



# JUDICIAL COUNCIL OF CALIFORNIA

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HON. TANI G. CANTIL-SAKAUYE  
Chief Justice of California  
Chair of the Judicial Council

HON. MARSHA G. SLOUGH  
Chair, Executive and Planning Committee

HON. DAVID M. RUBIN  
Chair, Judicial Branch Budget Committee  
Chair, Litigation Management Committee

HON. MARLA O. ANDERSON  
Chair, Policy Coordination and  
Liaison Committee

HON. HARRY E. HULL, JR.  
Chair, Rules and Projects Committee

HON. KYLE S. BRODIE  
Chair, Technology Committee

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MR. MARTIN HOSHINO  
Administrative Director,  
Judicial Council

December 11, 2019

Hon. Holly J. Mitchell  
Chair, Joint Legislative Budget Committee  
1020 N Street, Room 553  
Sacramento, California 95814

Ms. Keeley Martin Bosler  
Director, California Department of Finance  
State Capitol, Room 1145  
Sacramento, California 95814

Re: *Pretrial Pilot Program: Report to the Legislature*, as required under  
the Budget Act of 2019.

Dear Senator Mitchell and Ms. Bosler:

Under the Budget Act of 2019 (Assem. Bill 74; Stats. 2019, ch. 23), the  
Judicial Council is submitting the *Pretrial Pilot Program: Report to the  
Legislature* on the background of the Judicial Council's Pretrial Pilot  
Program and the program's initial implementation activities in the  
participating pilot courts.

If you have any questions related to this report, please contact Shelley  
Curran, Director, Judicial Council Criminal Justice Services, at 415-865-  
4013 or shelley.curran@jud.ca.gov.

Sincerely,

Martin Hoshino  
Administrative Director  
Judicial Council

Hon. Holly J. Mitchell  
Ms. Keeley Martin Bosler  
December 11, 2019  
Page 2

MH/SC/DMB/ma  
Enclosures

cc: Diane F. Boyer-Vine, Legislative Counsel  
Erika Contreras, Secretary of the Senate  
**Mail hardcopy to: State Capitol, Rm. 400, Sacramento 95814**  
Sue Parker, Acting Chief Clerk of the Assembly  
Eric Dang, Policy Consultant, Office of Senate President pro Tempore Toni G. Atkins  
Amy Alley, Policy Advisor, Office of Senate President pro Tempore Toni G. Atkins  
Alf Brandt, Senior Counsel, Office of Assembly Speaker Anthony Rendon  
Gabrielle Zeps, Policy Consultant, Office of Assembly Speaker Anthony Rendon  
Anita Lee, Principal Fiscal and Policy Analyst, Legislative Analyst's Office  
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Jessie Romine, Budget Analyst, Department of Finance  
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Elisa Wynne, Deputy Staff Director, Senate Budget and Fiscal Review Committee  
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**Send e-copy and mail hard copy to: 1020 N Street, Room 553, Sacramento 95814**  
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*Hon. Rebecca L. Wightman*

MR. MARTIN HOSHINO  
*Administrative Director,*  
*Judicial Council*

Report title: *Pretrial Pilot Program, Report to the Legislature*

Statutory citation: Budget Act of 2019

Date of report: January 17, 2020

The Judicial Council has submitted a report to the Legislature in accordance with the Budget Act of 2019 (Assem. Bill 74; Stats. 2019, ch. 23).

The following summary of the report is provided under the requirements of Government Code section 9795.

As part of the Budget Act of 2019 (Assem. Bill 74; Stats. 2019, ch. 23), the Legislature allocated a total of \$75 million to the Judicial Council to fund the implementation, operation, and evaluation of projects or efforts in at least 10 courts related to pretrial decision-making. The Budget Act directed the Judicial Council to administer the program, collect and analyze required data elements to measure the outcomes, and report annually to the Joint Legislative Budget Committee and the Department of Finance.

The Pretrial Pilot Program is a two-year pilot that provides funding for 16 court projects, encouraging collaboration of courts and their many justice system partners. As a result of this funding, entirely new projects are being implemented in four counties, and 12 existing projects are being either expanded or enhanced.

The current legislatively mandated report provides a background on the Judicial Council's Pretrial Pilot Program and details the program's initial implementation activities in the participating pilot courts. This is the first legislative report on the Pretrial Pilot Program; it covers activities from the start of the program in August 2019 to December 2019.

The full report can be accessed at [www.courts.ca.gov/7466.htm](http://www.courts.ca.gov/7466.htm).

A printed copy of the report may be obtained by calling 415-865-8994.



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# REPORT TO THE JUDICIAL COUNCIL

For business meeting on January 17, 2020

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<b>Title</b>	<b>Agenda Item Type</b>
Pretrial Reform: Report to the Legislature on the Pilot Program	Action Required
<b>Rules, Forms, Standards, or Statutes Affected</b>	<b>Effective Date</b>
N/A	January 17, 2020
<b>Recommended by</b>	<b>Date of Report</b>
Judicial Council staff Shelley Curran, Director Criminal Justice Services	January 3, 2020
	<b>Contact</b>
	Deirdre Benedict, Supervising Analyst 415-865-7543 <a href="mailto:deirdre.benedict@jud.ca.gov">deirdre.benedict@jud.ca.gov</a>

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### Executive Summary

The Criminal Justice Services office recommends that the Judicial Council receive the *Pretrial Pilot Program: Report to the Legislature* and direct the Administrative Director to submit this annual report to the Joint Legislative Budget Committee and the Department of Finance as mandated by the Budget Act of 2019. This report provides background on the Judicial Council's Pretrial Pilot Program and details the program's initial implementation activities at the participating pilot courts. This is the first legislative report on the Pretrial Pilot Program; it covers activities from the start of the program in August 2019 to December 2019.

