

# Washington State Judicial Branch

## 2023-25 Biennial Budget

### Pilot Pretrial Service Program

**Agency:** Administrative Office of the Courts

**Decision Package Code/Title:** S4 – Pilot Pretrial Service Program

#### Agency Recommendation Summary Text:

The Administrative Office of the Courts, on behalf of Superior Courts, requests 1.0 FTEs and \$4.9 million in one-time funding for five programs in courts without pretrial services, to pilot a combination of evidence-based and promising programs. An estimated 6,500 individuals are held in pretrial detention every day, including on non-violent or misdemeanor offenses. Many of these individuals could be released with a low risk to public safety and high likelihood to return to court if robust pretrial services were available. Full funding for pretrial services statewide has been recommended by the Pretrial Reform Task Force, and the Washington State Auditor's Office similarly found that full funding for pretrial services would be less costly to taxpayers than pretrial detention<sup>1</sup>. (General Fund—State)

#### Fiscal Summary:

	FY 2024	FY 2025	Biennial	FY 2026	FY 2027	Biennial
<b>Staffing</b>						
FTEs	1.00	1.00	1.00	0.00	0.00	0.00
<b>Operating Expenditures</b>						
Fund 001-1	\$2,429,000	\$2,424,200	\$4,853,200	\$0	\$0	\$0
<b>Total Expenditures</b>						
	\$2,429,000	\$2,424,200	\$4,853,200	\$0	\$0	\$0

#### Package Description:

The Pretrial Reform Task Force (2017-19) was convened to examine pretrial practices in Washington and develop consensus-driven recommendations to improve pretrial services. In a 2018 survey, only 40 out of the 134 respondents, representing a total of 32 jurisdictions, self-reported having an active or formerly active pretrial service program, and only nine of those were Superior Courts. The reported pretrial programming varied widely, from housing information to electronic home monitoring and drug testing.<sup>2</sup> The survey also found large geographic gaps in pretrial services: few jurisdictions in Eastern Washington and the Olympic Coast offered services.

Since 2019, pretrial reform has grown in significance to justice system improvements, and is an important component of addressing systemic racism in the justice system, but anecdotal information suggests that there are even fewer pretrial service offerings today. The Legislature has also renewed interest in directing the courts' reform efforts, with the introduction of the Uniform Pretrial Release Act (SB 5307) during the 2021 Legislative Session. The time is now for the judiciary to continue its leadership role in promoting the expansion and improvement of pretrial services throughout the State.

**Proposed Solution:** The Pretrial Reform Task Force, and its diverse set of stakeholders, agreed that the widest variety of pretrial services should be available to courts in order to maximize the number of people eligible for release from

<sup>1</sup> Office of the Washington State Auditor. Reforming Bail Practices in Washington State. February 2019. Accessible at [https://sao.wa.gov/wp-content/uploads/Tabs/PerformanceAudit/PA\\_Reforming\\_Bail\\_Practices\\_ar1023411.pdf](https://sao.wa.gov/wp-content/uploads/Tabs/PerformanceAudit/PA_Reforming_Bail_Practices_ar1023411.pdf)

<sup>2</sup> Surur, I., et al. Pretrial Reform Task Force: Final Recommendations Report. February 2019. Accessible at <https://www.wascja.com/post/pretrial-reform-task-force>

pretrial detention, and to minimize or eliminate the costs imposed on these individuals. The Office of the State Auditor, in a 2019 report, estimated releasing non-violent individuals from detention and providing them with pretrial services would save taxpayers \$6,000,000 to \$12,000,00 million per year.<sup>3</sup>

**Purchase Description:**

\$4.9 million in one-time funding is needed for program staff and grants to individual trial courts, or a regional consortium of courts, for the purpose of standing up new pretrial service programs that can utilize best and/or promising practices. These practices include:

- Court reminders (electronic or otherwise)
- Voluntary service referrals to mental/behavioral health treatment, vocational services, housing assistance, etc.
- Transportation subsidies
- Program oversight by local stakeholders

The one-time grant funding requirements are to include:

- Grant-funded pretrial services, including electronic monitoring, to be offered at no-cost to individuals
- Data collection/evaluation of pretrial service efficacy and cost-savings. Evaluation of the pilot programs will include: pre and post-implementation impacts to appearance rates and public safety violations; cost savings to the criminal justice system; and identification of best and promising practices for replication.
- Coordination with local decision-making bodies in support of local future funding.

