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Executive Summary

The Judiciary is the branch of State government tasked with adjudicating legal disputes and interpreting and applying the laws of the State. While the Judiciary's budget request is submitted as part of the Governor's budget, it is developed without Executive Branch oversight.

Operating Budget Data

(\$ in Thousands)

	<u>FY 18</u> <u>Actual</u>	<u>FY 19</u> <u>Working</u>	<u>FY 20</u> <u>Allowance</u>	<u>FY 19-20</u> <u>Change</u>	<u>% Change</u> <u>Prior Year</u>
General Fund	\$484,180	\$508,513	\$549,106	\$40,593	8.0%
Adjustments	0	2,238	0	-2,238	
Adjusted General Fund	\$484,180	\$510,751	\$549,106	\$38,355	7.5%
Special Fund	58,121	62,054	65,344	3,290	5.3%
Adjustments	0	141	0	-141	
Adjusted Special Fund	\$58,121	\$62,195	\$65,344	\$3,149	5.1%
Federal Fund	470	1,096	217	-879	-80.2%
Adjustments	0	0	0	0	
Adjusted Federal Fund	\$470	\$1,096	\$217	-\$879	-80.2%
Reimbursable Fund	4,959	4,945	4,838	-107	-2.2%
Adjustments	0	0	0	0	
Adjusted Reimbursable Fund	\$4,959	\$4,945	\$4,838	-\$107	-2.2%
Adjusted Grand Total	\$547,730	\$578,987	\$619,505	\$40,518	7.0%

Note: The fiscal 2019 appropriation includes deficiencies, a one-time \$500 bonus, and general salary increases. The fiscal 2020 allowance includes general salary increases.

Note: Numbers may not sum to total due to rounding.

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- The fiscal 2020 allowance for the Judiciary is \$619.5 million, an increase of \$40.5 million (7.0%) over fiscal 2019. The largest component of this increase is \$26.5 million for personnel, including \$5.2 million to fund new positions.
- The fiscal 2020 allowance includes \$3.4 million in general funds for the design of a new Courts of Appeal building. While the Department of Legislative Services and the Department of Budget and Management both consider this to be a request for pay-as-you-go capital funds, they are included in the operating budget for the sake of consistency with the allowance as offered.

Personnel Data

	<u>FY 18</u> <u>Actual</u>	<u>FY 19</u> <u>Working</u>	<u>FY 20</u> <u>Allowance</u>	<u>FY 19-20</u> <u>Change</u>
Regular Positions	3,989.00	4,028.50	4,084.00	55.50
Contractual FTEs	<u>347.00</u>	<u>344.00</u>	<u>358.00</u>	<u>14.00</u>
Total Personnel	4,336.00	4,372.50	4,442.00	69.50

Vacancy Data: Regular Positions

Turnover and Necessary Vacancies, Excluding New Positions	109.45	2.69%
Positions and Percentage Vacant as of 12/31/18	140.50	3.49%

- The Judiciary's fiscal 2020 allowance includes a total of 69.5 new regular positions and contractual full-time equivalents for the following purposes:
 - 15 regular positions and 12 contractual bailiffs to support the Judiciary's request for 7 new judgeships;
 - 13.5 clerks;
 - 8.25 information technology (IT) specialists;
 - 5 language interpreters;
 - 3 problem-solving court managers;
 - 2 magistrates and 2 clerks for those magistrates;
 - 2 bailiffs; and
 - 6.75 other support positions.

- The budget request is based on a branchwide turnover expectancy of 2.68%. This is a low turnover expectancy for a government organization of this size, especially in recent years. However, the Judiciary has frequently had an actual vacancy rate below 2.68% over the last two years.

Key Observations

- The Judiciary's desire to rapidly expand services while maintaining robust operating budgets for continuing services constrains the ability of the State to fund other priorities.
- Without significant reductions in other areas of the Judiciary's budget allowance, it will be difficult to fully fund personnel, support IT modernization, and accommodate programs prioritized by the Judiciary and the General Assembly.

Operating Budget Recommended Actions

	<u>Funds</u>
1. Add budget bill language to make 4 positions and \$614,911 in general funds contingent upon the enactment of HB 159 or SB 205.	
2. Add restrictive language barring the Judiciary from using any funds from its operating appropriation for the design of a new Courts of Appeal building.	
3. Eliminate 51.0 new regular positions and associated funding.	\$4,236,094
4. Add budget bill language that restricts the use of \$8.5 million in general funds for the implementation of DeWolfe v. Richmond.	
5. Reduce the appropriation for the Appointed Attorney Program to reflect actual utilization.	\$ 1,500,000
6. Reduce the appropriation for self-help centers to the fiscal 2018 actual expenditure.	1,329,886
7. Eliminate funding for 10 new contractual bailiffs.	309,260
8. Adopt annual committee narrative requesting a report on cost and utilization statistics for the Appointed Attorney Program.	

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9.	Adopt annual committee narrative requesting pretrial release statistics.	
10.	Eliminate design funding for a new Courts of Appeal building.	3,427,000
11.	Reduce the appropriation for all general fund grants except those for problem solving courts and county magistrate compensation to the same level as the fiscal 2019 appropriation.	1,641,821
12.	Increase turnover expectancy to 3.25%.	1,935,303
13.	Reduce the appropriations for select operating expenditures to the actual fiscal 2018 expenditures.	8,350,930
14.	Adopt committee narrative requesting a status report on adult drug court evaluations.	
15.	Adopt committee narrative requesting a status update on the development of a Maryland Electronics Courts rent court module.	
Total Reductions		\$ 22,730,294

Updates

- This analysis also includes the following updates:
 - a summary of pretrial release statistics from October 2017 to September 2018;
 - utilization figures for the Appointed Attorney Program;
 - a summary of the Judiciary's fiscal 2020 major IT plan; and
 - reports on domestic violence training for judges and the reformation of the court rules for the Judicial Disabilities Commission.

