

# MEMORANDUM



## JOINT BUDGET COMMITTEE

TO Members of the Joint Budget Committee  
 FROM Steve Allen, JBC Staff (303-866-4961)  
 DATE May 18, 2020  
 SUBJECT Budget balancing recommendations for the Judicial Department

These budget balancing recommendations are in addition to recommendations for the Judicial Branch presented by staff on May 8. The reductions pertain to what staff calls the Main Judicial Department. Staff is working on additional reductions for the independent Judicial Branch agencies.

These reductions are based on staff conversations with the department. The cuts are designed to preserve as much as possible the core functions of the Main Judicial Department, specifically the trial courts and probation.

**Staff recommends that the Committee approve the adjustments listed in the following table.**

### MAIN JUDICIAL ADDITIONAL BUDGET REDUCTIONS 5-18-2020

	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROP FUNDS	FEDERAL FUNDS	FTE
JUD BR9 PERA Rate Swap for Judges	(\$1,350,000)	(\$1,350,000)	\$0	\$0	\$0	0.0
JUD BR10 Reduce Problem Solving Court Program	(359,000)	(231,839)	(127,161)	0	0	0.0
JUD BR11 Reduce GF approp for courthouse security	(229,465)	(229,465)	0	0	0	0.0
JUD BR12 Reduce Courthouse Furnishings and Infrastructure Maintenance	(850,750)	(850,750)	0	0	0	0.0
JUD BR13 Judicial Education Reduction	(506,650)	(36,650)	(470,000)	0	0	0.0
JUD BR14 Judicial Performance Refinance	0	(100,000)	100,000	0	0	0.0
JUD BR15 Reduce GF in Family Violence Justice Grants	(500,000)	(500,000)	0	0	0	0.0
JUD BR16 Eliminate GF in Adult Pre-Trial Diversion Program	(400,000)	(400,000)	0	0	0	0.0
JUD BR17 Reduce GF approp to Correctional CF	(1,000,000)	(1,000,000)	0	0	0	0.0
JUD BR18 Reduce GF in Mental Health Diversion Program	(945,573)	(945,573)	0	0	0	0.0
JUD BR19 Reduce GF in Court Liaison Program	(263,000)	(263,000)	0	0	0	0.0
JUD BR20 Reduce Approp to Eviction Legal Defense Fund	(150,000)	(150,000)	0	0	0	0.0
JUD BR21 Refinance Carr Debt Service with Justice Center Maint Fund	0	(1,500,000)	1,500,000	0	0	0.0
JUD BR22 Refinance Trial Court Programs with Judicial Stabilization CF	0	(1,797,161)	1,797,161	0	0	0.0
JUD BR23 Refinance Trial Court Programs with Judicial Collection Enhancement Fund	0	(1,500,000)	1,500,000	0	0	0.0
JUD BR24 Refinance Trial Court Programs with administrative subaccount of the Crime Victim Compensation Fund	0	(750,000)	750,000	0	0	0.0
JUD BR25 Trial Courts Programs Reduce spending.	(1,950,000)	(1,950,000)	0	0	0	0.0
JUD BR26 Refinance Probation Program with Alcohol and Drug Driving Cash Fund	0	(750,000)	750,000	0	0	0.0
JUD BR27 Offender Treatment Approp - Refinance GF with Offender Treatment and Services Cash Fund	0	(400,000)	400,000	0	0	0.0
JUD BR28 Raise e-filing fees and use for General Courts Administration and Information Technology Infrastructure	0	(5,500,000)	5,500,000	0	0	0.0
<b>Total</b>	<b>(\$8,504,438)</b>	<b>(\$20,204,438)</b>	<b>\$11,700,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

### Recommended FY 2020-21 budget balancing adjustment

**JUD BR9 PERA RATE SWAP FOR JUDGES:** Staff recommends that the Committee increase the PERA contribution paid by judges by 2.5 percent and make an offsetting 2.5 percent reduction of the

MAY 18, 2020

state contribution. This leaves a judge's gross salary unchanged but reduces the judge's after-retirement-contribution pay.

This recommendation requires a bill. However these changes could be included in a PERA rate swap bill that affects other state employees, if such a bill should be part the budget balancing package. The rate swap for judges would be 2.5 percent larger than the rate swap for other state employees.

The current 2.5 percent rate swap is designed to parallel the 2.5 percent personal services base reduction that the Committee has approved. **Staff requests permission to adjust this swap in step with base reduction decisions the Committee may make.** There is a limit to the adjustment, however, since the employer contribution rate for judges, which is currently 13.91%, cannot be reduced below zero.

