



# Judicial Council of California

520 Capitol Mall, Suite 600 · Sacramento, California 95814-4717

Telephone 916-323-3121 · Fax 916-323-4347

PATRICIA GUERRERO  
*Chief Justice of California*  
*Chair of the Judicial Council*

MS. SHELLEY CURRAN  
*Administrative Director*

September 5, 2024

Hon. Gavin Newsom  
Governor of California  
1021 O Street, Suite 9000  
Sacramento, California 95814

**Subject: Senate Bill 1133 (Becker)—Request for Veto**

Dear Governor Newsom:

The Judicial Council respectfully requests your veto on Senate Bill 1133, which requires a court to take into consideration specified factors when conducting an automatic bail review. The bill also requires additional hearing time for defendants who have been in compliance with the nonmonetary conditions of their release for 60 days or more, at their next regularly scheduled court date. At this hearing, the court is required to review the defendant's nonmonetary conditions of release, except for those statutorily mandated or pursuant to a protective order, under a presumption that the nonmonetary release conditions are no longer necessary unless the district attorney can demonstrate, by clear and convincing evidence, they are needed to mitigate a risk to victim or public safety or a flight risk, and that no less restrictive alternative can address that risk.

The council's opposition is based on the presumption SB 1133 creates, as we believe the language restricts judicial discretion to such a degree, that a court would not have meaningful discretion regarding nonmonetary conditions of release. Absent new or additional factors, other than the passage of 60 days, the presumption established by SB 1133 would be almost impossible to overcome.

At present, existing laws give courts discretion in determining what set of particularized conditions may be most suitable for each individual defendant. Specific to pretrial detention, Article I sections 12 and 28 of the California Constitution require courts, when determining pretrial release, to take into consideration the protection of the public, victim safety, seriousness of the offense, the defendant's prior criminal history, and flight risk, while specifying that victim and public safety must be the primary considerations. In fashioning nonmonetary conditions of

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release, courts must determine what the least restrictive set of conditions may be, that can still reasonably protect the victim and public safety, or the risk of flight. (*In re Humphrey* (2021) 11. Cal.5th 135, 151-52, 154.)

Therefore, in creating a presumption that nonmonetary release conditions are no longer necessary unless it can be demonstrated, by clear and convincing evidence, they are needed to mitigate a risk to victim or public safety, or a flight risk, SB 1133 discounts the various factors a court must consider before tailoring nonmonetary conditions of release. In practice, when crafting nonmonetary conditions of release, a court may take into account numerous factors. The presumption created by SB 1133 impedes a court's ability to freely and clearly review those conditions to ensure there is low risk to victim or public safety, or risk of flight. The council respectfully requests the bill be vetoed to ensure courts can retain an appropriate level of judicial discretion when reviewing nonmonetary conditions of release.

***Fiscal Impact***

Although SB 1133 is not keyed fiscal and was never reviewed by the Assembly Appropriations Committee, there will likely be a significant fiscal impact on the courts if the bill is enacted. The council estimates there will be additional hearing time for all instances in which a defendant is released on a nonmonetary condition other than a protective order or statutorily mandated conditions. The exact population is unknown but anticipated to be significant with an estimated increase in court workload in the range of \$5.8 million to \$17.6 million in additional hearing time, as well as a significant impact on court calendars. The trial courts are also implementing the \$97 million baseline reduction in the current year budget in a challenging fiscal environment where courts are facing hiring freezes, furloughs, layoffs, and other reductions to service levels that directly impact access to the courts. A substantial negative impact on access to justice will result if funding and resources are not provided for the new workload created by SB 1133 as delays and lower priority given to other case types will be necessary.

For these reasons, the Judicial Council respectfully requests your veto on SB 1133.

Should you have any questions or require additional information, please contact Mureed Rasool at 916-323-3121.