### Recommendation

Criminal Justice Services staff recommend that the Judicial Council, effective January 17, 2020:

1. Receive the *Pretrial Pilot Program: Report to the Legislature*, which documents the establishment and initial implementation activities of the Pretrial Pilot Program; and
2. Direct the Administrative Director to submit this report to the Joint Legislative Budget Committee and the Department of Finance, as mandated by the Budget Act of 2019 (Assem. Bill 74; Stats. 2019, ch. 23).

The mandated report is included as Attachment A.

### **Relevant Previous Council Action**

In October 2016, the Chief Justice appointed the Pretrial Detention Reform Workgroup to identify ways to improve pretrial release decisions that protect the public, ensure court appearance, and treat people fairly. The workgroup presented its report<sup>1</sup> to the Chief Justice on October 16, 2017. At the Chief Justice's request, the co-chairs of the workgroup presented the report and recommendations at the Judicial Council meeting on November 16, 2017.

In January 2019, Governor Gavin Newsom included in his preliminary fiscal year 2019–20 budget a proposed two-year court pretrial pilot program to be funded at \$75 million. That same month, the Chief Justice appointed the Pretrial Reform and Operations Workgroup (PROW)—the successor to the Pretrial Detention Reform Workgroup—to, in part, develop recommendations for selection criteria, the application process, and funding allocations for court pretrial pilot projects, should they be included in the final State Budget for fiscal year 2019–20.

Ultimately \$75 million was included in the Budget Act of 2019 and allocated to the Judicial Council to fund the implementation, operation, and evaluation of programs or efforts related to pretrial decision-making in at least 10 courts. PROW undertook an extensive process to solicit and review applications for funding from the superior courts.

From that process, PROW selected 16 court projects and recommended that the Judicial Council approve (1) funding allocations and distribution to those courts, (2) authorization of further pilot program funding opportunities for the courts, and (3) authorization of Judicial Council staff to undertake pilot program grant administration activities. The Judicial Council approved these recommendations at its meeting on August 9, 2019.

### **Analysis/Rationale**

As part of the Budget Act of 2019, the Legislature directed the Judicial Council to develop and administer for trial courts a program that incorporates pretrial pilot programs. The council is required to submit this report to the Joint Legislative Budget Committee and the Department of Finance as mandated by the Budget Act of 2019.

This report, the *Pretrial Pilot Program: Report to the Legislature*, documents the establishment of the Pretrial Pilot Program, describes initial activities of the Judicial Council and the pilot courts, and provides preliminary information on program implementation.

### **Policy implications**

No policy implications are associated with this report.

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<sup>1</sup> Pretrial Detention Reform Workgroup, *Pretrial Detention Reform: Recommendations to the Chief Justice* (Oct. 2017), [www.courts.ca.gov/documents/PDRReport-20171023.pdf](http://www.courts.ca.gov/documents/PDRReport-20171023.pdf).

**Comments**

Comments were not solicited for this report.

**Alternatives considered**

Alternatives were not considered for this legislatively mandated report.

**Fiscal and Operational Impacts**

The Budget Act of 2019 allocated up to 10 percent of the \$75 million in funding to the Judicial Council for costs associated with implementing and evaluating these programs or for administrative support. Judicial Council staff will use this funding to continue providing pilot courts with legal, research, educational/technical, tool validation, programmatic, business process reengineering, information technology, data exchange, and project management support.

**Attachments and Links**

1. Attachment A: *Pretrial Pilot Program: Report to the Legislature*



# Pretrial Pilot Program

REPORT TO THE LEGISLATURE



JUDICIAL COUNCIL  
OF CALIFORNIA

OPERATIONS AND PROGRAMS DIVISION  
CRIMINAL JUSTICE SERVICES

## **JUDICIAL COUNCIL OF CALIFORNIA**

**Hon. Tani G. Cantil-Sakauye**

*Chief Justice of California and*

*Chair of the Judicial Council*

**Martin Hoshino**

*Administrative Director*

*Judicial Council*

### **OPERATIONS AND PROGRAMS**

**Robert Oyung**

*Chief Operating Officer*

### **CRIMINAL JUSTICE SERVICES**

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*Director*

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*Associate Analyst*

*Primary Author of Report*



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## **Executive Summary**

As part of the Budget Act of 2019 (Assem. Bill 74; Stats. 2019, ch. 23), the Legislature allocated a total of \$75 million to the Judicial Council of California to fund the implementation, operation, and evaluation of programs or efforts in at least 10 courts related to pretrial decision-making. The Budget Act directed the Judicial Council to administer the program, collect and analyze required data elements to measure the outcomes, and report annually to the Joint Legislative Budget Committee and the Department of Finance.

At its meeting on August 9, 2019, the Judicial Council awarded funding to 16 court projects for this two-year pilot. As a result of this funding, entirely new projects and partnerships are being implemented in four counties, and 12 existing programs are either being expanded or enhanced. The selected court projects represent a broad diversity in size, geography, technological capacity, and degree of project implementation readiness.