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Operating Budget Analysis

Program Description

The Judiciary is composed of four courts and five programs that support the administrative, personnel, technological, and regulatory functions of the Judicial Branch of the State government. Courts consist of the Court of Appeals, the Court of Special Appeals, circuit courts, and the District Court. The Chief Judge of the Court of Appeals is the administrative head of the State's judicial system. The Chief Judge appoints the State Court Administrator as head of the Administrative Office of the Courts (AOC) to carry out administrative duties, which include data analysis, personnel management, education, and training for judicial personnel.

Other agencies are included in the administrative and budgetary purview of the Judiciary. Judicial Units include the Commission on Judicial Disabilities and the Maryland State Board of Law Examiners. The State Law Library serves the legal information needs of the State. Judicial Information Systems (JIS) manages information systems maintenance and information technology (IT) development for the Judiciary.

Performance Analysis: Managing for Results

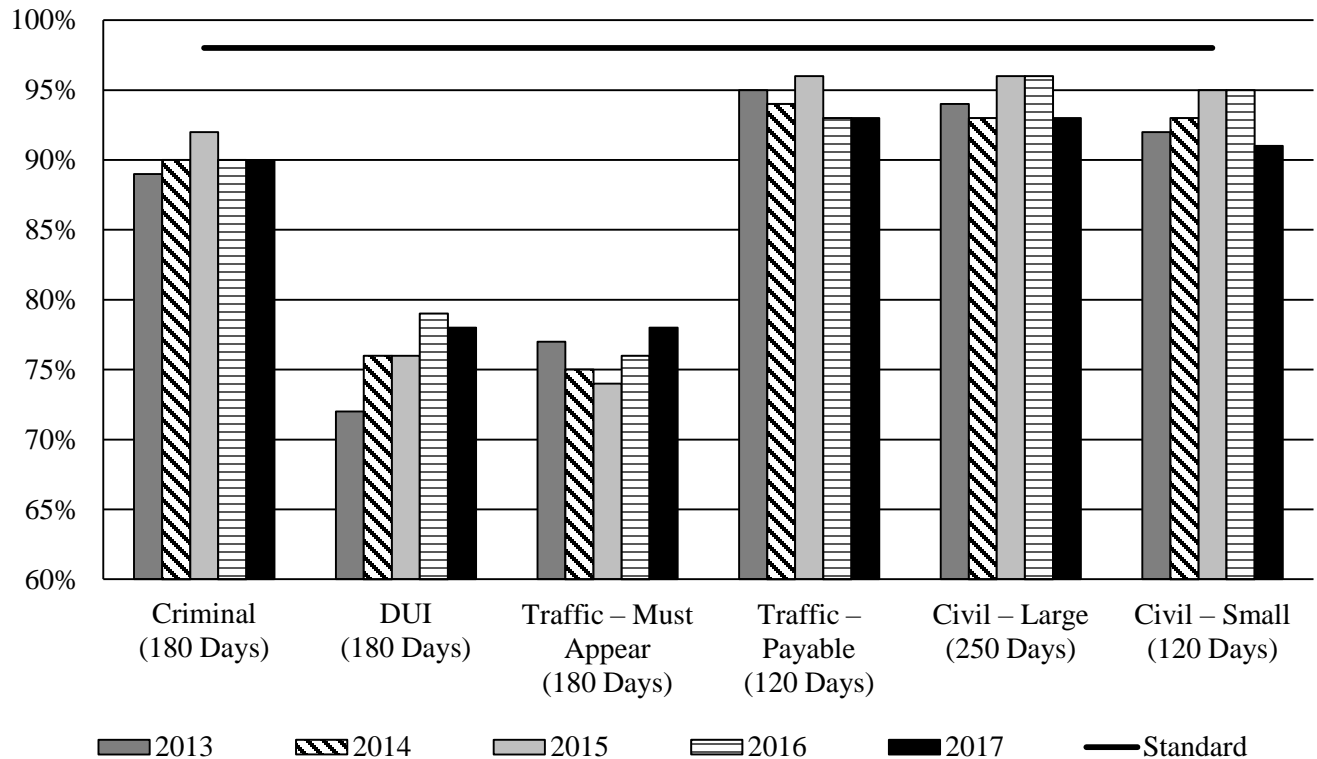
1. Statewide Trial Court Clearance Rates Remain Steady

The Judiciary incorporates case flow standards adopted by the Maryland Judicial Council into its annual Managing for Results data in order to evaluate access to justice; expedition and timeliness; equity, fairness, and integrity; independence and accountability; and public trust and confidence.

The Judiciary utilizes standards set by the American Bar Association that determine the amount of time that it should take to process a particular type of case. Those standards were modified to account for statutes and rules that impact the way in which Maryland courts are required to process certain cases. The statewide case flow assessment submitted by the Judiciary analyzes cases that come through the District and circuit courts and, in particular, the timeliness with which those cases are terminated or otherwise disposed.

The Judiciary reports case time standards for each court based on a random sample of cases from each district and applies a weighting based on the total number of cases in the district. **Exhibit 1** illustrates the percentage of cases disposed within the time standard each year since fiscal 2013 for the District Court. While the average time to disposition was well within the time standard for each case type, the District Court has failed to meet the performance standard of 98% of cases within the standard for all case types. However, performance was generally consistent with previous years and was particularly strong for civil cases.