Each 1.0 percent rate swap for judges saves approximately \$540,000 of General Fund. **Staff requests permission to adjust the amount saved if the Judicial Branch provides a more precise estimate.**

**ANALYSIS:** Article VI, section 18 of the state constitution states that

Justices and judges of courts of record shall receive such compensation as may be provided by law, *which may be increased but may not be decreased during their term of office and shall receive such pension or retirement benefits as may be provided by law.* [Italics added]

This proposal leaves the gross salary of judges unchanged during their term of office, as required by the constitution, but changes the retirement benefit program. Changes to judicial retirement contribution rates have occurred in the past and are scheduled in statute to occur in the future.

The relevant PERA contribution rates for judges for FY 20-21 are found in Table C of Section 24-51-401, C.R.S., which is effective July 1, 2020. That table shows that the employer contribution rate is 13.91% and the member contribution rate is 9.5%. In FY 21-22, in Table D of the same section, the contribution rates for Judicial Division employers remains 13.91% and the member rate rises to 10.0%.

This recommended statutory change narrowly targets state court judges. A list of affiliated employers for PERA's Judicial Division can be found [here](#). The bill would carve out an exception for judges in the Denver County Court, which Denver operates and funds.

---

**JUD BR10 REDUCE PROBLEM SOLVING COURT PROGRAM:** Staff recommends that the Committee reduce the \$3,978,422 appropriation for Problem Solving Court Programs by \$231,839 General Fund and \$127,161 cash funds from the Judicial Stabilization fund. Most of the reductions will come from conferences and training.

**BACKGROUND:** This line item provides state funding for all adult drug treatment courts, mental health treatment courts, family dependency treatment courts, and veterans treatment courts that have been implemented by various judicial districts. This line item also provides funding for all DUI treatment

courts except for the Denver County Sobriety Court. This line item appropriation is intended to encourage districts to implement and operate problem-solving courts in a manner that has been proven effective in reducing the need for jail and prison beds, reducing crime rates, increasing treatment participation and effectiveness, and increasing employment among offenders.

---

**JUD BR11 REDUCE GENERAL FUND APPROPRIATION FOR COURTHOUSE SECURITY:** Staff recommends that the Committee reduce the current \$3,256,785 appropriation to the Courthouse Security Program by \$229,465 General Fund, which will leave a \$3,027,320 cash funds appropriation.

**BACKGROUND:** The [Courthouse Security Grant Program](#) provides grant funds to counties with limited financial resources for use in improving courthouse security efforts. Such efforts include security staffing, security equipment, training, and court security emergency needs. Grants are potentially available to all counties with highest priority given to counties meeting at least two of the following criteria:

- Population below the state median;
- Per capita income below the state median;
- Property tax revenues below the state median;
- Population living below the federal poverty line above the state median.

A court security specialist (1.0 FTE) administers the grant program, and the Court Security Cash Fund Commission evaluates grant applications.

The program is supported by the Court Security Cash Fund, which consists of a \$5 surcharge on: docket fees and jury fees for certain civil actions; docket fees for criminal convictions, special proceeding filings, and certain traffic infraction penalties; filing fees for certain probate filings; and fees for certain filings on water matters. Moneys in the Fund are to be used for grants and related administrative costs. County-level local security teams may apply to the State Court Administrator's Office for grants.

---

**JUD BR12 Reduce Courthouse Furnishings and Infrastructure Maintenance Appropriation due to delay of a Jeffco Project:** Staff recommends that the Committee reduce this appropriation to reflect a probation project that will not occur next year.

---

**JUD BR13 Judicial Education Reduction:** Staff recommends that the Committee reduce the appropriation for Judicial Education and Training by \$506,650, including \$36,650 General Fund and \$470,000 cash funds. The current appropriation is \$1,002,588, comprised of \$6,650 GF and \$995,938 cash funds.

**BACKGROUND:** This line item supports education and training for judicial officers. New judges attend a five-day orientation training which addresses the transition from lawyer to judge, followed by a 2½-day advanced orientation session which addresses some specific case type issues and topics such as

jury management, court security, evidentiary issues, findings and conclusions of law, etc. For all judges, the Department's overall goal is to provide timely and structured learning experiences, operational training, and developmental activities that support judicial officers' continuing educational and professional needs in leadership, case management, and legal matter subject expertise.

---

**JUD BR14 Judicial Performance Refinance:** Staff recommends that the Committee refinance \$100,000 of GF for the Office of Judicial Performance Evaluation. The current appropriation is \$853,713, comprised of \$314,500 General Fund and \$539,213 cash funds.

