was no public comment received at either the August 5, 2021 TCBAC or August 13, 2021 Budget Committee meetings for this item.

### **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.

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<sup>4</sup> 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).

<sup>5</sup> Stats. 2009, ch. 608, [www.courts.ca.gov/documents/sb678.pdf](http://www.courts.ca.gov/documents/sb678.pdf).

## **Attachments and Links**

1. Attachment A: Recommended 2021–22 Pretrial Release Allocations
2. Attachment B: One-Time Allocation for Non-Pretrial Pilot Program Courts
3. Attachment C: Ongoing Pretrial Release Allocations for All Courts
4. Link A: Sen. Bill 129 (Stats. 2021, ch. 69),  
[https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=202120220SB129](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB129)

**Attachment A: Recommended 2021–22 Pretrial Release Allocations**

<b>All Courts</b>	<b>One-Time Allocation</b>	<b>Ongoing Allocation</b>	<b>Total Allocation</b>
Alameda		\$2,424,168.67	\$2,424,168.67
Alpine	\$200,000.00	\$200,000.00	\$400,000.00
Amador	\$200,000.00	\$200,000.00	\$400,000.00
Butte	\$1,040,835.47	\$568,878.73	\$1,609,714.20
Calaveras		\$200,000.00	\$200,000.00
Colusa	\$200,000.00	\$200,000.00	\$400,000.00
Contra Costa	\$2,972,503.73	\$1,624,650.79	\$4,597,154.52
Del Norte	\$200,000.00	\$200,000.00	\$400,000.00
El Dorado	\$431,071.62	\$235,606.38	\$666,678.00
Fresno	\$3,152,050.93	\$1,722,784.06	\$4,874,834.99
Glenn	\$200,000.00	\$200,000.00	\$400,000.00
Humboldt	\$549,091.45	\$300,111.27	\$849,202.72
Imperial	\$578,635.99	\$316,259.12	\$894,895.11
Inyo	\$200,000.00	\$200,000.00	\$400,000.00
Kern	\$2,905,466.44	\$1,588,010.91	\$4,493,477.35
Kings		\$289,657.57	\$289,657.57
Lake	\$200,000.00	\$200,000.00	\$400,000.00
Lassen	\$200,000.00	\$200,000.00	\$400,000.00
Los Angeles		\$16,959,834.67	\$16,959,834.67
Madera	\$476,670.91	\$260,529.12	\$737,200.03
Marin	\$535,380.00	\$292,617.14	\$827,997.14
Mariposa	\$200,000.00	\$200,000.00	\$400,000.00
Mendocino	\$206,368.46	\$200,000.00	\$406,368.46
Merced	\$966,926.61	\$528,483.14	\$1,495,409.75
Modoc		\$200,000.00	\$200,000.00
Mono	\$200,000.00	\$200,000.00	\$400,000.00
Monterey	\$1,389,290.04	\$759,329.97	\$2,148,620.01
Napa		\$211,133.64	\$211,133.64
Nevada		\$200,000.00	\$200,000.00
Orange	\$9,345,067.86	\$5,107,637.63	\$14,452,705.49
Placer	\$911,479.14	\$498,177.78	\$1,409,656.92
Plumas	\$200,000.00	\$200,000.00	\$400,000.00
Riverside	\$7,518,214.63	\$4,109,153.25	\$11,627,367.88
Sacramento		\$2,298,378.09	\$2,298,378.09
San Benito	\$200,000.00	\$200,000.00	\$400,000.00
San Bernardino	\$7,183,249.84	\$3,926,074.99	\$11,109,324.83
San Diego	\$10,980,689.06	\$6,001,602.29	\$16,982,291.35