Exhibit 1
Maryland District Court
Percentage of Cases Terminated Within Time Standard
Fiscal 2013-2017

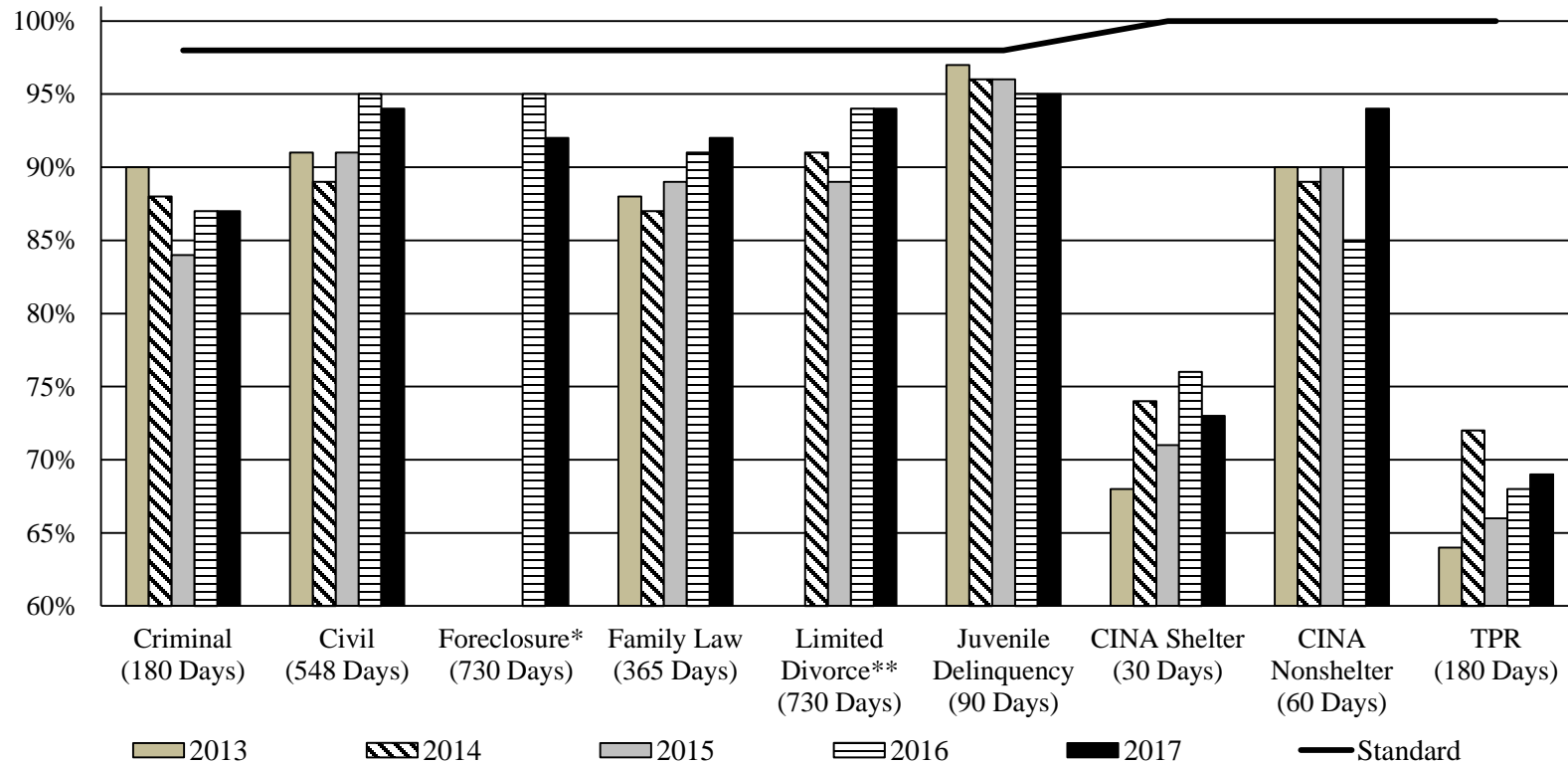


DUI: driving under the influence

Source: Maryland Judiciary; Department of Legislative Services

Exhibit 2 illustrates the percentage of circuit court cases terminated within the time standard. Similar to the District Court, while the average processing time was within the standard for the majority of case types, the circuit courts failed to meet the established target for the percentage of cases resolved within the time standard for all categories (100% of cases within standard for child in need of assistance (CINA) and termination of parental rights (TPR) cases, 98% within standard for all other types). Refinements to the case types in the family law and civil categories have brought higher clearance rates based on more appropriate expectations, but overall results are mixed. CINA and TPR continue to pose a special challenge because of their complexity and the particular need for expedited resolution.

Exhibit 2 Maryland Circuit Courts Percentage of Cases Terminated Within Time Standard Fiscal 2013-2017



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CINA: child in need of assistance

TPR: termination of parental rights

*The foreclosure category was introduced in fiscal 2016. Foreclosure cases were previously included in the civil category.

**The limited divorce category was introduced in fiscal 2014. Limited divorce cases were previously included in the family law category.