In the first few months of funding, pilot courts have worked with their respective partners to begin implementing pretrial operations as described in their applications for the program. At the time of this report, all pilot courts have: entered into contracts with the Judicial Council to approve budget proposals, begun historical data extracts, chosen a risk assessment tool to adopt, started establishing parameters for pretrial release decisions, and begun contracting with local probation departments to conduct risk assessments. The Judicial Council will continue to work closely with the pilot courts to ensure that all pretrial projects are fully operational no later than June 30, 2020.

This legislatively mandated report provides background on the Judicial Council's Pretrial Pilot Program and details the program's initial implementation activities in the participating pilot courts. This is the first legislative report on the Pretrial Pilot Program; it covers activities from the start of the program in August 2019 to December 2019.

## **Introduction**

As part of the Budget Act of 2019, the Legislature allocated \$75 million to the Judicial Council to fund the implementation, operation, and evaluation of programs or efforts related to pretrial decision-making in at least 10 courts. The Judicial Council developed a request-for-application process and made it available to all interested courts. Prospective courts submitted applications to the Judicial Council and were required to provide information regarding, among other things, the operational status of current pretrial efforts; release decisions and conditions; the risk assessment tool to be employed during the project; plans to meet the program data collection requirements; and a proposed budget for the duration of the program.

After an extensive application review process, on August 9, 2019, the Judicial Council approved the allocation of approximately \$68.06 million from the Pretrial Pilot Program to 16 selected pilot court projects for the period of August 9, 2019, to June 30, 2021. Funding allocations ranged from \$330,000 to approximately \$17 million, and selected pilot projects represent a broad diversity of court size and location. The pilot courts selected for funding are in early stages of implementing the processes described in their applications and must be fully operational no later than June 30, 2020.

## **The Judicial Council's Pretrial Pilot Program**

In January 2019, the Chief Justice appointed the Pretrial Reform and Operations Workgroup (PROW). In addition to other duties, PROW was tasked with developing recommendations for the application process, selection criteria, and funding allocations for court pretrial pilot projects, should they be included in the final State Budget for fiscal year 2019–20.

The goals of the Pretrial Pilot Program, as set by the Legislature, are to (1) increase the safe and efficient prearrest and pretrial release of individuals booked into jail; (2) implement monitoring practices with the least restrictive interventions necessary to enhance public safety and return to court; (3) expand the use and validation of pretrial risk assessment tools that make their factors, weights, and studies publicly available; and (4) assess any disparate impact or bias that may result from the implementation of these programs.

The Pretrial Pilot Program was ultimately included in the final Budget Act of 2019. On August 9, 2019, the Judicial Council approved the allocation of approximately \$68.06 million to 16 pilot courts to launch or significantly enhance pretrial pilot projects in their counties.

### ***Pilot Scope***

The Pretrial Pilot Program requires that pilot courts (1) operate under existing law, (2) incorporate prearrest (or at arraignment, if a hearing is required) judicial officer release decisions that are informed by a risk assessment conducted by county probation departments, and (3) collect and provide data to the Judicial Council for evaluation of the Pretrial Pilot Program.

In carrying out pretrial operations, selected pilot courts are required to conduct pretrial risk assessments of all persons booked into and retained in jail custody and not otherwise released under existing release policies. Once an individual is booked into jail, county probation departments will administer a risk assessment of the person using the county's adopted risk assessment tool. Before arraignment, county probation departments will file with the court a pretrial report, which may include the individual's assessment, as well as recommended release conditions for individuals who qualify for prearraignment release. All prearraignment release decisions will be made by a judicial officer. For individuals requiring a hearing, the assessment information will be provided to the court before arraignment.

As specified in the application to the program, pilot counties will not assess persons deemed ineligible for bail under article I, section 12 of the California Constitution. Each arrested person who is eligible for release on bail under current law will be entitled at any time to post bail as specified in the county bail schedule or for the amount set on an arrest warrant, or as otherwise set by the court, regardless of whether a risk assessment has been completed.

### ***Pilot Court Selection Process***

Between February and May 2019, PROW held multiple in-person meetings and conference calls to develop the goals and scope of the pilot program and a process for soliciting and reviewing proposals. The eligibility requirements and application review processes were designed based on the proposed budget bill language, input from the Legislature and the Governor's Administration, and the recommendations of the Chief Justice's Pretrial Detention Reform Workgroup.<sup>1</sup> All communication to the trial courts highlighted that funding for the Pretrial Pilot Program would not be final until the Budget Act was enacted.

A request for applications (RFA) was released to the courts on May 20, 2019. It included the program goals, scope, eligibility requirements, suggested funding allocations based on court size, and scoring methodology. By June 7, 2019, courts were asked to submit a "Notice of Intent to Apply," including available dates for a mandatory justice system partner interview. Thirty-five courts submitted letters of intent.<sup>2</sup>

Thirty-one justice system partner interviews were conducted between June 20 and July 1, 2019, via videoconference. These 45-minute interviews included a standard set of questions posed to all; they provided an opportunity for candid discussion and offered useful insight into local court partnerships and collaboration. Final applications were due July 2, 2019. The 31 courts that submitted applications—including a two-court consortium—represented a broad diversity of projects of various sizes from across the state.

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<sup>1</sup> The Chief Justice appointed the Pretrial Detention Reform Workgroup—the predecessor of the Pretrial Reform and Operations Workgroup—in October 2016 to identify ways to improve pretrial release decisions that protect the public, ensure court appearance, and treat people fairly.

