

Court of Appeals of Maryland
Robert C. Murphy Courts of Appeal Building
361 Rowe Boulevard
Annapolis, Maryland 21401-1699



MARY ELLEN BARBERA
Chief Judge

BUDGET ALLOWANCE

FISCAL YEAR 2019

JUDICIAL BUDGET OVERVIEW AND INTRODUCTION

The Judiciary's Fiscal Year 2019 Budget Submission is \$591 million, which represents approximately 1.2 percent of the State's operating budget. The major components of the budget are as follows: salaries and benefits at 69 percent, contractual services at 13 percent, aid to courts/grants at 9 percent, and fixed costs at 3 percent. The General Fund submission of \$524 million represents a 6.9 percent increase or \$33.8 million over the Fiscal Year 2018 appropriation. This submission includes funding for personnel related items such as new positions, employee merits, salary increases for judges and elected Clerks of Court, fringe benefits, and salary adjustments, as well as operational increases.

BUDGET ISSUES

Issue 1 – Judicial Compensation Commission Offers Recommendations

The Judicial Compensation Commission met during the 2017 interim and has recommended a \$35,000 salary increase for each State judge phased in over the next four years. The Judiciary has included \$5.6 million to fund the plan in fiscal 2019, and DLS estimates that the cumulative cost will reach \$22.6 million in fiscal 2022, the first year the plan would be fully implemented.

The Department of Legislative Services (DLS) recommends that, in light of the State's fiscal condition, the General Assembly deny the requested salary increases as unaffordable and unnecessary to recruit and retain qualified judges in the State.

JUDICIARY RESPONSE:

The Maryland statute provides for a Judicial Compensation Commission appointed by the Senate President, House Speaker and Governor to advise the legislature about judicial salaries every four years. In its 2018 report to the General Assembly, the Commission addressed the need for competitive salaries in order to recruit qualified candidates and expressed concerns about the widening gap of judicial salaries both in comparison with companion states (pages 10-11) and with private sector law firm compensation (pages 12-

13). After an extensive review of comparable data, the Commission recommended that “salary increases are merited and necessary in order to assure that qualified individuals from diverse backgrounds will be attracted to serve as judges without unreasonable economic hardship.”

Of the nine regional states with which Maryland is most comparable geographically and economically, the salaries of Maryland judges currently rank in the bottom third: Circuit Court – ninth (last); Court of Special Appeals – sixth; Court of Appeals – eighth; Chief Judge, Court of Appeals – seventh. Moreover, Maryland’s judicial salaries have lost ground or remained stagnant in the rankings over the past four years: Circuit Court – dropped from eighth to ninth; Court of Special Appeals – dropped from fifth to sixth; Court of Appeals – dropped from sixth to eighth; Chief Judge, Court of Appeals – remained at seventh. Of the seven states (including Maryland) having limited jurisdiction courts comparable to the District Court, Maryland ranked sixth out of seven, but ranked last when a cost-of-living factor was applied.

In a national ranking of all fifty states and the District of Columbia, the salaries of Maryland judges also generally dropped in their competitive positions overall, and when the cost-of-living factor is applied. The salary ranking for a Circuit Court judge drops to 45th nationally when the cost-of-living factor is applied. Similarly, salaries for judges in the Court of Special Appeals ranked 37th, while those in the Court of Appeals ranked 42nd.

Every day, Maryland judges are called upon to make decisions that have a profound impact on people’s lives. They hear cases that run the gamut from traffic violations to first-degree murder, from landlord-tenant disputes to civil cases involving medical malpractice and complex commercial and technology matters. They hear difficult cases involving divorce, child custody, domestic violence, and human trafficking. Maryland’s judges are also supporting expanded services for children and families, juveniles, human trafficking victims, the elderly, the unrepresented, and the limited English-speaking population. At the same time, judges are adapting to significant changes as the Judiciary phases in the Maryland Electronic Courts (MDEC) initiative. The Maryland Judiciary must be able to attract judicial applicants with diverse professional *expertise* to meet the unique challenges of such cases and initiatives. A failure to offer salaries that will attract such applicants will negatively impact the professional diversity and, therefore, quality of the Maryland Bench.

Issue 2 – New Judicial Workload Assessment

The Judiciary has issued new workload measures for judges in order to improve how it measures the need for judgeships across the State. The new workload measures indicate that there is less need for judges statewide than previously assumed. Some jurisdictions may even have more judges now than these measures indicate are necessary to meet demand.

The 2018 legislative session is the first time the Judiciary and General Assembly have quantifiable evidence that any jurisdiction has more judges than necessary for its

workload. In response the Judiciary has elected not to recommend any changes to the State's bench, including new judgeships where a need has been demonstrated until there has been additional time for study and the scope of options available to the Judiciary and General Assembly is better understood.