All Courts	One-Time Allocation	Ongoing Allocation	Total Allocation
San Francisco	\$1,965,994.39	\$1,074,533.34	\$3,040,527.73
San Joaquin		\$1,253,873.19	\$1,253,873.19
San Luis Obispo	\$1,365,825.40	\$746,505.14	\$2,112,330.54
San Mateo		\$980,103.86	\$980,103.86
Santa Barbara		\$1,221,092.87	\$1,221,092.87
Santa Clara	\$5,197,369.09	\$2,840,672.57	\$8,038,041.66
Santa Cruz	\$1,293,278.20	\$706,853.77	\$2,000,131.97
Shasta	\$443,611.43	\$242,460.14	\$686,071.57
Sierra		\$200,000.00	\$200,000.00
Siskiyou	\$200,000.00	\$200,000.00	\$400,000.00
Solano	\$1,244,195.63	\$680,027.21	\$1,924,222.84
Sonoma		\$714,244.05	\$714,244.05
Stanislaus	\$1,644,899.39	\$899,035.74	\$2,543,935.13
Sutter	\$266,755.85	\$200,000.00	\$466,755.85
Tehama	\$200,000.00	\$200,000.00	\$400,000.00
Trinity	\$200,000.00	\$200,000.00	\$400,000.00
Tulare		\$820,182.98	\$820,182.98
Tuolumne		\$200,000.00	\$200,000.00
Ventura		\$1,390,307.85	\$1,390,307.85
Yolo	\$1,385,078.44	\$757,028.08	\$2,142,106.52
Yuba		\$200,000.00	\$200,000.00
		<b>Total:</b>	<b>\$137,900,000.00</b>

**Attachment B: One-Time Allocation for Non-Pretrial Pilot Program Courts**

<b>Non-Pilot Courts</b>	<b>Total 18–24 yr.<sup>6</sup> olds<sup>7</sup></b>	<b>% of total population of 18–24 yr. olds in Non-Pilot Courts</b>	<b>% of \$68.95M</b>
Alpine	N/A <sup>8</sup>	N/A	\$200,000.00
Amador	N/A	N/A	\$200,000.00
Butte	32,869	1.578%	\$1,040,835.47
Colusa	N/A	N/A	\$200,000.00
Contra Costa	93,870	4.507%	\$2,972,503.73
Del Norte	N/A	N/A	\$200,000.00
El Dorado	13,613	0.654%	\$431,071.62
Fresno	99,540	4.779%	\$3,152,050.93
Glenn	N/A	N/A	\$200,000.00
Humboldt	17,340	0.833%	\$549,091.45
Imperial	18,273	0.877%	\$578,635.99
Inyo	N/A	N/A	\$200,000.00
Kern	91,753	4.406%	\$2,905,466.44
Lake	N/A	N/A	\$200,000.00
Lassen	N/A	N/A	\$200,000.00
Madera	15,053	0.723%	\$476,670.91
Marin	16,907	0.812%	\$535,380.00
Mariposa	N/A	N/A	\$200,000.00
Mendocino	6,517	0.313%	\$206,368.46
Merced	30,535	1.466%	\$966,926.61
Mono	N/A	N/A	\$200,000.00
Monterey	43,873	2.107%	\$1,389,290.04
Orange	295,112	14.170%	\$9,345,067.86
Placer	28,784	1.382%	\$911,479.14
Plumas	N/A	N/A	\$200,000.00
Riverside	237,421	11.400%	\$7,518,214.63
San Benito	N/A	N/A	\$200,000.00
San Bernardino	226,843	10.892%	\$7,183,249.84
San Diego	346,764	16.650%	\$10,980,689.06
San Francisco	62,085	2.981%	\$1,965,994.39
San Luis Obispo	43,132	2.071%	\$1,365,825.40
Santa Clara	164,130	7.881%	\$5,197,369.09
Santa Cruz	40,841	1.961%	\$1,293,278.20

<sup>6</sup> The legislation specifies 18–25 year olds; however, census data is only available for 18–24 year olds.

<sup>7</sup> Source:

<https://data.census.gov/cedsci/table?q=age%20by%20county&g=0400000US06.050000&tid=ACSST5Y2019.S0101&hidePreview=true&tp=true>

<sup>8</sup> For courts that indicate “N/A,” a minimal funding floor of \$200,000 has been imposed to ensure adequate funding to meet the mandate.