<sup>2</sup> Four courts that submitted letters of intent removed themselves from consideration before the interview stage.

In these applications, courts were asked to explain how their pretrial processes would operate and meet the scope and goals of the program. Each applicant court was required to provide information on, among other things, plans to meet the grant data collection requirement, a proposed line item budget and budget justification, and a plan for carrying out pretrial assessment operations, including information on the process for pretrial decision-making, the selected risk assessment tool and tool validation to be deployed, and monitoring practices. In outlining their plans, courts addressed where arrestees will be assessed, how soon after booking assessments will occur, how the probation department will provide risk assessment information to judicial officers, and in what format this information will be given. They were also asked to include information regarding the time frame under which release decisions would be made; a release-conditions matrix, if one were to be adopted; and policies that the court and its justice system partners will adopt to ensure the consistent application of pretrial release conditions.

### **Application review process**

A subcommittee of PROW members was tasked with conducting an initial review of the applicants. Proposals were evaluated based on their responsiveness to the pilot program criteria, quality of responses to each section, structure and content of the proposed project, and level of detail provided. The subcommittee first considered each application on its own merits. Subcommittee members then reviewed applications within each court size category. As stated in the Budget Act, “the Judicial Council should seek a diversity in court size, location, court case management systems, risk assessment tools, including those tools that require an interview and those that do not, and other appropriate factors.” The subcommittee considered these factors in the formulation of its recommendation.

The subcommittee presented its preliminary recommendations to PROW on July 30, 2019, outlining the process it undertook and the rationale for its selections, and providing an opportunity to discuss individual applicants or the process overall. PROW voted to accept the subcommittee’s preliminary recommendations and present them to the Judicial Council for consideration.

At its meeting on August 9, 2019, the Judicial Council approved funding the 16 recommended pilot projects. Under the pilot program, 4 counties will implement brand new pretrial programs, and 12 counties will enhance or greatly expand current pretrial operations. Of the 16 selected pilots, 3 are large courts, 6 are medium-sized courts, 3 are small/medium-sized courts, and 4 are small courts.<sup>3</sup>

### **Funding allocations and court budget formation**

Proposals received from the courts totaled \$169.64 million in requested funding. PROW provided guidelines for courts’ funding requests based on court size, but courts could request the

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<sup>3</sup> Court categories were based on the authorized number of judicial positions (AJPs) within a county: small (2–5 AJPs), small/medium (6–15 AJPs), medium (16–47 AJPs), and large (48+ AJPs). Applications were received from 7 large counties, 10 medium counties, 9 small/medium counties, and 5 small counties.

amount necessary to accomplish the project goals. In their applications, courts submitted comprehensive budget breakdowns detailing how funding will be spent for each of the two fiscal years of the program. All proposals included budget information on four categories: personnel services/benefits, operating expenses, consultant/contractor expenses, and indirect costs. Courts were also required to submit budget justifications to explain all budget line items in narrative form, including how the applicant court estimated and calculated costs and how those costs are relevant to the completion of the proposed project. As expected, a significant majority of proposed expenses was allocated to boosting staffing and resources in county probation departments to maximize efficiency in conducting risk assessments.

To fund additional courts, the Judicial Council required each selected pilot court to make a 6.25 percent reduction in its overall project budget. In October 2019, the Judicial Council began contracting with all selected pilot courts to provide funding according to a set deliverable schedule. Over the course of the award period, the Judicial Council will work with awarded courts to enable modification or reallocation of budgets as necessary, transfer budgeted amounts from one fiscal year to another, or transfer unspent funds between courts depending on the court's progress in meeting the scope and goals of the pilot program. If PROW determines that a court will be unable to spend its full funding allocation, it may approve redistribution of the funds among pilot courts, approve awards to applicant courts not included in the initial allocation, or solicit additional proposals to ensure that all pilot program funds are fully spent.

**Table 1: Total Approved Awards by Court Size\***

<b>Court</b>		<b>Approved Award</b>
Large Courts	Alameda	\$14,359,400
	Los Angeles	\$17,296,300
	Sacramento	\$ 9,563,000
<b>Large Court Subtotal:</b>		<b>\$41,218,700</b>
Medium Courts	San Joaquin	—
	San Mateo	\$6,169,300
	Santa Barbara	\$1,593,000
	Sonoma	\$5,748,000
	Tulare	\$3,761,400
	Ventura	\$3,687,000
<b>Medium Court Subtotal:</b>		<b>\$20,958,700</b>
Medium/Small Courts	Kings	\$1,112,000
	Napa	\$1,700,000
	Nevada-Sierra	\$330,000
<b>Medium/Small Court Subtotal:</b>		<b>\$3,142,000</b>
Small Courts	Calaveras	\$529,700
	Modoc	\$744,000
	Tuolumne	\$629,900
	Yuba	\$841,300
<b>Small Court Subtotal:</b>		<b>\$2,744,900</b>
<b>GRAND TOTAL:</b>		<b>\$68,064,300</b>

\* Recommended amounts reflect a uniform 6.25 percent decrease to all courts' initial requests. This decrease maximizes the number of courts able to participate in the pilot program. Final allocations to individual courts may be further adjusted during the contracting phase.

### ***Initial Local Implementation Activities***

Applications submitted by pilot courts to the Judicial Council outlined how processes will be adopted to work in each county within the parameters of the program requirements. Pilot courts have begun initial implementation of such processes in conjunction with local justice system partners. (A summary of each selected court's proposed project is provided as Attachment A.)