DLS recommends that the Judiciary comment on how it plans to respond to the new workload study's findings and, in particular, how it plans to address the reported surplus of judicial resources in some jurisdictions. DLS also recommends that the Judiciary discuss how it plans to increase judicial capacity in Baltimore County when the new Catonsville District Courthouse opens. DLS further recommends that the Judiciary's fiscal 2020 judgeship need certification include a discussion of options for more efficiently utilizing existing judgeships to ease workloads statewide and a new, multi-year judgeship deployment plan. Finally, DLS recommends that funding for magistrates and recalled judges be reduced in those jurisdictions shown to have sufficient regular judicial resources.

JUDICIARY RESPONSE:

A. Workload Study Findings

In 2015, the Judiciary engaged the National Center for State Courts (NCSC) to update the standards for use in a weighted caseload model to certify the need for judgeships in the trial courts. The model was then run on Fiscal Year 2017 data to provide the current workload certification study. This updated certification indicates the need for judgeships in some jurisdictions; however, for the first time, the study shows that there is diminished need for judgeships in other jurisdictions. To respond to this unprecedented circumstance, the Judiciary is evaluating docket structure, senior judge usage, and judgeship needs in adjoining jurisdictions. Although this study is a valuable quantitative tool, the current circumstances dictate prudence and caution. Recent changes to rules and statutes, increases in several non-criminal case filings, and potential for the increase in the rate of criminal filings, indicates that the workload needs could increase in the next several fiscal years.

While the "Analysis of Need for Additional Judgeships in the Judicial Branch: Fiscal Year 2019" report (the Report) shows that judicial resources exceed the anticipated need, the Judiciary is currently examining the impact and exploring options to align with current needs. Although the report indicates that in some courts resources exceed current need, it shows a continued need for new judgeships in other courts. Statewide, Circuit Courts have a total of 173 judges and a need for 180. In the District Court, six jurisdictions show a need for additional judgeships. Moreover, while the numbers may suggest a resource overage in some courts, the quality of justice for all who enter Maryland's courts must also be considered.

There is a need for caution when addressing any judicial surplus which is supported by examining current trends in a number of case types. The decrease in judicial needs is directly related to the decline in criminal case filings, particularly in Baltimore City;

however, the decrease in criminal filings appears to be flattening. In addition, Circuit Court caseloads increased in CINS, TPR, guardianships, CINA, contracts, civil, adult drug court, adoptions, domestic violence protective orders, and problem-solving courts. Similarly, in the District Court, mental health courts, small and large claims civil cases, domestic violence protective orders, civil infractions, landlord-tenant, and DUI/DWI all have shown increases in the past two years. Finally, with the increased focus on the heroin epidemic in drug courts, it is expected that this case category will increase in the next year. It should be noted that the ratio of criminal filings to drug court admissions has increased in each of the past several years.

Further highlighting the need for caution are several recent changes that affect the weighted caseload model that are not reflected in the Report. As a result of Maryland Rule 4-216.1, which became effective July 1, 2017, judges must conduct a financial inquiry of the defendant's assets to determine bail and must articulate on the record the least onerous means for determining the conditions of release at these bail review hearings. This new business process has significantly increased the time judges spend on bail review hearings. From July 1, 2017, to January 30, 2018, the District Court conducted 28,054 bail reviews. The consensus among judges following implementation of Rule 4-216.1 is that the time spent on bail hearings has doubled.

A further consideration is the impact of the District Court commissioners now performing the indigency determination for all representation requests. Although this new business process has only been effective since October 1, 2017, it appears that it is adding additional delays and postponement requests during subsequent appearances before a judge. It is anticipated that an examination of this new judicial workload will reflect an increase in case weights.

In addition, the use of red-light cameras in Baltimore City has recently been reinstated and those cases are now being heard in the District Court. Starting in October 2017, Baltimore City District Court has been hearing three additional dockets per month with 200 cases per docket. Further, starting in the summer of 2017, Baltimore City District Court has been hearing two additional dockets per month with 275 cases per docket for Maryland Transportation Authority (MDTA) electronic toll violations. Finally, the Baltimore City Police instituted a policy requiring 100 percent of the officers to use body cameras at all times, thereby increasing trial length, particularly when there are multiple cameras from multiple officers being presented as evidence.

The Judiciary will evaluate these new considerations to determine how best to address the impact to judgeships and to the people who come before the court.

B. Catonsville Judicial Capacity

The anticipated completion of the new Catonsville courthouse is the fall of 2019. In the short term, Baltimore County staffing may be supplemented by Baltimore City and Howard County judges; however, this solution is untenable in the long term as judgeships are filled by jurisdiction. When the judicial workload analysis is conducted for Fiscal Year 2020,

taking into the account the considerations mentioned previously, the Judiciary will be in a better position to determine judicial resource allocation and need.