<b>Non-Pilot Courts</b>	<b>Total 18–24 yr. olds<sup>9</sup></b>	<b>% of total population of 18–24 yr. olds in Non-Pilot Courts</b>	<b>% of \$68.95M</b>
Shasta	14,009	0.673%	\$443,611.43
Siskiyou	N/A	N/A	\$200,000.00
Solano	39,291	1.887%	\$1,244,195.63
Stanislaus	51,945	2.494%	\$1,644,899.39
Sutter	8,424	0.404%	\$266,755.85
Tehama	N/A	N/A	\$200,000.00
Trinity	N/A	N/A	\$200,000.00
Yolo	43,740	2.100%	\$1,385,078.44
<b>Total</b>	<b>2,082,664</b>		<b>\$ 68,950,000.00</b>

<sup>9</sup> Source:

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



**Attachment C: Ongoing Pretrial Release Allocations for All Courts**

All Courts	Total 18–24 yr. olds <sup>10</sup>	% of total population of all CA 18–24 yr. olds	% of \$68.95M
Alameda	140,065	3.767%	\$2,424,168.67
Alpine	N/A <sup>11</sup>	N/A	\$200,000.00
Amador	N/A	N/A	\$200,000.00
Butte	32,869	0.884%	\$568,878.73
Calaveras	N/A	N/A	\$200,000.00
Colusa	N/A	N/A	\$200,000.00
Contra Costa	93,870	2.525%	\$1,624,650.79
Del Norte	N/A	N/A	\$200,000.00
El Dorado	13,613	N/A	\$235,606.38
Fresno	99,540	2.677%	\$1,722,784.06
Glenn	N/A	N/A	\$200,000.00
Humboldt	17,340	0.466%	\$300,111.27
Imperial	18,273	0.491%	\$316,259.12
Inyo	N/A	N/A	\$200,000.00
Kern	91,753	2.468%	\$1,588,010.91
Kings	16,736	0.450%	\$289,657.57
Lake	N/A	N/A	\$200,000.00
Lassen	N/A	N/A	\$200,000.00
Los Angeles	979,915	26.356%	\$16,959,834.67
Madera	15,053	0.405%	\$260,529.12
Marin	16,907	0.455%	\$292,617.14
Mariposa	N/A	N/A	\$200,000.00
Mendocino	N/A	N/A	\$200,000.00
Merced	30,535	0.821%	\$528,483.14
Modoc	N/A	N/A	\$200,000.00
Mono	N/A	N/A	\$200,000.00
Monterey	43,873	1.180%	\$759,329.97
Napa	12,199	N/A	\$211,133.64
Nevada	N/A	N/A	\$200,000.00
Orange	295,112	7.937%	\$5,107,637.63
Placer	28,784	0.774%	\$498,177.78
Plumas	N/A	N/A	\$200,000.00
Riverside	237,421	6.386%	\$4,109,153.25
Sacramento	132,797	3.572%	\$2,298,378.09

<sup>10</sup> Source:

<https://data.census.gov/cedsci/table?q=age%20by%20county&g=0400000US06.050000&tid=ACSST5Y2019.S0101&hidePreview=true&tp=true>

<sup>11</sup> For courts that indicate “N/A,” a minimal funding floor of \$200,000 has been imposed in ensure adequate funding to meet the mandate.

<b>All Courts</b>	<b>Total 18–24 yr. olds</b>	<b>% of total population of all CA 18–24 yr. olds</b>	<b>% of \$68.95M</b>
San Benito	N/A	N/A	\$200,000.00
San Bernardino	226,843	6.101%	\$3,926,074.99
San Diego	346,764	9.326%	\$6,001,602.29
San Francisco	62,085	1.670%	\$1,074,533.34
San Joaquin	72,447	1.949%	\$1,253,873.19
San Luis Obispo	43,132	1.160%	\$746,505.14
San Mateo	56,629	1.523%	\$980,103.86
Santa Barbara	70,553	1.898%	\$1,221,092.87
Santa Clara	164,130	4.414%	\$2,840,672.57
Santa Cruz	40,841	1.098%	\$706,853.77
Shasta	14,009	N/A	\$242,460.14
Sierra	N/A	N/A	\$200,000.00
Siskiyou	N/A	N/A	\$200,000.00
Solano	39,291	1.057%	\$680,027.21
Sonoma	41,268	1.110%	\$714,244.05
Stanislaus	51,945	1.397%	\$899,035.74
Sutter	N/A	N/A	\$200,000.00
Tehama	N/A	N/A	\$200,000.00
Trinity	N/A	N/A	\$200,000.00
Tulare	47,389	1.275%	\$820,182.98
Tuolumne	N/A	N/A	\$200,000.00
Ventura	80,330	2.161%	\$1,390,307.85
Yolo	43,740	1.176%	\$757,028.08
Yuba	N/A	N/A	\$200,000.00
<b>Total</b>	<b>3,718,051</b>		<b>\$ 68,950,000.00</b>