## **Local collaboration**

In addition to the requirement that courts partner with local probation departments to conduct risk assessments, courts are in contact with other local agencies whose participation will be critical in pretrial operations. The process for pretrial decision-making will involve effective collaboration among pilot courts and their local justice system partners, including county probation departments, county information technology (IT) departments, sheriff's departments, district attorney's offices, public defender's offices, offices of behavioral health, and others. Pretrial operations will require the participation of sheriff's departments both to assist in actual release procedures and to provide data that will inform risk assessments. District attorney's offices and public defender's offices will also be involved in local collaboration efforts.

As projects are in the beginning stages of implementation, pilot courts are in the process of coordinating with these partners to establish specific parameters regarding pretrial release decisions. Several courts provided in their original proposals sample matrices outlining the process for pretrial release decision-making, as well as the agencies and technologies involved in such processes. Counties are currently identifying and developing staff resources within these agencies based on the anticipated needs of their projects. As mentioned above, a significant portion of proposed budgets will be allocated to county probation departments to conduct risk assessments.

## **Risk assessment tools**

At this time, each of the 16 pilot court projects has identified the risk assessment tool to be used in its pretrial operations, and many courts have outlined plans to carry out validation studies of their selected tools. The Judicial Council did not preapprove specific risk assessment tools for use in the Pretrial Pilot Program. Instead, pilot courts were encouraged to select tools that met their local county needs, provided the courts could meet the requirements of the program—specifically, that the projects “expand the use and validation of pretrial risk assessment tools that make their factors, weights, and studies publicly available.”

The Judicial Council sought to fund pretrial pilot projects that, as a group, were diverse in their use of risk assessment tools, including tools that require an interview and those that do not. Pilot courts have selected or will continue to use the Public Safety Assessment (PSA), Virginia Pretrial Risk Assessment Instrument (VPRAI), or Ohio Risk Assessment System (ORAS). The factors, weights, and studies for each of these tools are publicly available. (A map illustrating the risk assessment tool used in each pilot court is provided as Attachment B).

The Judicial Council will use an outside evaluator to conduct an evaluation that will include local validation of these assessment tools. Several courts, however, have opted to involve a separate entity to assist with local validation to ensure that adopted tools are predictive of outcomes within the county's population. Pilot courts and probation departments that plan to conduct their own local validation studies included details on the proposed studies in their



original applications to the Judicial Council. At the time of this report, at least six courts have reported plans to conduct local validation studies.<sup>4</sup>

### **Monitoring practices**

The RFA included as a funded activity “contracts between the courts and county probation departments . . . for monitoring of individuals released pretrial.” (Assem. Bill 74, § 2.00, item 0250-101-0001.) In accordance with the goals of the program, as outlined by the Legislature, pilot courts will aim to “implement monitoring practices . . . with the least restrictive interventions and practices necessary to enhance public safety and return to court” (*Ibid.*) Pilot courts are now in the process of contracting with county probation departments to develop monitoring policies that align with the specific goals of the program. Courts and probation departments are aware that no financial costs may be imposed on released persons for any required conditions or services of pretrial release monitoring. Many courts have included projected costs for these services in their proposed budgets submitted to the Judicial Council.

### **Partnership with the Judicial Council**

The Budget Act of 2019 allocated up to 10 percent of the \$75 million in funding to the Judicial Council for costs associated with implementing and evaluating these programs or for administrative support. The Judicial Council is now in the process of coordinating a variety of activities aimed at facilitating important first steps and early implementation of pretrial processes.

The program includes a series of educational events. In October 2019, the Judicial Council conducted the Pretrial Justice Practice Institute, a mandatory two-day informational event for all selected pilot courts. The event involved a variety of panels, workshops, and presentations that sought to explore the role of court leadership in pretrial release programs, provide recent research on risk assessment tools, examine monitoring practices, address common program challenges, enhance communication with justice partners, and familiarize pilot courts with the use of technology to support and integrate these processes. The institute also addressed the critical role of data collection and reporting and other pilot program requirements. Representatives—including presiding judges, court executive officers, Pretrial Pilot Program project managers, court information officers, chief probation officers, sheriffs, and corrections authorities—from each of the 16 pilot court projects were in attendance. A second, one-day mandatory training will be held in fall 2020.

In November and December 2019, a team of Judicial Council staff began a statewide undertaking to visit all 16 pilot court projects that were awarded the two-year funding. The purpose of the statewide site visits is to give Judicial Council staff an opportunity to meet with superior courts and their justice system partners and learn about the progress pilot courts are making toward program implementation. The site visits give both the Judicial Council and pilot

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<sup>4</sup> The Superior Courts of Alameda, Los Angeles, Sonoma, Tulare, Tuolumne, and Ventura Counties specified plans to carry out local validation studies in their applications to the program.

courts a chance to further discuss successes and challenges to implementation as well as data collection processes and reporting. Participants at these site visits have included Judicial Council staff and representatives from the courts, county probation departments, sheriff's departments, and IT departments. An initial site visit to each pilot court is anticipated to be completed by April 2020.

Judicial Council funding will be used to assist the pilots with case management system development, court case phone and text reminder systems, pretrial risk assessment integration, and data warehouse integration. The Judicial Council has begun providing courts with data collection technical assistance, data collection tools, and reporting templates, and is working with funded projects to ensure that data can be collected and reported to the Judicial Council.