C. 2020 Judgeship Need Certification and Multi-Year Deployment Plan

In its Fiscal Year 2020 judgeship needs certification, the Judiciary will include a discussion of options for more efficiently utilizing existing judgeships and will address a multi-year deployment plan.

D. Funding for Magistrates and Recalled Judges

A decrease in funding for senior judges and magistrates is premature. Senior judges and magistrates are vital to the operations of trial courts and they are routinely relied upon to handle important aspects of the courts' caseload. Senior judges are typically used, even in fully-judged courts, for the following reasons: when judges are on leave, particularly for extended medical or other leave, for specially assigned protracted cases, settlement conferences in civil and domestic cases, pre-trial conferences, when there are judicial vacancies, and in cases involving conflicts of interest. Additionally, when conflicts of interest occur, there may be no other judge in that county/city to hear the case. Circuits that have a surplus of magistrates still must rely on senior judges since magistrates cannot hear all case types. While a decrease in senior judge usage is anticipated in the jurisdictions that show a diminished need in the District Court, these jurisdictions may still need senior judges for many of the reasons listed above. Both Circuit and District Courts will carefully analyze senior judge usage and magistrate needs against jurisdictional needs in other locations, docket structures, and legislative changes to ensure that quality of justice is not compromised. While the Judiciary recognizes the findings in the study, additional time is needed to evaluate the potential consequences of reducing funding and positions.

Issue 3 – Courthouse Information Technology Upgrades More Expensive Than Expected

Estimated expenditures for the Courthouse eReadiness project, which is upgrading courthouses to accommodate the Maryland Electronic Courts Initiative (MDEC), increased by 17.5 percent to \$14.3 million in the fiscal 2019 Information Technology (IT) Master Plan. These upgrades have proven more costly than expected in older courthouses across the State and may be particularly difficult for facilities in Baltimore City that are near the end of their life cycle.

DLS recommends that the Judiciary comment on the current condition of the IT infrastructure in the Mitchell and Fayette Street courthouses and the upgrades necessary for MDEC. DLS further recommends that the Judiciary prepare a report outlining a strategy to mitigate the costs of upgrading the Fayette Street courthouse for MDEC.

JUDICIARY RESPONSE:

Most facilities more than 10 years old are not ready to support the additional data and network demands that come with the modern systems and technology being implemented in courthouses today. As courts become more reliant on electronic systems, secondary/redundant networks are necessary to ensure uninterrupted operations. The historic Mitchell Courthouse and the District Court at Fayette Street are no exception. Costs to prepare a facility for the new requirements fall into a several categories including: the installation of fiber optic and Ethernet cabling, wireless access, outside building infrastructure to support redundant communications, audio-video (AV) technology in the courtrooms, and network infrastructure components.

As in all other courts where MDEC has been implemented, these courthouses require infrastructure improvement. There are no plans to move the Mitchell Courthouse and the costs estimated for infrastructure are based on the unique challenges presented with a historic building.

The current cost estimate of \$255,600 for the Fayette Street building breaks down into \$143,500 sunk costs and \$111,600 in re-usable investment. The sunk cost savings can be realized if the move from Fayette to the Shillman Building is accelerated in the capital budget.

Per the Department's recommendation, the Judiciary will prepare a report outlining a strategy to mitigate the costs of upgrading the Fayette Street courthouse for MDEC.

Issue 4 – Compensation Study Leads to Higher, More Equitable Salaries for Judiciary Employees

The Judiciary conducted a compensation study in 2014 that found a need for reclassifications and other personnel policy changes to ensure compensation equity within the Judiciary. The study also found that Judiciary salaries, like those across State government, are not competitive in the marketplace. From calendar years 2015 to 2017, the AOC worked to eliminate the inequities identified in the study. Then, in October 2017, the Judiciary instituted a new, increased salary scale for many of its frontline employees. This plan is expected to cost \$4.4 million in general funds in 2018, which will be funded by the Judiciary cutting other expenses. The cost increases to \$6.2 million in general funds in fiscal 2019, which is included in the current budget request.

DLS recommends that the Judiciary comment on the importance and necessity of its salary plan and how it relates to the findings of its compensation study. DLS further recommends that the fiscal 2019 allowance be reduced to reflect the savings the Judiciary plans to achieve in its other operating expenses to fund the plan in fiscal 2018.

JUDICIARY RESPONSE:

In 2014, in response to concerns raised by senior managers and staff, the Judiciary secured the services of Segal Waters Consulting (Segal) to conduct a classification and compensation Study for state-paid positions within the Judicial Branch. Segal conducted a comparison of the classification and compensation structures for state-paid positions in the Judiciary to the pay structures of state judiciaries in the Mid-Atlantic region. It also reviewed the classification and compensation structures for local government positions in several large counties and state paid positions in Maryland. The previous study was conducted in 2000 and its findings and recommendations were only partially implemented due to budget constraints at that time.