**Background:** In 1967, Colorado's Constitution was amended to repeal a provision providing for the election of judges, and to add a provision enacting a system of judicial nominating commissions, Governor-appointed judges, and retention elections for justices and judges. This line item provides funding for the State Commission on Judicial Performance, which is responsible for developing and administering the judicial performance evaluation system. Specifically, this office is responsible for:

- Staffing the state and district commissions, and training their members;
- Collecting and distributing data on judicial performance evaluations;
- Conducting public education efforts concerning the performance evaluation process;
- Measuring public awareness of the process through regular polling; and
- Other duties as assigned by the State Commission.

The Office is supported by the State Commission on Judicial Performance Cash Fund, which receives revenue from a \$5 docket fee on certain criminal actions in district courts and a \$3 docket fee on certain traffic infractions.

---

**JUD BR15 Reduce GF in Family Violence Justice Grants:** Staff recommends that the Committee reduce the appropriation by \$500,000 General Fund. The current appropriation is \$2,670,000, comprised of \$2,500,000 GF and \$170,000 Cash Funds.

**BACKGROUND:** This line item provides funding for the State Court Administrator to award grants to qualifying organizations providing civil legal services to indigent Colorado residents. This program is the only state-funded grant program for civil legal services in Colorado. Grant funds may be used to provide legal advice, representation, and advocacy for and on behalf of indigent clients who are victims of family violence (typically assistance with restraining orders, divorce proceedings, and custody matters). [Colorado Legal Services](#), which provides legal services in almost every county, typically receives more than 80 to 90 percent of grant moneys each year.

In addition to General Fund appropriations for this grant program, the State Court Administrator is authorized to receive gifts, grants, and donations for this program; such funds are credited to the Family Violence Justice Fund. Further, S.B. 09-068 increased the fees for petitions and responses in divorce proceedings by \$10 each (from \$220 and \$106, respectively); half of the resulting revenue is credited to the Family Violence Justice Fund (providing an estimated \$155,033 in new fund revenues). The act directs the Judicial Department to use this fee revenue to award grants to qualifying

organizations that provide services for or on behalf of indigent persons and their families who are married, separated, or divorced.

---

**JUD BR16 Eliminate GF in District Attorney Adult Pre-Trial Diversion Program:** Staff recommends that the Committee reduce by \$400,000 the GF in the District Attorney Adult Pre-Trial Diversion Grant Program. This will eliminate all GF and keep \$169,000 of reappropriated funds in the program that trace to the Correctional Treatment Cash Fund

**BACKGROUND:** This line item provides funding for district attorneys' adult pretrial diversion programs. A five-member Diversion Funding Committee is responsible for:

- developing funding guidelines and an application process for district attorneys to request state funds to support an adult pretrial diversion program;
- reviewing funding requests; and
- allocating state funding for adult pretrial diversion programs that meet the established statutory guidelines.

District attorneys that receive funding are required to collect data and provide a status report to the Judicial Department concerning its adult pretrial diversion program.

---

**JUD BR17 REDUCE GF APPROPRIATION TO CORRECTIONAL TREATMENT CF:** Staff recommends that the Committee reduce the appropriation by \$1,000,000. The appropriation currently equals \$15,826,198 including \$14,222,879 GF. Staff believes the Correctional Treatment Board can maintain its current level of grants with this reduction.

---

**JUD BR18 REDUCE GF IN MENTAL HEALTH DIVERSION GRANT PROGRAM:** Staff recommends that the Committee reduce the \$1,795,573 GF appropriation to this program by \$945,573.

**BACKGROUND:** Senate Bill 18-249 (a JBC bill) established the Mental Health Criminal Justice Diversion Grant Program to support up to four pre-plea local-level mental health pilot programs. These programs divert individuals with mental health conditions who have been charged with low-level criminal offenses out of the criminal justice system into community treatment programs.

---

**JUD BR19 REDUCE GF IN COURT LIAISON PROGRAM:** Staff recommends that the Committee reduce GF for the Statewide Behavioral Health Court Liaison Program by \$263,000 GF. The program currently has an appropriation of \$1,795,573 GF

**BACKGROUND:** Senate Bill 18-251 (a JBC bill) established the Statewide Behavioral Health Court Liaison Program. The program allocates funding to each judicial district to contract with local behavioral health professionals to facilitate communication and collaboration between judicial and behavioral health professionals.

**JUD BR20 REDUCE APPROP TO EVICTION LEGAL DEFENSE FUND:** Staff recommends that the Committee reduce the appropriation to this program by \$150,000. This program is also the subject of a bill that would fund the program with a fee. The Committee has not yet decided whether it should carry the bill. Staff is recommending this reduced appropriation in case the committee decides not to carry the bill. A corresponding reduction of \$150,000 is recommended for the grant program.