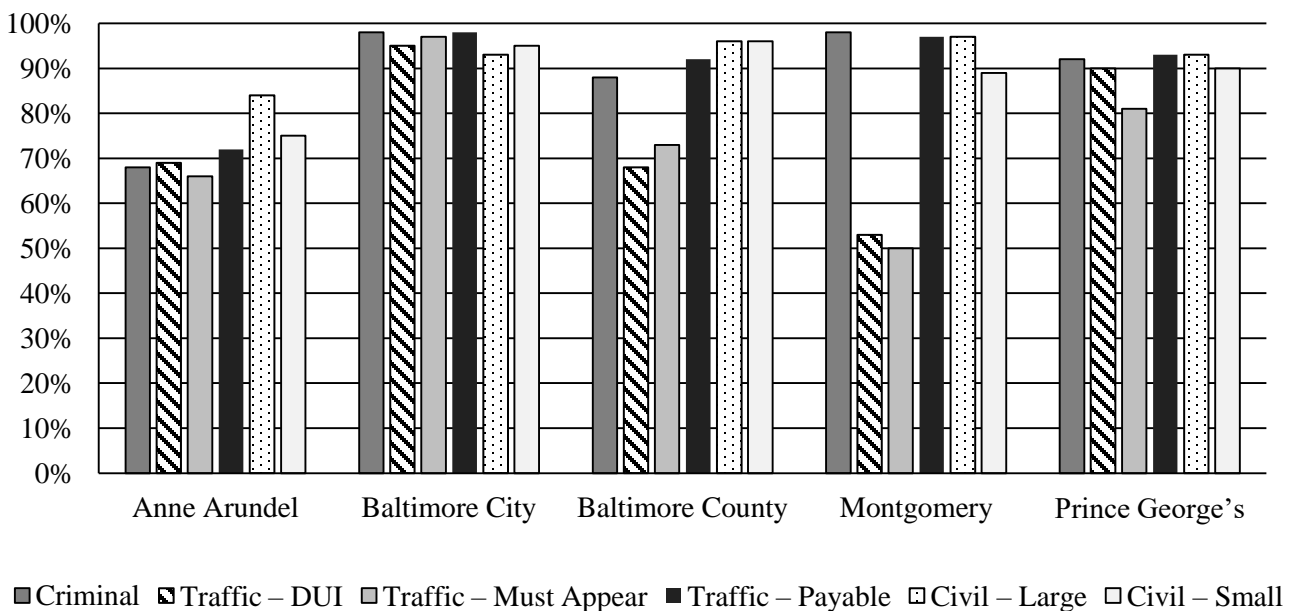
Source: Maryland Judiciary; Department of Legislative Services

2. Anne Arundel County District Court’s Clearance Rate Lags

In addition to statewide data, the Judiciary also provides case flow data at the county level. The Department of Legislative Services (DLS) reviews this jurisdictional data annually but does not generally report to the committees at this level of detail. The data provided for fiscal 2017 is illustrative as to why this is the case. For all local courts but one, the Anne Arundel County District Court, there were only small variations from previous years that would not justify additional review.

For the past several years, the Anne Arundel County District Court has lagged other large jurisdictions in timely clearance rates. To illustrate, the reported fiscal 2017 clearance rates for those jurisdictions are shown in **Exhibit 3**. While Baltimore and Montgomery counties have specifically struggled with major traffic cases, Anne Arundel County is behind across all case types. It should come as no surprise, then, that the Judiciary’s December 2017 workload assessment showed that the workload of these judges was nearly 20% above the standard.

Exhibit 3
Maryland District Court
Cases Terminated Within Time Standard for Large Jurisdictions
Fiscal 2017



DUI: driving under the influence

Source: Maryland Judiciary

There is no reason to believe that this lag in performance is caused by anything other than the court receiving more cases than can be efficiently managed by 9 judges and in the available courthouse space. By all accounts the court is well-managed, and through fiscal 2017, 8 of 9 judges had more than five years of experience on the bench. Further, as shown in **Exhibit 4**, it neither overutilizes nor underutilizes senior judges relative to its peer jurisdictions.

Exhibit 4
Maryland District Court
Utilization of Senior Judges by Large Jurisdictions
Fiscal 2017

<u>Jurisdiction</u>	<u>Judge Count</u>	<u>Senior Judge Hours</u>	<u>Senior Judge Hours Per Sitting Judge</u>	<u>Certified Judgeship Need for Fiscal 2020</u>
Anne Arundel	9	1,952	217	1
Baltimore City	28	2,848	102	0
Baltimore County	13	3,033	233	2
Montgomery	13	4,736	364	0
Prince George's	17	3,382	199	2

Source: Maryland Judiciary

In order to alleviate this issue, the Judiciary has requested an additional judge for the Anne Arundel District Court for fiscal 2020. While DLS recommends against this judgeship for other reasons (see Issue 1 for more detail), there is clearly a need for additional support.

3. Self-help Centers Continue to Expand Service

Over the last decade, the Judiciary and *pro bono* legal service providers in the State have expanded the self-help legal assistance offerings available to individuals involved in noncriminal cases in the State. For certain types of cases and clients, organizations such as the Office of the Public Defender and Maryland Legal Aid have offered free legal representation for decades. More recently, the Judiciary and others have also established programs to assist litigants in dealing with simple or routine court matters either by providing attorneys for short duration, limited representation, or resources to facilitate effective self-representation. These self-help services allow legal aid to be spread more broadly across the State courts. When they are properly staffed and operated, they should improve access to justice.