As a result of the 2014 study and further analysis of every existing job classification, numerous structural issues were noted with the Judiciary Classification and Compensation system that resulted from past classification and compensation practices, the previous salary structure, and the partial implementation of the 2000 study, including:

- Inconsistent titles and job descriptions between court levels and jurisdictions;
- Inconsistent titles and job descriptions within the AOC and units;
- Positions that were not graded correctly;
- Positions that were not properly compensated;
- Inconsistent pay for the same position;
- No recognition of additional competencies gained by tenured employees;
- No consistent set up of small, medium and large courts, *e.g.* hierarchal inconsistencies; and,
- Potentially inequitable classification and compensation practices.

As a result of the study and the Judiciary's analysis, numerous corrections and changes have been made to the Judiciary Classification and Compensation System. The revised salary structure was necessary to correct the structural deficiencies that existed in the previous plan that resulted in inconsistent and inequitable compensation. Almost 200 job titles were consolidated or eliminated to ensure consistency in classification. A corrected salary structure was developed and implemented, incorporating a living-wage baseline. Together, these changes addressed critical findings in the study.

The Judiciary concluded that it was necessary and prudent to implement a portion of these changes and corrections to the classification and compensation system in Fiscal Year 2018. Given the level funding of the Circuit Court Clerk's offices in Fiscal Year 2018 and the new budgeting procedures implemented in Fiscal Year 2019, the Judiciary will not have the necessary funds to cover this reduction.

Issue 5 – Judiciary Expands Drug Court Grants but Falls Short on the Heroin and Opioid Prevention Effort and Treatment Act Funding

The Heroin and Opioid Prevention Effort and Treatment Act (HOPE Act) (Chapters 571 and 572 of 2017) is the centerpiece of the State's legislative response to the ongoing

opioid crisis. The HOPE Act includes intent language directing the Judiciary to request \$2 million in fiscal 2019 to expand drug court services statewide. After evaluating drug court capacity, the Judiciary has presented a plan to increase expenditures by \$750,000 and add new drug courts in Baltimore, Montgomery, and Washington counties.

DLS recommends that the Judiciary comment on how OPSC and the State's drug courts are responding to the opioid epidemic, why the approach to drug court expansion that it has offered is the most appropriate under the circumstances, and how it would utilize the full \$2 million in additional funding in fiscal 2019 if it was provided by the General Assembly.

DLS recommends that the Judiciary discuss with the committees major trends in drug court participation and why it believes participation has declined in the last five years.

JUDICIARY RESPONSE:

The Heroin and Opioid Prevention Effort and Treatment Act (HOPE Act), represents a comprehensive and coordinated effort between the three branches of State government to address the ongoing opioid epidemic that has impacted Maryland. The HOPE Act seeks to expand services for individuals with opioid use disorders and provide emergency medical treatment.

The HOPE Act directed the Judiciary to take two actions. First, the State Court Administrator was required to assess drug court programs and how they could be expanded to meet the increasing need; this report, entitled "Maryland Drug Courts: An Assessment," (the Report) was submitted on December 22, 2017. Second, there was intent language asking that the Judiciary's budget request for Fiscal Year 2019 increase funding for drug court grants by \$2 million.

As detailed in the Report submitted by the State Court Administrator, the Judiciary developed a plan that, consistent with the intent of the HOPE Act, provides for \$750,000 in additional funding in Fiscal Year 2019. The Report indicates that the creation and expansion of drug courts requires buy-in and resource commitments from other stakeholders that may not be achieved quickly.

Successful drug courts require the participation not only of judges and court staff, but also of defense attorneys, State's Attorneys, the Division of Parole and Probation, and community treatment providers. The Report stresses that it will take several years to expand drug court offerings enough to justify \$2 million in additional funds from the Judiciary.

There are logistical challenges posed by large-scale, rapid expansion of drug court services; however, to address the ongoing opioid crisis, the Judiciary is dedicated to responding to this crisis through problem-solving courts as it did with the cocaine epidemic before it. Sustainable drug courts will provide the best practices to those that are eligible to enter these court programs.

To utilize the full \$2 million in additional funding in Fiscal Year 2019, if provided by the General Assembly, the Judiciary would disperse the funds consistent with the Maryland Department of Legislative Services SB 967 Fiscal and Policy Note, which instructs the State Court Administrator to “disburse grants authorized by the \$2 million appropriation in the fiscal 2019 budget based on the population of each county.” The Judiciary estimates a cost of \$390,000 to establish three new drug courts and \$1.6 million to cover costs associated with increased eligibility in operational drug courts. For the purposes of the needs assessment, the population utilized to determine the percent of grant amount for each county is defined as the number of individuals in need of treatment for opioid use disorder (OUD).