## **Conclusion and Next Steps**

This two-year pilot is forming entirely new avenues for collaboration among pilot courts and their many justice system partners in several counties and strengthening existing partnerships in all participating courts. Pilot courts have begun forming agreements with local probation departments and other essential justice system partners and developing policies and practices to successfully implement or enhance pretrial programs in their counties. Initial implementation activities have been geared toward positioning courts to be able to effectively expend funding and achieve project goals within the time frame of the program. Projects funded in the Pretrial Pilot Program will provide valuable information that can be applied to other courts interested in creating and/or enhancing pretrial services.

The next Pretrial Pilot Program reporting period will cover activities carried out between January 1 and July 1, 2020. In that time, pilot courts will finalize pretrial decision-making processes and adopt policies to implement these processes. All pilot courts will provide program funding to justice system partners involved in pretrial operations and will execute memorandums of understanding (MOUs) to outline the terms for spending such funding. Although now just beginning implementation, the pilot courts are expected to be fully operational no later than June 30, 2020. *Fully operational* in this context is defined as meeting the scope of the Pretrial Pilot Program and the parameters of the pilot project as described in proposals submitted by the courts to the Judicial Council. Complete technology solutions and integrations may require more time and may therefore be put in place later than June 30, 2020.

During this time, the Judicial Council will continue to provide pilot courts with legal, research, educational/technical, tool validation, programmatic, business process reengineering, information technology, data exchange, and project management support. Judicial Council staff will continue conducting site visits to each of the pilot courts and working to answer questions or concerns addressed at visits. Initial startup amounts to each pilot court will be disbursed on submission of historical data. Future disbursements will be made quarterly based on submission of the required quarterly program progress reports and data submissions. The Judicial Council will compile information annually and report aggregate data generated by the awarded programs

to the Department of Finance and the Joint Legislative Budget Committee, as required in the Budget Act of 2019.

## **Attachments and Links**

1. Attachment A: Project Summaries of Selected Pilot Courts
2. Attachment B: Map of Risk Assessment Tools Used by County
3. Link A: “Pretrial Pilot Program Request for Applications (RFA) Process” page of the California Courts website, [www.courts.ca.gov/42771.htm](http://www.courts.ca.gov/42771.htm)
4. Link B: Budget Act of 2019 (Assem. Bill 74; Stats. 2019, ch. 23), [http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201920200AB74](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB74)

## Attachment A: Project Summaries of Selected Pilot Courts

*\*Project summaries listed below reflect information provided by the selected pilot courts in their initial applications to the Pretrial Pilot Program.*

### Large Courts

*Very rigorous competition: \$106.67 million in requests from large counties alone. Pretrial Reform and Operations Workgroup wanted to select large courts from diverse areas of the state and in different stages of pretrial programs.*

#### **Alameda—Revive and expand its pretrial program.**

- Does not currently operate a pretrial program, although it has operated different models of pretrial release since the 1970s.
- In 2018, the court and Probation Department formed a committee dedicated to the implementation of a new pretrial program, in collaboration with their local justice system partners: County Information Technology Department, Sheriff, District Attorney, Public Defender, and County Bar Association, including representatives from the Court Appointed Panel.
- The court anticipates assigning judges on a 24-hour, seven-day-a-week basis and using a call forwarding or other alert system so that release decisions can be made periodically day and night. The time frame for release decisions will be 10 to 12 hours after the completion of booking.

#### **Los Angeles—Enhance and greatly expand current pretrial program.**

- The Board of Supervisors passed a motion to pursue bail reform initiatives. The court, in partnership with the Probation Department, Sheriff, District Attorney, Public Defender, Alternative Defender, County of Los Angeles, and City Attorney will operate the Pretrial Risk Assessment Pilot.
- The court is implementing an innovative two-step assessment process:
  1. ALL eligible defendants will be assessed with a static tool prearrestment (except those who bail out); and
  2. The court will use a dynamic assessment to assess a significant portion (20 percent) of those detained until arraignment, centralized to one courthouse location.
- The court has established a Magistrate Unit, consisting of multiple judicial officers assigned each day to an on-call duty, to address pretrial release decisions, among other duties.

#### **Sacramento—Implement new pretrial program with Probation Department.**

- Sacramento County Board of Supervisors has committed \$1.2 million dollars to pretrial reform, and the Probation Department will begin implementing Phase I of the project, which started on July 8, 2019.

## Attachment A: Project Summaries of Selected Pilot Courts

- During Phase I, the Probation Department will begin assessing a targeted population of arrestees during regular business hours and will recommend to the judicial officer a level of monitoring based on risk score for any release conditions.
- During Phase II, assessment services will expand to seven days and evenings a week, including weekends and holidays. The Probation Department will automate the pretrial risk assessment process and documentation and expects to generate the report with a decision recommendation in less than one hour per arrestee.