The pilot program evaluations will be made available to the BJA's Alternatives to Detention Task Force, along with other key state and local stakeholders. The robust data collection and evaluation of the funded pilot programs will provide valuable information from which to demonstrate program value, feasibility, and replicability. This information will also help to estimate future funding costs for pretrial services statewide.

**Fully describe and quantify expected impacts on state residents and specific populations served:**

The Washington State Auditor's Office estimates that each day, approximately 4,700 people held in detention are eligible for pretrial services.<sup>4</sup> By establishing pilot programs at five unique sites, the SCJA estimates courts will service approximately 10% of this population. The racial, ethnic, gender, and economic disparities in the criminal justice system are frequently reflected in pretrial detention demographics; but jurisdictions with robust pretrial services can correct and even eliminate these disparities over time.

Being held pretrial has been shown to have significant negative impacts on an individual's case, as well as their housing, employment, and family life. Low risk defendants detained prior to trial are four times more likely to receive a sentence of imprisonment and three times more likely to be given a longer prison sentence as compared to similarly situated low risk defendants released prior to trial.<sup>5</sup>

**Explain what alternatives were explored by the agency and why they were rejected as solutions:**

No funding alternatives were meaningfully explored, as there is no federal funding to establish or maintain pretrial service programs. Funding for pretrial services has historically been generated through local (county and city) budgeting processes. However, local funding is less and less available, and pretrial service programs at the courts are in decline. The proposed pilot programs will provide a valuable and timely infusion of information that will be made available to local jurisdictions across the state. This evaluative information will encourage and help local jurisdictions to reevaluate their pre-trial detention offerings in terms of both demographic and fiscal impact.

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<sup>3</sup> [Ibid.](#)

<sup>4</sup> [Ibid.](#)

<sup>5</sup> Lowencamp, C., VanNostrand, M., Holsinger, A.M. (November 2013). Investigating the Impact of Pretrial Detention on Sentencing Outcomes. Retrieved from: [https://craftmediabucket.s3.amazonaws.com/uploads/PDFs/LJAF\\_Report\\_state-sentencing\\_FNL.pdf](https://craftmediabucket.s3.amazonaws.com/uploads/PDFs/LJAF_Report_state-sentencing_FNL.pdf)

**What are the consequences of not funding this request?**

Without well-funded and comprehensive pretrial service programs, courts are challenged to achieve the mandate set forth in the Washington State Constitution Article I, Section 20 (“All persons charged with crime shall be bailable by sufficient sureties, except for capital offenses when the proof is evident, or the presumption great.”), CrR 3.2 and CrCLJ 3.2, and various statutes. As recently as 2018, the Legislature further clarified the authority of superior, district and municipal courts to consider the least restrictive pretrial release conditions while also ensuring public safety.<sup>6</sup> The large number of low-risk individuals held pretrial, or released without meaningful conditions, will continue unless meaningful alternatives to detention become available. Similarly, failures to appear are likely to remain at current levels, unless there is increased support for individuals to attend court proceedings. The courts also risk the appearance of doing nothing, at a time when there is clear legislative interest and public appetite for reform of the pretrial release process in Washington.

**Is this an expansion or alteration of a current program or service?**

No.

**Decision Package expenditure, FTE and revenue assumptions:**

**Staffing Assumptions**

*Senior Court Program Analyst.* Beginning July 1, 2023 and ongoing, AOC requires salary, benefits, and associated standard costs for 1.0 FTE to coordinate grants for pilot programs, convene stakeholders to promote best practices, and provide technical assistance to local courts.

**Other Non-Standard Costs**

**Grants (Object N)**

Grants equaling \$450,000 per year will be awarded to up to five pilot programs, selected through a competitive application process.