Drug courts emerged out of the cocaine epidemic of the late 1980s. The idea was instead of jailing people with serious drug problems, drug courts would provide an alternative to incarceration that uses the leverage of the courts to connect people with long-term treatment and supportive services. Today’s drug courts have adapted to the opioid epidemic by embracing medication-assisted treatment (MAT), which combines the use of FDA-approved medication with counseling and behavioral therapies to treat substance use disorders.

In problem-solving courts, substance use and mental health disorders are seen as public health issues instead of moral failings. Participants receive evidence-based treatment, including medication-assisted treatment and services to assist with education, employment, housing, family reunification, and health care. Instead of jail, they get accountability mixed with compassion and the opportunity to transform their lives.

Maryland has seen a decline in case filings statewide after the passage of legislation that makes possession of less than 10 grams of marijuana a civil citation. Individuals issued a civil citation do not have to provide identification, thus making it difficult to identify those who have been cited multiple times and are possibly in need of assistance with substance use disorders.

Despite an overall decline in criminal filings statewide, the percentage of District and Circuit Court criminal cases that resulted in a problem-solving court admission increased virtually every year from Fiscal Year 2014 to Fiscal Year 2017. More frequently than ever before, in Fiscal Year 2017, one out of every 98 Circuit Court criminal filings statewide resulted in an admission to drug court (Table 1). Similarly, in the District Court, one out of every 204 criminal filings resulted in a drug, DUI, veteran or mental health court admission (Table 2). Because this includes jurisdictions that do not have problem-solving courts, the frequency of admission is even greater when focusing on individual jurisdictions with problem-solving courts. For example, in Baltimore City District Court, one out of every 159 criminal filings results in an admission to a drug or mental health court.

Table 1. Circuit Court Statewide Totals

Statewide Total	FY 2014	FY 2015	FY 2016	FY 2017
Criminal Original Filings*	52,846	47,903	45,173	40,971
Adult Drug Court Admissions	387	410	410	416
Adult Drug Court Admission Rate <i>(Number of Criminal Filings for every PSC admission)</i>	137	117	110	98
Adult Drug Court Admissions Rate <i>(as percentage of Criminal filings)</i>	0.73%	0.86%	0.91%	1.02%
* Criminal filings include all filings in the NCSC "Criminal Indictments and Informations" as well as the "Jury Trial Prayer/Criminal Appeals" case type categories.				

Table 2. District Court Statewide Total

Statewide Total	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Criminal Original Filings*	216,928	200,228	162,587	159,971	152,543
Drug, Veteran, and Mental Health Court Admissions	719	632	624	582	626
Drug, Veteran and Mental Health Court Admission Rate <i>(Number of Criminal Filings for every PSC admission)</i>	302	317	261	275	244
Drug, Veteran and Mental Health Court Admissions rate <i>(as percentage of Criminal filings)</i>	0.33%	0.32%	0.38%	0.36%	0.41%
* Criminal filings include all filings in the NCSC "Criminal Other" and "DUI/DWI" case type categories.					

As the decline in criminal filings starts to show evidence of leveling out, this increased frequency of problem-solving court use will likely result in an overall increase in total problem-solving court admissions in the future. In fact, some signs of this are starting to appear already in the Circuit Court for Baltimore City. Despite a modest decrease in criminal filings from Fiscal Year 2016 to Fiscal Year 2017, the Baltimore City Adult Drug Court saw an 83 percent increase in the total number of drug court admissions during that time period.

The decline in juvenile drug court participation also contributed to the overall decline in drug court admissions. Juvenile drug court participation dropped from 451 participants in 13 programs in Fiscal Year 2013, to a low of 163 participants in five programs in Fiscal Year 2017.

Approximately, 95 percent of the decline in the number of people served in Maryland drug courts from Fiscal Year 2013 to Fiscal Year 2017 can be attributed to the decline in Baltimore City arrests and juvenile drug courts admissions.

RECOMMENDED ACTIONS

Recommendation 1

Add the following language:

Provided that \$13,957,388 in general funds for employee merit salary increases, increased compensation for judges, and a new salary plan for regular employees are reduced. The Chief Judge is authorized to allocate this reduction across the Judiciary. These funds are provided for the following purposes:

<u>Employee merit increases</u>	<u>\$3,918,030</u>
<u>Judicial Compensation Commission recommended salary increases</u>	<u>\$5,611,750</u>
<u>Salary plan for regular employees</u>	<u>\$4,427,558</u>

Explanation: This action eliminates funding for merit salary increases for Judiciary employees but retains funding for cost-of-living adjustment consistent with the Governor's budget. The action also eliminates funding for judicial salary increases proposed by the Judicial Compensation Commission. Finally the action eliminates the portion of the funding for a new salary plan for Judiciary employees that it plans to fund within existing resources in fiscal 2018. This action is not intended to reduce or eliminate salary increases.