### Medium Courts

#### **San Joaquin—Maintain existing pretrial program and contribute to the pilot program.**

- San Joaquin is not requesting funding but wants to participate in the pilot program and provide data for statewide use. It views the pilot program as an opportunity to become more efficient in collecting data electronically from the court, jail, and Probation Department. It also views this pilot program as an opportunity to receive further technical assistance and learn additional best practices to further improve outcomes in the criminal justice system.
- San Joaquin Probation Department assesses eligible individuals after booking, generally within 2 hours after booking by the Sheriff is completed. For those who qualify for the existing pretrial assessment, release decisions are currently made within 2 hours following completion of the assessment interview.
- Release decisions are made after review of all the information, generally within 2 hours of completion of the risk assessment. Probation does not contact judicial officers to make prearrestment release decisions for individuals with low-risk scores because there is a standing order related to the jail cap that provides for release by Probation Department staff within 48 hours. Individuals with medium-risk scores require detention until arraignment when a judicial officer can review and make the release decision and order pretrial monitoring conditions and reporting instructions.

#### **San Mateo—Enhance and greatly expand current pretrial program.**

- San Mateo County has operated a pretrial program since 2000.
- San Mateo has formed a Pretrial Services Working Group Court that includes the County Manager's Office and other representatives of the County, the court, Probation Department, Sheriff, District Attorney, Private Defender, and the Behavioral Health and Recovery Services Agency.
- Pilot program funding will enable San Mateo to expand pretrial assessment to all persons booked into and retained in jail custody within 8 to 12 hours of booking. The Court will make a determination of release within 16 to 24 hours of booking. October 2019 is the target go-live date for the enhancements, with an operational date for full implementation no later than January 2020.

## Attachment A: Project Summaries of Selected Pilot Courts

- During regular business hours, judicial officers will be assigned the prearrest/pretrial determinations as part of the court's normal criminal grid schedule. An on-call duty officer will make release decisions at designated times in the evening, on weekends, and on holidays.

### **Santa Barbara—Enhance and greatly expand current pretrial program.**

- Santa Barbara has operated a pretrial program since 1977. Court staff conduct pretrial risk assessment interviews on a small percentage of defendants based on the arrest charge.
- The court, in collaboration with the Community Corrections Partnership and the local criminal justice stakeholders, had explored the use of validated pretrial risk assessments and expansion of supervised release options. They have leveraged technical assistance opportunities from state and national experts to aid local planning efforts.
- Pilot Program funding will enable Santa Barbara to consolidate assessments and monitoring under the Probation Department, increase the number of individuals released prearrest, and allow all eligible defendants to be assessed within 24 hours of booking. The court and Probation Department are actively engaged in implementing these enhancements, expected to be operational by January 2020.
- Release decisions for lower risk defendants will be made prearrest within 24 hours of booking. On-call judges will be available to process after-hours requests. All other release decisions will be determined at arraignment.
- The plan also includes implementation of a mental health navigator component and use of a “step-down” process for defendants who are compliant on release. In addition, the project will use a “look-back” process to explore options for release for those detained at arraignments who remain in custody.

### **Sonoma—Enhance and greatly expand current pretrial program.**

- Sonoma has operated a pretrial program since 2015.
- Strong evidence of collaboration and judicial leadership—consensus among partners—exists for shifting the responsibility for conducting in-custody pretrial risk assessments from the Sheriff's Office to the Probation Department.
- Pilot program funding will enable Sonoma to expand the population eligible for pretrial release and ensure that all individuals booked into custody on new charges receive a pretrial risk assessment. The court estimates that 92.5 percent of those booked on new charges only (e.g., without a warrant) will be eligible for release before arraignment under the pretrial pilot program.
- The court projects that 82 percent of arrestees will be assessed within 1 hour of booking and the remainder within 4 hours maximum postbooking.
- Prearrest releases will be made within 12 hours of booking during business hours or by an

## Attachment A: Project Summaries of Selected Pilot Courts

on-call judicial officer who will e-review and e-sign. Those not released prearrestment will be reviewed by a judicial officer at arraignment.

### **Tulare—Enhance and greatly expand current pretrial program.**

- Tulare has operated a pretrial program since 2016.
- The County has established a working group with representatives from the court, the Probation Department, the Sheriff's Office, the District Attorney's Office, the Public Defender's Office, and local law enforcement and will add a dedicated project manager to ensure effective planning, execution, and reporting.
- Pilot Program funding will enable Tulare to expand prearrestment assessment for all booked and retained in custody (except those who are ineligible for bail) by the Summer of 2020. This expansion will constitute a significant increase in the volume of completed prearrestment assessments.
- Individuals will be assessed within 24 hours of arrest. The court will use a magistrate to enable prearrestment releases on weekends, evenings, and holidays.
- The court has hired a commissioner to ensure prearrestment release decisions are made before arraignment. The court will develop an electronic process to access assessment reports and sign off on them remotely.

### **Ventura—Enhance and greatly expand current pretrial program.**

- Ventura has operated a pretrial program since 2013 and currently assesses 25 percent of felony bookings before arraignment.
- Pretrial Pilot Program funding will enable Ventura to expand operations to 12 hours per day, seven days a week. All detained defendants would be assessed before the District Attorney's filing decisions. Misdemeanors will be assessed within 12 hours and felonies within 24 hours.
- The assigned judge or on-call magistrate will review risk assessment and release recommendations twice daily.
- The court and its partners agreed to establish a steering committee to review data, policies, risk assessment tool use, release matrix, etc. The steering committee will evaluate demographic information to assess disparate impact or bias.

## Medium/Small Courts

### **Kings—Implement new pretrial program with Probation Department.**

- The court, Probation Department, Sheriff's Office, District Attorney, and Contract Defense Attorney Coordinator have worked collaboratively to develop plans for a pretrial program.
- Pretrial Pilot Program funding will enable Kings to operationalize its program by September

## Attachment A: Project Summaries of Selected Pilot Courts

2019.