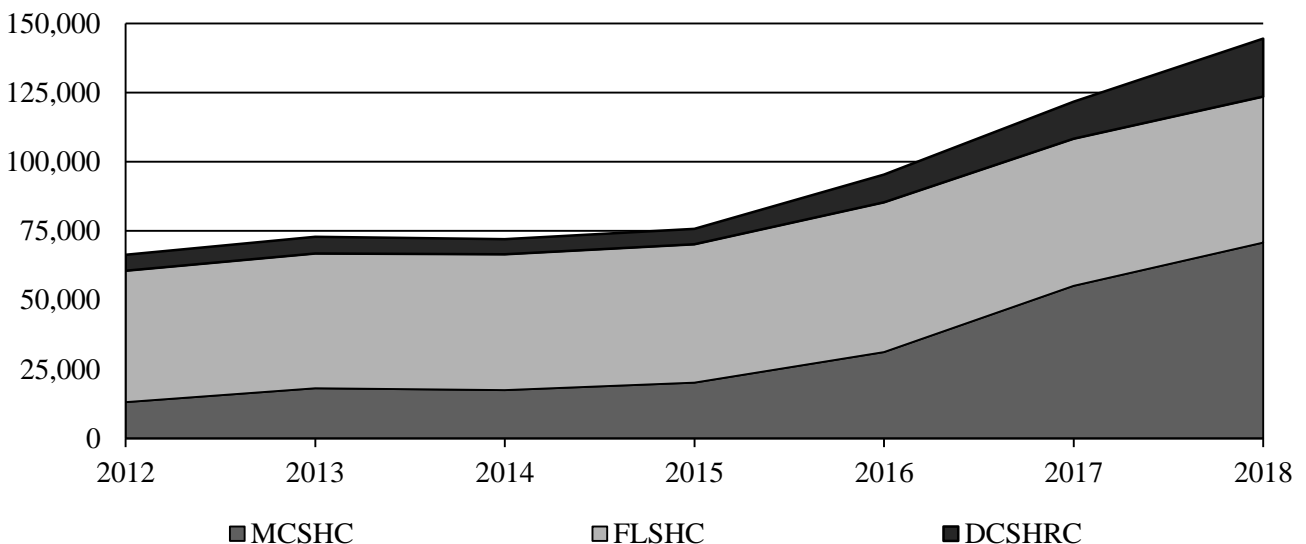
In addition to nonprofit offerings, the Judiciary is expanding the self-help services that it provides to the public. As of fiscal 2018, the Judiciary offers three principal classes of help centers:

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- The Maryland Courts Self Help Center is a remote call and contact center that provides assistance via phone, live chat, and email weekdays from 8:30 a.m. to 8:00 p.m. and is staffed by the Maryland Center for Legal Assistance (MCLA);
- Family Law Self-Help Centers support litigants in family law cases statewide and are supported by grants provided by AOC; and
- District Court Self-Help Resource Centers (DCSHRC) currently operate in six jurisdictions: Baltimore City and Anne Arundel (Glen Burnie), Frederick (City of Frederick), Prince George’s (Upper Marlboro), Worcester (Salisbury) counties, and a satellite center in Dorchester (Cambridge) County. The Frederick DCSHRC also provides support to circuit court litigants. The Judiciary contracts with MCLA to staff these centers.

The Judiciary reports on the number of individuals served by these self-help programs each year, as shown in **Exhibit 5**. Since fiscal 2012, the number of individuals served annually by these programs has more than doubled, reflecting both the expansion of services offered, locations, and hours of operation as well as a general increase in utilization. As the Judiciary has expanded these services, costs have also increased. The fiscal 2020 budget request includes \$4.7 million for self-help services.

Exhibit 5
Utilization of Judicial Self-Help Programs
Fiscal 2012-2018



MCSHC: Maryland Courts Self Help Center
FLSHC: Family Law Self-Help Centers
DCSHRC: District Court Self-Help Resource Centers

Source: Maryland Judiciary; Department of Legislative Services

Fiscal 2019 Actions

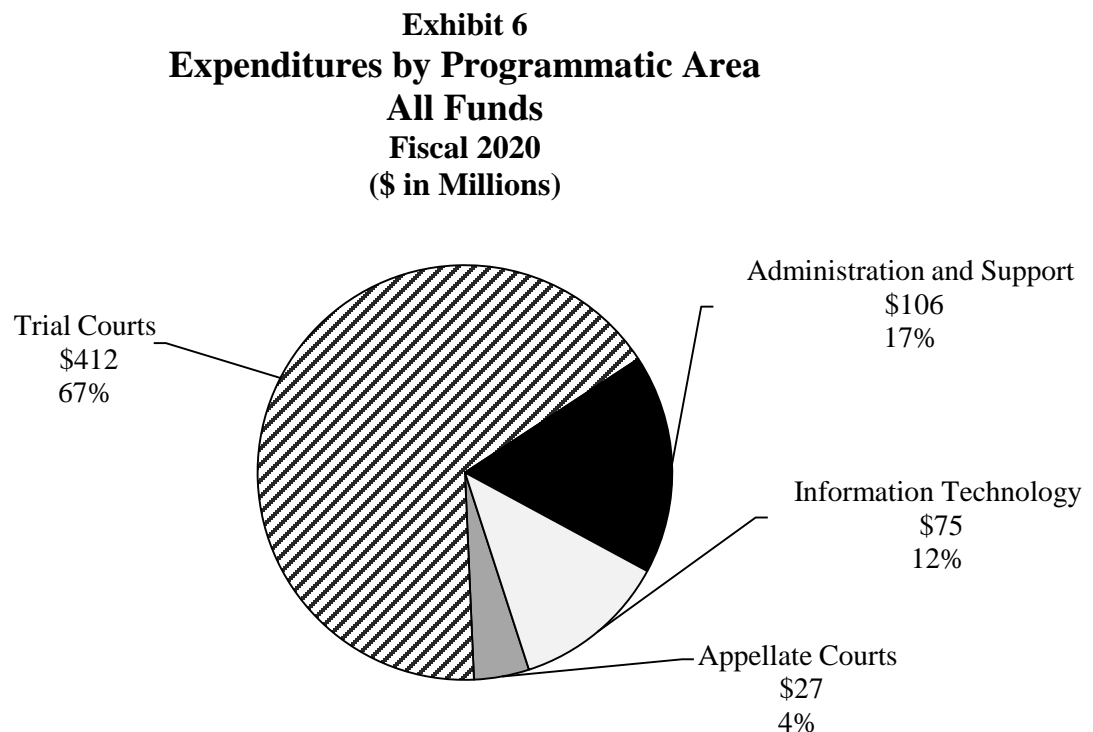
Proposed Deficiency

The fiscal 2020 allowance includes deficiency appropriations to provide a \$500 bonus and 0.5% general salary increase to qualifying employees on April 1, 2019. For the Judiciary, these actions will add \$2.2 million in general funds and \$140,922 in special funds to the fiscal 2019 appropriation.