JUDICIARY RESPONSE:

A. Employee Merit Increases

The Judiciary concurs with the Department's recommendation to eliminate funding for employee merit salary increases, but disagrees with the substitution of COLA for reasons noted in Recommended Action 2.

B. Judicial Compensation

The Judiciary disagrees with the Department's recommendation. See issue 1.

C. Employee Salary Plan

The Judiciary disagrees with the Department's recommendation. The Judiciary concluded that it was necessary and prudent to implement a portion of these changes and corrections to the classification and compensation system in Fiscal Year 2018. Given the level funding of the Circuit Court Clerk's offices in Fiscal Year 2018 and the new budgeting procedures implemented in Fiscal Year 2019, the Judiciary will not have the necessary funds to cover this reduction and is requesting that \$4.4 million be restored.

Recommendation 2

Add the following language:

Further provided that \$2,677,912 in general funds is reduced. The Chief Judge shall allocate this reduction across the Judiciary.

Explanation: This action reduces fiscal 2019 general fund appropriation by \$2.7 million with the intent that, in light of the State's fiscal situation and the Spending Affordability Committee's recommendation to eliminate the structural deficit, the Judiciary's general fund appropriation grow no more than the 3.3 percent estimated growth rate for general fund revenue in fiscal 2019.

JUDICIARY RESPONSE:

The Department is recommending the Judiciary absorb the COLA within its Fiscal Year 2019 budget request. This places the Judiciary at a \$3 million disadvantage, since the COLA for all three branches of the State government is typically included in the Department of Budget and Management's Statewide Program and distributed to the branches during the Fiscal Year. No COLA has ever been included as part of the Judiciary budget request, because it has always been allocated via budget amendment after session. By including COLA as part of the Judiciary's request, the Department's action offsets the reduction in merit, which if taken in full, would make the additional reduction of \$2,677,912 unnecessary in order to reach the 3.3 percent target. The COLA should not be included as part of the recommended 3.3 percent target.

Recommendation 3

	<u>Amount Reduction</u>	<u>Position Reduction</u>
Reduce funding for recalled trial court judges. This reduction is intended to eliminate funding for those jurisdictions that were shown in the Judiciary's fiscal 2019 certification of judgeships to have sufficient judicial resources to manage their current caseloads without additional assistance.	\$ 1,077,690 GF	

JUDICIARY RESPONSE:

The Judiciary disagrees with the Department's recommendation. See Issue 2.

Recommendation 4

	<u>Amount Reduction</u>	<u>Position Reduction</u>
Eliminate funding for 5.75 circuit court magistrates. This action is intended to eliminate unneeded positions in four jurisdictions based on the Judiciary's fiscal 2019 certification of judgeships.	954,399 GF	5.75

JUDICIARY RESPONSE:

The Judiciary disagrees with the Department's recommendation. See Issue 2.

Recommendation 5

Add the following language to the General Fund appropriation:

. provided that \$8,500,000 of the general fund appropriation may only be expended for the purpose of providing attorneys for required representation at initial appearances before District Court Commissioners consistent with the holding of the Court of Appeals in DeWolfe v. Richmond. Any funds not expended for this purpose shall revert to the General Fund.

Explanation: This language restricts the use of \$8.5 million of the Judiciary's general fund appropriation for the implementation of *DeWolfe v. Richmond*.

JUDICIARY RESPONSE:

The Judiciary concurs with the Department’s recommendation, but finds it unnecessary to segregate these funds as this is an existing program within the Judiciary.

Recommendation 6

	<u>Amount Reduction</u>		<u>Position Reduction</u>
Eliminate funding for 17.0 positions in the District Court. These positions are being denied due to the fiscal condition of the State.	834,097	GF	17.0

JUDICIARY RESPONSE:

The Judiciary concurs, in part, with the Department’s recommendation. Statewide, expungement clerks are required to process requests for expungements in a timely manner. While delayed processing of expungement cases will result, the Judiciary concurs with the elimination of six of the requested expungement clerk positions, reducing the request to 11 new positions.

The Justice Reinvestment Act, which became effective October 1, 2017, has greatly expanded the number of individuals and case types that may now be expunged. For the first time, over 100 different types of criminal convictions may now be expunged resulting in the potential for hundreds of thousands of new expungement requests. In Fiscal Year 2017, there were approximately 47,008 petitions for expungement filed in the District Court. Thus far in Fiscal Year 2018, the District Court has experienced a 55 percent increase in expungement filings due to prior expansions of the laws regarding expungements and an emphasis by advocacy groups to inform individuals of this opportunity. Expungements increase clerical workload significantly as the expungement process is handled manually and is a long, labor-intensive, and expensive process involving the determination of eligibility.