Sincerely,



Cory T. Jaspersen

Director, Governmental Affairs

CTJ/MR/jh

cc: Hon. Josh Becker, Member of the Senate, 13th District

Jith Meganathan, Deputy Legislative Secretary, Office of the Governor

Shelley Curran, Administrative Director, Judicial Council of California



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PATRICIA GUERRERO  
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SHELLEY CURRAN  
*Administrative Director*

August 26, 2024

Hon. Josh Becker  
Member of the Senate, 13th District  
1021 O Street, Room 7250  
Sacramento, California 95814

**Subject: Senate Bill 1133 (Becker) – Oppose unless amended**

Dear Senator Becker:

The Judicial Council regrettably opposes, unless amended, Senate Bill 1133. The bill requires a court to take into consideration specified factors when conducting an automatic bail review. Furthermore, the bill requires additional hearing time for defendants who have been in compliance with the nonmonetary conditions of their release for 60 days or more, at their next regularly scheduled court date. At this hearing, the court is required to review the defendant's nonmonetary conditions of release, except for those statutorily mandated or pursuant to a protective order, under a presumption that the nonmonetary release conditions are no longer necessary unless the district attorney can demonstrate, by clear and convincing evidence, they are needed to mitigate a risk to victim or public safety or a flight risk, and that no less restrictive alternative can address that risk.

The council's oppose unless amended position is based on the presumption SB 1133 creates, as we believe the language restricts judicial discretion to such a degree, that a court would not have meaningful discretion regarding nonmonetary conditions of release. Absent new or additional factors, other than the passage of 60 days, the presumption established by SB 1133 would be almost impossible to overcome.

At present, existing laws give courts discretion in determining what set of particularized conditions may be most suitable for each individual defendant. Specific to pretrial detention, Article I sections 12 and 28 of the California Constitution require courts, when determining pretrial release, to take into consideration the protection of the public, victim safety, seriousness of the offense, the defendant's prior criminal history, flight risk, while specifying that victim and

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public safety must be the primary considerations. In fashioning nonmonetary conditions of release, courts must determine what the least restrictive set of conditions may be that can still reasonably protect the victim and public safety, or the risk of flight. (*In re Humphrey* (2021) 11. Cal.5th 135, 151-52, 154.)

Therefore, in creating a presumption that nonmonetary release conditions are no longer necessary unless it can be demonstrated, by clear and convincing evidence, they are needed to mitigate a risk to victim or public safety, or a flight risk, SB 1133 discounts the various factors a court must consider before tailoring nonmonetary conditions of release. In practice, when crafting nonmonetary conditions of release, a court may take into account numerous factors. The presumption created by SB 1133 impedes a court's ability to freely and clearly review those conditions to ensure there is low risk to victim or public safety, or risk of flight. The council respectfully requests the bill be amended to restore judicial discretion by removing the presumption language.

### ***Fiscal Impact***

Although SB 1133 is not keyed fiscal and was not reviewed by Assembly Appropriations Committee, there will likely be a significant fiscal impact on the courts. The council estimates the bill will result in additional hearing time for all instances in which a defendant is released on a nonmonetary condition other than a protective order or statutorily mandated conditions. The exact population is unknown but anticipated to be significant with an estimated increase in court workload in the range of \$5.8 million to \$17.6 million in additional hearing time, as well as a significant impact on court calendars. The trial courts are also working to implement the \$97 million baseline reduction in the current year budget in a challenging fiscal environment. If funding is not provided for the new workload created by SB 1133, it would result in delays and prioritization of court cases thereby impacting access to justice.

For these reasons, the Judicial Council is in respectful opposition to SB 1133.

Should you have any questions or require additional information, please contact Mureed Rasool at (916) 323-3121.

Sincerely,



Cory T. Jasperson

Director, Governmental Affairs

CTJ/MR/lmm

cc: Andrew Ironside, Chief Counsel, Assembly Public Safety Committee  
Mary Kennedy, Chief Counsel, Senate Public Safety Committee  
Jith Meganathan, Legislative Affairs Secretary, Office of the Governor  
Shelley Curran, Administrative Director, Judicial Council of California