**BACKGROUND:** These line items were added to the Long Bill by S.B. 19-180 (Eviction Legal Defense Fund), which creates the Eviction Legal Defense Fund, from which grants are awarded via the Eviction Legal Defense Grant Program appropriation to nonprofit organizations that provide legal advice, counseling, and representation to indigent clients facing or at risk of eviction.

---

**JUD BR21 REFINANCE CARR DEBT SERVICE APPROPRIATION WITH JUSTICE CENTER MAINTENANCE FUND:** Staff recommends reducing the appropriation for Carr Debt Service by \$1,500,000 GF and replacing it with \$1,500,000 CF from the Justice Maintenance Fund, which is used to fund Carr Center controlled maintenance.

---

**JUD BR22, 23, AND 24. REFINANCE TRIAL COURT PROGRAMS WITH JUDICIAL STABILIZATION CF, JUDICIAL COLLECTION ENHANCEMENT FUND, ADMINISTRATIVE SUBACCOUNT OF THE CRIME VICTIM COMPENSATION FUND:**

Staff recommends reducing the General Fund appropriation for Trial Court Programs by \$4,047,161 by refinancing with \$1,797,161 from the Judicial Stabilization Cash Fund, \$1,500,000 from the Judicial Collection Enhancement Fund, and \$750,000 from the Administrative Subaccount of the Crime Victim Compensation Fund. The funds can support the added spending.

---

**JUD BR25 TRIAL COURTS PROGRAMS REDUCE SPENDING:** Staff recommends decreasing the \$145,227,327 General Fund appropriation for Trial Court Programs by \$1,950,000. The Department states that it can accommodate the decrease.

---

**JUD BR26 REFINANCE PROBATION PROGRAM WITH ALCOHOL AND DRUG DRIVING CASH FUND:** Staff recommends refinancing \$750,000 of General Fund appropriations for Probation Programs with the Alcohol and Drug Driving Safety Program Fund. The fund can support the added spending

---

**JUD BR27 OFFENDER TREATMENT APPROPRIATION - REFINANCE GF WITH OFFENDER TREATMENT AND SERVICES CASH FUND:** Staff recommends refinancing \$400,000 of General Fund

appropriations for Probation Programs with the Alcohol and Drug Driving Safety Program Fund. The fund can support the added spending.

---

**JUD BR28 JUD BR28 RAISE E-FILING FEES AND USE FOR GENERAL COURTS ADMINISTRATION AND INFORMATION TECHNOLOGY INFRASTRUCTURE:** The Department can administratively raise its e-filing fees without statutory change. These fees currently range from \$6.00 to \$7.50. The Department estimates that if these fees are raised to a uniform \$12, it will raise \$5,500,000 of cash fund revenue. Staff recommends that the Department raise fees to this level and use the revenue to reduce the appropriation for General Courts Administration by \$4,201,437 and the appropriation for Information Technology Infrastructure by \$1,298,563.

---

**CONSOLIDATE THE APPROPRIATION FOR COLLECTIONS INVESTIGATORS INTO THE TRIAL COURT PROGRAMS LINE:** Consolidate the appropriation for collections investigators into the Trial Court Programs line: The Department indicates that it will be able to more flexibly use the cash funding for its collections investigators during the current economic downturn if the \$7.5m appropriation for Collections Investigators is consolidated into the Trial Court Programs, which has a total appropriation of \$177.1m. The Department notes that collections investigators are trial court staff are upervised by FTE who are funded by the Trial Court Programs line item, so the consolidation makes sense from an organizational and administrative viewpoint.

**Staff recommends this consolidation.**

---

**BUDGET FLEXIBILITY FOOTNOTE FOR MAIN JUDICIAL.** Every judicial branch agency with more than one line item, except Main Judicial, currently has an approved Long Bill footnote that provides budget flexibility by allowing up to 2.5 percent of the total appropriation to be transferred between line items. Staff believes that this flexibility may be very important during the current economic downturn. As a consequence, **Staff recommends that the following amendments to the already approved footnotes**, which increase the transfer percentage from 2.5 to 5 percent:

- n Judicial Department, Office of the State Public Defender -- In addition to the transfer authority provided in Section 24-75-108 (5), C.R.S., up to ~~2.5~~ 5 percent of the total Office of the State Public Defender appropriation may be transferred between line items in the Office of the State Public Defender.
- n Judicial Department, Office of the Alternate Defense Counsel -- In addition to the transfer authority provided in Section 24-75-108 (5), C.R.S., up to ~~2.5~~ 5 percent of the total Office of the Alternate Defense Counsel appropriation may be transferred between line items in the Office of the Alternate Defense Counsel.
- n Judicial Department, Office of the Child's Representative -- In addition to the transfer authority provided in Section 24-75-108 (5), C.R.S., up to ~~2.5~~ 5 percent of the total Office of the Child's Representative's appropriation may be transferred between line items in the Office of the Child's Representative.