Recommendation 7

	<u>Amount Reduction</u>	<u>Position Reduction</u>
Reduce funding for furniture and equipment purchases to fiscal 2017 actual expenditures. This reduction is intended to be spread across the Judiciary.	494,569	GF

JUDICIARY RESPONSE:

The Judiciary concurs, in part, with the Department's recommendation. The Judiciary requests restoration of \$150,000 to fund the replacement of aging security equipment, including X-ray units, metal detectors and wands statewide. In light of recent national tragedies, it is even more imperative now that the Judiciary provide safe and secure facilities for public and staff. In 2017, the District Court scanned 3,625,545 visitors at the doors; security equipment scanning resulted in bailiffs confiscating: 6,888 knives, 1,257 chemical/OC spray canisters, 280 firearms, 285 cameras/video recorders, and 1,235 tools.

Recommendation 8

Adopt the following narrative:

Appointed Attorney Program Costs and Utilization: The committees remain interested in the costs and operations of the Appointed Attorney Program. The committees request a report detailing the fiscal 2018 costs and utilization of the Appointed Attorney Program.

JUDICIARY RESPONSE:

The Judiciary concurs with the Department's recommendation.

Recommendation 9

	<u>Amount Reduction</u>	<u>Position Reduction</u>
Eliminate funding for 4.0 new positions in the Administrative Office of the Courts. These positions are being denied due to the fiscal condition of the State.	225,000 GF	4.0

JUDICIARY RESPONSE:

The Judiciary disagrees with the elimination of these positions.

The primary responsibility for the first position, in the Access to Justice Department, will be to develop MDEC “smart forms” to aid users, especially self-represented litigants, in representing themselves more effectively in court. “Smart forms” will assist individuals who are not required to efile, as well as allow MDEC users to efile to MDEC. This position is needed to ensure that Maryland can take full advantage of new developments that promote access to justice.

The second position, in the Office of Problem-Solving Courts, is essential for increasing drug courts to combat the opioid epidemic in Fiscal Year 2019. This position would help to support the existing 53 problem-solving courts in 21 of the 24 jurisdictions. Additionally, this position would provide needed technical assistance to individual mental health, drug treatment, veterans, and other problem-solving court participants. In a time when Maryland is in the grips of an opioid epidemic, the need for the Judiciary to ensure that each of its problem-solving courts is following best practices is essential.

Finally, the Judiciary is requesting the restoration of two positions in its Judicial College, an Instructional Designer and an Administrative Specialist. Recognizing the ever-increasing need for more proficiency-based education, particularly in light of the new technologies that have been implemented over the last several years, and remaining cognizant of the demands placed on staff that sometimes inhibit their ability to travel to the Judicial College Education and Conference Center, the Judiciary embarked on a journey to supplement its face-to-face educational programs with online instruction. The Instructional Designer is critical to meeting the demand for online instruction, which will support the rigorous work schedules of judges, magistrates, and other staff. Participating in online courses, while remaining in the courts and administrative offices, not only addresses the needs of adult learners, but it also results in less time away from the workplace and less travel time. Staff can participate in self-paced online modules or in instructor-led webinars and be ready to assist the public within an hour or two.

Over the last two years, the Judiciary has increased its education and training programs in all areas – judicial education, technology training, and professional development – by approximately 50 percent. During that same period, the level of administrative support has not changed. Preparing for the more than 50,000 seat hours of classes, which requires the preparation and production of materials for in classroom courses, preparation and production of all learning desk aids and training posters used in the classroom, managing the Judicial College Lending Library, and performing other day-to-day administrative tasks without adequate administrative support has placed a burden on the Judicial College and has hampered its ability to operate efficiently and effectively.

Recommendation 10

Adopt the following narrative:

Maryland Electronic Courts Initiative Upgrades for Baltimore City: The committees are committed to providing sufficient funding for the statewide implementation of the Maryland Electronic Courts Initiative (MDEC) but also expect the project finances to be carefully managed. The committees are concerned that the Judiciary plans to spend at least \$250,000 on information technology upgrades for the Fayette Street District Courthouse in Baltimore City in fiscal 2021 before vacating the facility in fiscal 2022. The committees request a report providing a more detailed explanation of the planned upgrades for the facility and their estimated costs, as well as any less costly alternatives that would achieve the Judiciary’s underlying goal of making the building MDEC capable.

Information Request	Author	Due Date
MDEC upgrades in Baltimore City	Judiciary	December 1, 2018

JUDICIARY RESPONSE:

The Judiciary concurs with the Department’s recommendation to submit a report. See Issue 3.

Recommendation 11

Adopt the following narrative:

New Judgeship Deployment Plan: The committees are interested in the impact of the new judicial workload standards and how they can be best utilized to inform decision making on new and existing judgeships. The committees request that the Judiciary submit a new, multi-year Judgeship Deployment Plan as part of the Judiciary’s fiscal 2020 certification of judicial need. The committees also request that the certification of judicial need include a plan for utilizing excess judge time in jurisdictions shown to have more judges than are necessary to manage existing caseloads.