- The Probation Department will interview and assess all individuals booked on new charges, not otherwise released, within 12 hours of booking.
- Individuals with low-risk scores will be recommended for prearrestment release during consultation with the on-call judicial officer. Individuals with medium-risk and high-risk scores will remain in custody pending arraignment.
- The pretrial program will operate seven days per week from 7 a.m. to 6 p.m. and 11 p.m. to 7 a.m.

### **Napa—Enhance and greatly expand current pretrial program.**

- Napa has operated its current pretrial program since 2011. The program screens all jail bookings that meet specified criteria. Pretrial services currently operate during standard business hours, and current staffing levels do not allow for intensive monitoring and support for higher risk participants.
- Pretrial pilot funding will enable Napa to expand assessments to seven days per week, 7 a.m. to 11 p.m., and will include release after hours and on weekends.
- Assessments should be completed within 12 hours of booking and not more than 24 hours after booking.
- The Pretrial Services officers will notify the judicial officer once a pretrial report is ready for review. Judicial officers will review reports a minimum of two times per day during regular court hours and provide an on-call judicial officer for after-hours reports.
- The program's exclusionary criteria will be reexamined to be more inclusive. Monitoring will be added for higher risk pretrial populations.

### **Consortium of Nevada and Sierra Counties—Enhance and greatly expand current pretrial program.**

- This court consortium is the only one selected for the Pretrial Pilot program. Nevada and Sierra are in a unique position to collaborate on pretrial services because Sierra County inmates are housed at the Nevada County jail, and the counties have a long history of collaboration.
- Nevada County began developing a pretrial program in 2014. Currently, assessments are not completed until the District Attorney files the complaint, which restricts the ability to release individuals. Sierra County does not currently have a developed pretrial program but completes a lengthy bail report and recommends monitoring or various bail options to the judicial officer.
- Pretrial Pilot funding will enable Nevada and Sierra to expand the number of prearrestment assessments and reports, and release. Probation would assess at the jail within 16 hours of booking.
- Pretrial reports will be completed and delivered within 24 hours for all arrestees regardless of



## Attachment A: Project Summaries of Selected Pilot Courts

risk and statutory eligibility.

- Judicial officers from both counties will be assigned to review reports and make release decisions Monday through Friday, 7 a.m. to 5 p.m., and an on-call judicial officer will be assigned for each county on weekends for seven-day-per-week coverage.

### Small Courts

*All courts in the small court category demonstrated strong local collaboration and an ability to reach decisions quickly and amicably.*

#### **Calaveras—Implement new pretrial program with Probation Department.**

- The court will contract with the Probation Department to perform risk assessments for prearrestment release on all those arrested and held in county jail (unless immediately released). Assessments will be completed within one court day of booking.
- The court will establish a list of criteria for prearrestment release. For those qualifying for prearrestment release, Probation will provide a recommendation and recommended conditions.
- The review and a release decision will be made by a judicial officer once the assessment is completed by probation. Arrestees not released prearrestment will be considered for release at arraignment. Reviews will take place on all court days.
- Probation Department staff will provide monitoring for higher risk defendants, coordinate case management data entry, provide court reminder messages, and assist with securing transportation to court for arrestees, when necessary. Monitoring services will be used only when necessary. Least restrictive conditions will be applied.

#### **Modoc—Implement new pretrial program with Probation Department.**

- Modoc currently offers several components of a pretrial program on a limited basis, but Pretrial Pilot funding will enable it to conduct risk assessment on all in-custody inmates not otherwise released or ineligible. The Probation Department will report pretrial assessment information to the court at in-custody arraignments.
- This two-judge court makes a judicial officer available for prearrestment decisions 24 hours a day.
- Modoc seeks to increase participation in pretrial diversion programs and address client needs for pretrial program compliance (employment, transportation, &/or referrals to external programming) while using the least restrictive intervention.

#### **Tuolumne—Enhance and greatly expand current pretrial program.**

- Tuolumne formalized its pretrial program in 2017, when the local Community Corrections Partnership formed the Pretrial Working Group and solicited input from diverse local

## Attachment A: Project Summaries of Selected Pilot Courts

stakeholders.

- In the current program, jail sergeants conduct risk assessments, which are not always completed in a timely manner because of jail personnel's primary responsibilities.
- Pretrial Pilot Program funding will enable responsibility for pretrial risk assessment to transfer to the Probation Department, with the support of the Sheriff's Office. Probation Officers will conduct assessments remotely and obtain criminal records electronically through terminal access to the Sheriff's system.
- Judicial officers will receive pretrial release reports electronically and will issue release decisions seven days a week. An on-call duty judge will review on weekends once a day.

### **Yuba—Enhance and greatly expand current pretrial program.**

- In 2014, the Yuba County Pretrial Release Program was formed with representatives from the court, District Attorney, Sheriff's Office, Probation Department, and Public Defender.
- Yuba has operated its current pretrial program since 2015. Probation currently conducts assessments on eligible individuals and does not provide monitoring services.
- Pretrial Pilot funding will enable Yuba to perform risk assessments on all arrestees and monitoring of released defendants. Probation will interview booked arrestees at the jail as soon as practicable, within the 48-hour arraignment deadline.
- Judicial officers will make release decisions as soon as practical after they receive the assessment report; the court always has an on-call judicial officer.

# Attachment B: Map of Risk Assessment Tools Used by County