- n Judicial Department, Office of the Respondent Parents' Counsel -- In addition to the transfer authority provided in Section 24-75-108 (5), C.R.S., up to ~~2.5~~ 5 percent of the total Office of the Respondent Parents' Counsel's appropriation may be transferred between line items in the Office of the Respondent Parents' Counsel.

**Staff recommends the following NEW footnote for Main Judicial, which provides similar flexibility, but with a larger percentage cap. The larger percentage cap reflects the increased transfer possibilities in a larger department with more fund sources.**

- n In addition to the transfer authority provided in Section 24-75-108 (5), C.R.S., up to 10 percent of the total appropriation to the following divisions may be transferred between line items: Supreme Court and Court of Appeals, Courts Administration, Trial Courts, Probation and Related Services may be transferred between line items in these divisions. Appropriations may be transferred within these divisions or between these divisions.

**COMPENSATION FOOTNOTE FOR JUDICIAL BRANCH:** During figure setting, the Committee approved the following compensation footnote for the judicial branch, which provide a 3% salary increases.

- n Judicial Department, Supreme Court and Court of Appeals, Appellate Court Programs; Trial Courts, Trial Court Programs; Office of the State Public Defender, Personal Services; Office of the Alternate Defense Counsel, Personal Services; Office of the Child's Representative, Personal Services; Office of the Respondent Parents' Counsel, Personal Services -- In accordance with Section 13-30-104 (3), C.R.S., funding is provided for judicial compensation, as follows:

	FY 2019-20		FY 2020-21
	Salary	Increase	Salary
Chief Justice, Supreme Court	\$192,256	\$5,768	\$198,024
Associate Justice, Supreme Court	188,151	5,645	193,796
Chief Judge, Court of Appeals	184,837	5,545	190,382
Associate Judge, Court of Appeals	180,697	5,421	186,118
District Court Judge, Denver Juvenile Court Judge, and Denver Probate Court Judge	173,248	5,197	178,445
County Court Judge	165,795	4,974	170,769

Funding is also provided in the Long Bill to maintain the salary of the State Public Defender at the level of an associate judge of the Court of Appeals and to maintain the salaries of the Alternate Defense Counsel, the Executive Director of the Office of the Child's Representative, and the Executive Director of the Office of the Respondent Parents' Counsel at the level of a district court judge.

**Staff now recommends the following alternative footnote, with changes underlined by dotted lines.**

n Judicial Department, Supreme Court and Court of Appeals, Appellate Court Programs; Trial Courts, Trial Court Programs; Office of the State Public Defender, Personal Services; Office of the Alternate Defense Counsel, Personal Services; Office of the Child's Representative, Personal Services; Office of the Respondent Parents' Counsel, Personal Services -- In accordance with Section 13-30-104 (3), C.R.S., funding is provided for judicial compensation, as follows:

	<u>FY 2019-20</u>	<u>Increase</u>	<u>FY 2020-21</u>
	<u>Salary</u>		<u>Salary</u>
Chief Justice, Supreme Court	\$192,256	\$0.....	\$192,256
Associate Justice, Supreme Court	188,151	0.....	188,151
Chief Judge, Court of Appeals	184,837	0.....	184,837
Associate Judge, Court of Appeals	180,697	0.....	180,697
District Court Judge, Denver Juvenile Court Judge, and Denver Probate Court Judge	173,248	0.....	173,248
County Court Judge	165,795	0.....	165,795

Funding is also provided in the Long Bill to maintain the salary of the State Public Defender at ~~97.5 percent of~~ the level of an associate judge of the Court of Appeals and to maintain the salaries of the Alternate Defense Counsel, the Executive Director of the Office of the Child's Representative, and the Executive Director of the Office of the Respondent Parents' Counsel at ~~97.5 percent of~~ the level of a district court judge.

Staff recommends a 97.5 percent salary percentage for the State Public Defender and the other listed directors to parallel the 2.5 percent personal services base reduction that the Committee has approved. **Staff requests permission to adjust this percentage in step with changes the Committee may approve for the personal services base reduction percentage.**