Fiscal 2020 Allowance

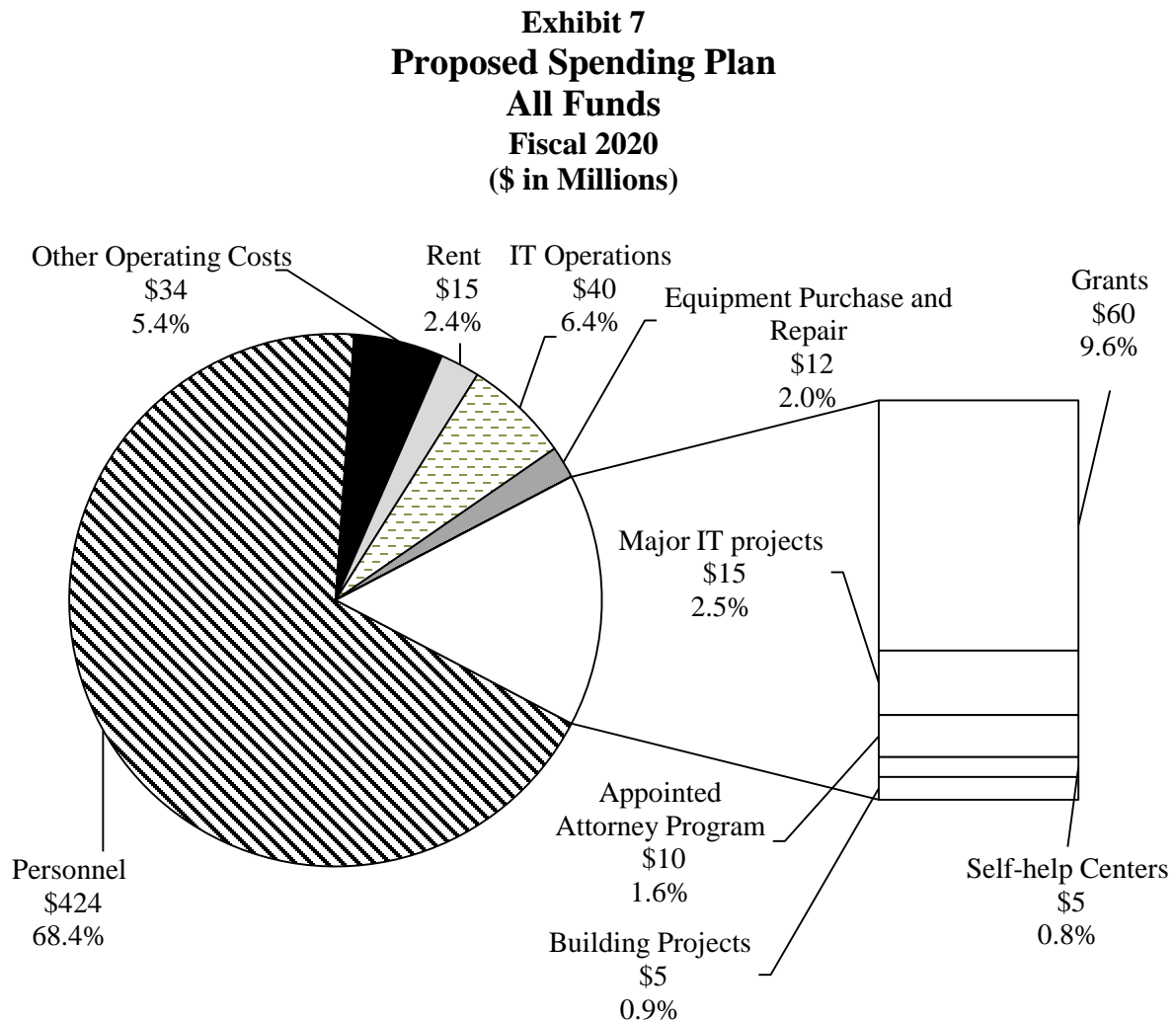
Overview of Agency Spending

The Judiciary's fiscal 2020 budget request totals \$619.5 million, all funds, and includes \$549.1 million in general funds. **Exhibit 6** divides the budget request into four major programmatic areas of expenditure and shows that a majority of the funding for the Judiciary is devoted to the State's trial courts. The exhibit also makes clear that IT has become an important component of Judiciary operations, with expenditures totaling \$75 million in fiscal 2020, including \$59.7 million for JIS and \$15.3 million for major IT projects.



Source: Department of Legislative Services

Exhibit 7 divides the request into some of its most significant components. The majority of the request is for personnel expenses (68.4%) to support the Judiciary’s 4,442 regular and contractual staff. Exhibit 7 further separates the direct costs for day-to-day operations of the courts and court units from funds allocated for the other spending of the Judiciary.