Information Request	Author	Due Date
New judgeship deployment plan and strategy for efficient management of judicial resources.	Judiciary	January 1, 2019

JUDICIARY RESPONSE:

The Judiciary concurs with the Department's recommendation.

Recommendation 12

	<u>Amount Reduction</u>		<u>Position Reduction</u>
Eliminate funding for a 0.25 new position in the Court Related Agencies program. This position is being denied due to the fiscal condition of the State.	22,429	GF	0.25

JUDICIARY RESPONSE:

The Judiciary concurs with the Department's recommendation.

Recommendation 13

	<u>Amount Reduction</u>		<u>Position Reduction</u>
Eliminate funding for 13.0 new positions in Judicial Information Systems. These positions are being denied due to the fiscal condition of the State.	1,039,768	GF	13.0

JUDICIARY RESPONSE:

The Judiciary concurs, in part, with the Department's recommendation.

The Judiciary requests the restoration of six (6) positions that are deemed essential for maintaining acceptable levels of operational support:

- Quality Assurance Engineer (1)
- eFiling Support Analyst (1)
- Service Desk Technicians (2)
- Security Administration (1)
- Change Management Coordinator (1)

As the rollout of MDEC moves forward, operational support demands continue to increase. With the upcoming expansion to the larger jurisdictions, including Baltimore,

Montgomery and Prince George's counties and Baltimore City, demands for support will increase significantly.

Support needs include:

- 1) A Quality Assurance Engineer for reviewing and testing MDEC software enhancements for the larger jurisdictions;
- 2) Attorney-related support for the Attorney Information System and MDEC electronic filing, including support for the Vendor Electronic Filing Service Provider Program. As of December 2017, there have been over 2 million electronic filings and over 22,000 attorneys have registered MDEC accounts;
- 3) Service Desk Technicians to provide acceptable service levels for managing incidents and service requests as demands increase at a greater pace with the implementation of MDEC in the four largest jurisdictions;
- 4) Additional security administration support for maintaining and enhancing intrusion controls for preventing unauthorized access, system breaches, and to monitor activities and detect threat patterns; and
- 5) A Change Management Coordinator to support the increasing number of changes that have been introduced to the JIS computing environment related to large, complex enterprise-wide applications and systems such as MDEC, GEARS, and CONNECT.

Recommendation 14

Add the following language to the general fund appropriation:

, provided that \$293,611 of the general fund appropriation is contingent upon the enactment of HB 286.

Explanation: This language makes \$293,611 of the general fund appropriation of the Clerks of the Circuit Court contingent upon the enactment of HB 286, which increases the maximum salary for the circuit court clerk of each jurisdiction from \$114,500 to \$124,500. The Judiciary's budget request includes funding to increase the elected clerk's salaries by 8.5 percent when the next term begins for those positions in December 2018. These funds reflect the pro-rated cost of those salary increases in fiscal 2019. If HB 286 is not enacted, the Judiciary will not be authorized to increase salaries as planned.

JUDICIARY RESPONSE:

The Judiciary concurs with the Department's recommendation.

Recommendation 15

	<u>Amount</u>		<u>Position</u>
	<u>Reduction</u>		<u>Reduction</u>
Eliminate funding for 20.5 new positions in the Clerks of the Circuit Court program. These positions are being denied due to the fiscal condition of the State.	1,024,627	GF	20.5
	32,295	SF	

JUDICIARY RESPONSE:

The Judiciary concurs, in part, with the Department's recommendation.

The Judiciary is requesting the restoration of 10.5 positions. The Clerks' offices across the State are vital to the effective and efficient administration of justice, and to ensuring timely access to justice for all who enter the courts. It is essential that they are adequately resourced to address the continued demands placed on their offices with the implementation of new technologies, and changes in business processes resulting from changes in rules and statutes. Eliminating these positions will further strain clerk resources that have either already reached, or are approaching, workload saturation.

The locations and positions requested to be restored are as follows:

- Baltimore County – Family Law Judiciary Clerk
- Baltimore County – Juvenile Courtroom Clerk
- Baltimore County – Courtroom Clerk
- Frederick County – Civil/Family Clerk
- Frederick County – Civil Clerk
- Talbot County – Land Records Clerk (.5)
- Washington County – Judiciary Clerk
- Baltimore City – Asbestos Case Manager
- Baltimore City – Asbestos Case Manager
- Baltimore City – Judiciary Clerk
- Baltimore City – Judiciary Clerk

Restoration of these positions will ensure the quality of service that the citizens of Maryland deserve.

CONCLUSION

As provided for in prior years, the Judiciary requests the flexibility to allocate any reductions.