<b>Expenditures by Object</b>	<b><u>FY 2024</u></b>	<b><u>FY 2025</u></b>	<b><u>FY 2026</u></b>	<b><u>FY 2027</u></b>	<b><u>FY 2028</u></b>	<b><u>FY 2029</u></b>
A Salaries and Wages	101,100	101,100				
B Employee Benefits	32,200	32,200				
E Goods and Services	3,800	3,800				
G Travel	2,500	2,500				
J Capital Outlays	6,400	1,600				
N Grants, Benefits, and Client Services	2,250,000	2,250,000				
T Intra-Agency Reimbursements	33,000	33,000				
<b>Total Objects</b>	<b>2,429,000</b>	<b>2,424,200</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

**Staffing**

<b>Job Class</b>	<b>Salary</b>	<b><u>FY 2024</u></b>	<b><u>FY 2025</u></b>	<b><u>FY 2026</u></b>	<b><u>FY 2027</u></b>	<b><u>FY 2028</u></b>	<b><u>FY 2029</u></b>
SENIOR COURT PROGRAM ANALYST	101,100	1.00	1.00				
<b>Total FTEs</b>		<b>1.00</b>	<b>1.00</b>				

<sup>6</sup> RCW 10.21.015, 2018 c 276 § 1

**Explanation of standard costs by object:**

Salary estimates are current biennium actual rates at Step L.

Benefits are the agency average of 31.89% of salaries.

Goods and Services are the agency average of \$3,800 per direct program FTE.

Travel is the agency average of \$2,500 per direct program FTE.

One-time IT Equipment is \$4,800 for the first fiscal year per direct program FTE. Ongoing Equipment is the agency average of \$1,600 per direct program FTE.

Agency Indirect is calculated at a rate of 24.73% of direct program salaries and benefits.

**How does the package relate to the Judicial Branch principal policy objectives?**

**Accessibility:** Lack of access to courts due to pretrial service costs or the inability to get to court are real and significant concerns. Funding for no-cost, pretrial services in areas where there are none will increase the accessibility of courts to individuals pending adjudication. Increasing the number and type of available pretrial services (court reminders, service referrals, subsidies, etc.) will maximize the number of individuals supported through pretrial release and reduce the risk of failure to appear.

**Commitment to Effective Court Management:** Courts selected to pilot new pretrial service programs will monitor and evaluate their effectiveness in reducing failures to appear and efficiencies created in existing court administrative procedures, including scheduling, court continuances, and case management.

**Are there impacts to other governmental entities?**

If funded, the proposal will benefit the trial courts hosting pilot programs, prosecutors, and public defenders in ensuring individuals can attend their court proceedings and receive support while their case is in process. Currently, individuals are released without any pretrial services in place, including court date reminders, EHM, bus passes, etc. Pretrial services can reduce failure to appear in court and increase public safety. As this proposal arises from recommendations made by the Pretrial Reform Task Force, SCJA believes that any organizations participating in that effort would also be supportive, including the Minority and Justice Commission, District and Municipal Court Judges' Association, Washington State Association of Counties, county prosecutors, and others.

**Stakeholder response:**

As this proposal arises from recommendations made by the Pretrial Reform Task Force, SCJA believes that any organizations participating in that effort would also be supportive, including the ACLU of Washington, Columbia Legal Services, Northwest Community Bail Fund, and others. Non-governmental stakeholders would not be directly impacted, however. Individuals released pretrial without extensive support systems (easy transportation to court, access to treatment services, etc.) would directly benefit from this pilot program.

**Are there legal or administrative mandates that require this package to be funded?**

There is no mandate that requires the funding of this package. However, the proposal arises from recommendations made by the Pretrial Reform Task Force in 2019.

**Does current law need to be changed to successfully implement this package?**

No.

**Are there impacts to state facilities?**

No.

**Are there other supporting materials that strengthen the case for this request?**

Attached please find the 2019 Pretrial Reform Task Force Report. It summarizes the state of pretrial services available in 2018, and provides evidence-based recommendations.

**Are there information technology impacts?**

There are no information technology impacts for this request.

**Agency Contacts:**

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