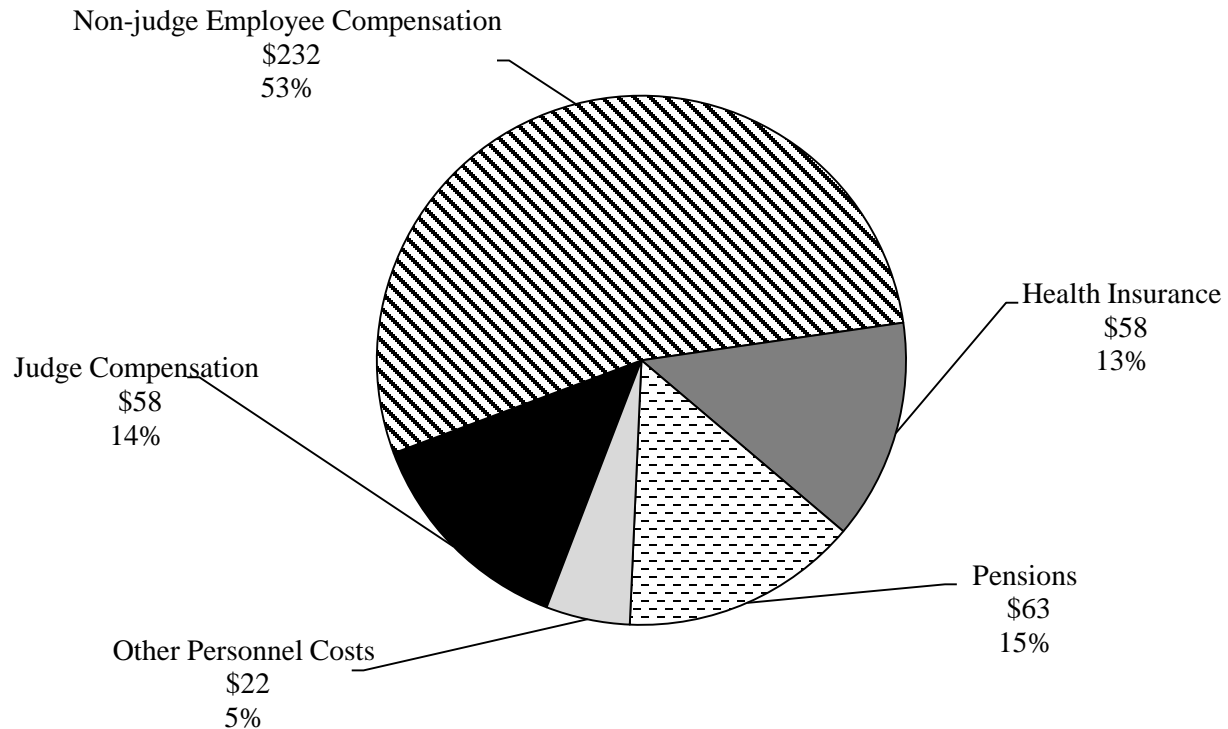


IT: information technology

Source: Department of Legislative Services

Additional detail on the breakdown of personnel expenditures is provided in **Exhibit 8**. Notably, the Judiciary’s budget includes \$58.4 million for compensation for active and senior judges and \$22.8 million for the State payment to the judge’s pension system.

Exhibit 8
Personnel Expenses
Fiscal 2020
(\$ in Millions)

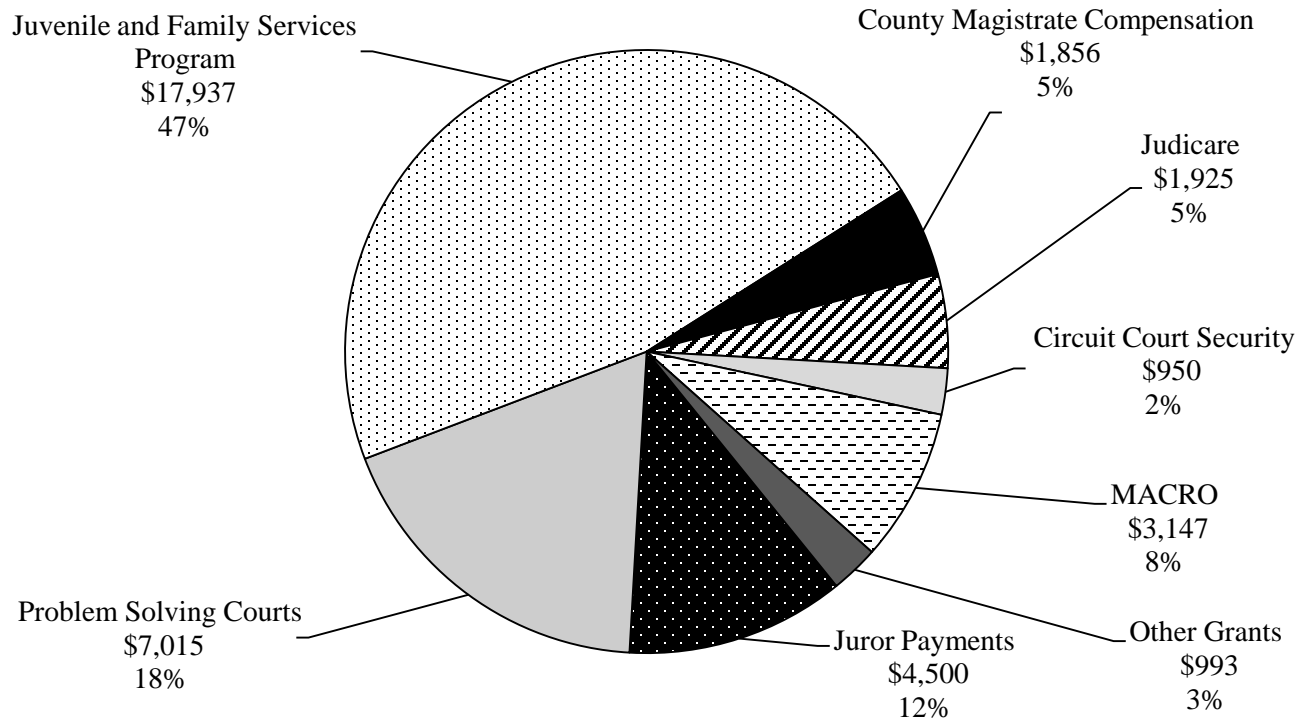


Note: This exhibit does not include the Judiciary's budgeted turnover reduction of \$9.8 million.

Source: Department of Legislative Services

Grants also make up a significant portion of the Judiciary's fiscal 2020 request (\$59.5 million). Additional detail on the general fund portion of the Judiciary's grant program can be found in **Exhibit 9**. In addition to the grants outlined in Exhibit 9, the fiscal 2020 allowance also includes \$21 million in special funds for the Maryland Legal Services Corporation (MLSC).

Exhibit 9
General Fund Grant Program
Fiscal 2020
(\$ in Thousands)



MACRO: Mediation and Conflict Resolution Office

Source: Department of Legislative Services

Proposed Budget Change

As shown in **Exhibit 10**, the Judiciary's adjusted budget request for fiscal 2020 increases by \$40.5 million (7.0%). The majority of this increase is attributable to employee compensation increases and the Judiciary's new position request (\$26.5 million).

Exhibit 10
Proposed Budget
Judiciary
(\$ in Thousands)

How Much It Grows:	<u>General Fund</u>	<u>Special Fund</u>	<u>Federal Fund</u>	<u>Reimb. Fund</u>	<u>Total</u>
Fiscal 2018 Actual	\$484,180	\$58,121	\$470	\$4,959	\$547,730
Fiscal 2019 Working Appropriation	510,751	62,195	1,096	4,945	578,987
Fiscal 2020 Allowance	<u>549,106</u>	<u>65,344</u>	<u>217</u>	<u>4,838</u>	<u>619,505</u>
Fiscal 2019-2020 Amount Change	\$38,355	\$3,149	-\$879	-\$107	\$40,518
Fiscal 2019-2020 Percent Change	7.5%	5.1%	-80.2%	-2.2%	7.0%

Where It Goes:**Personnel Expenses**

3.4% salary increase for employees not covered by the judicial compensation plan	\$6,065
Employee and retiree health insurance	5,016
Employer pension contribution	4,502
49.5 new regular positions and 2 contractual FTEs.....	3,035
Annualization of 2% cost-of-living adjustment effective January 1, 2019	2,512
Judicial compensation plan impact.....	2,419
New judgeship request (7 judges, 8 additional regular positions, and 12 contractual bailiffs).....	2,166
Overtime and other salary adjustments	772
Social Security contributions.....	623
Annualization of 39.5 positions created for fiscal 2019	601
Accrued leave payouts.....	437
Salary increases for contractual bailiffs.....	327
Salary increases for clerks of the circuit court authorized under Chapters 809 and 810 of 2018	252
Other fringe benefit adjustments	194
Impact of deficiency for 0.5% general salary increase effective April 1, 2019	-290
Impact of \$500 bonus for qualifying regular employees on April 1, 2019	-2,089

Major IT Projects

MDEC and related hardware upgrades.....	2,671
Infrastructure upgrades	955
Voice over Internet Protocol Phase 1	264
Attorney Information System	59
Case Search 2.0	-324
Cybersecurity.....	-881

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Where It Goes:

Completed projects	-2,055
Grants	
MLSC	1,500
Juvenile and Family Services grant programs	1,112
Problem solving courts	1,007
Child Support Enforcement Unit grants	337
All other grants	210
Federal and reimbursable grant adjustment	-1,163
Other Changes	
Design funds for new Courts of Appeal building included in the operating budget	3,427
Self-help centers	1,498
Rent	1,515
MDEC vendor contract	1,073
Minor buildings projects for District Court	883
Upkeep costs for completed major IT projects	877
Baltimore County circuit court clerk building upgrades	318
Payment to Archives	-500
All other changes	1,192
Total	\$40,518

FTE: full-time equivalent

IT: information technology

MDEC: Maryland Electronic Courts Initiative

MLSC: Maryland Legal Services Corporation

Note: Numbers may not sum to total due to rounding.

The Judiciary's General Fund Request Is Double the Spending Affordability Committee's Recommended Statewide Growth Limit

In December 2018, the Spending Affordability Committee (SAC) recommended that expenditures grow no more than 3.75% in fiscal 2020. In the judgement of the committee, this is the maximum level at which the operating budget can grow and still remain affordable for the State. The Judiciary's adjusted general fund allowance increases by 7.5% and exceeds the SAC cap by \$19.2 million. DLS has recommended in recent years that the committees hold the Judiciary's total appropriations to the SAC funding level, and the committees have elected to make substantial reductions to the Judiciary's allowances.

Nonetheless, the Judiciary has still enjoyed robust general fund growth, as shown in **Exhibit 11**. This growth has enabled the Judiciary to increase employee salaries, expand programming, and modernize its IT systems even while other parts of State government have absorbed reductions and seen their ability to augment programs severely curtailed.

Exhibit 11
Actual Statewide and Judiciary Operating Expenditures
General Funds
Fiscal 2001-2018
(\$ in Millions)

<u>Fiscal Years</u>	<u>All State GF Operating Expenditures</u>	<u>Growth %</u>	<u>Judiciary GF Expenditures</u>	<u>Growth %</u>	<u>% of Total Expenditures</u>
2001	\$9,281	-	\$229	-	2.46%
2002	10,029	8.1%	258	12.9%	2.57%
2003	10,152	1.2%	264	2.2%	2.60%
2004	10,251	1.0%	270	2.2%	2.63%
2005	11,159	8.9%	278	3.2%	2.49%
2006	11,981	7.4%	295	6.2%	2.46%
2007	13,349	11.4%	325	10.2%	2.44%
2008	14,283	7.0%	344	5.6%	2.41%
2009	14,118	-1.2%	367	6.9%	2.60%
2010	13,322	-5.6%	365	-0.5%	2.74%
2011	13,255	-0.5%	370	1.3%	2.79%
2012	14,881	12.3%	374	1.1%	2.52%
2013	14,656	-1.5%	384	2.6%	2.62%
2014	15,505	5.8%	400	4.2%	2.58%
2015	15,913	2.6%	426	6.3%	2.68%
2016	16,140	1.4%	451	5.9%	2.79%
2017	16,885	4.6%	480	6.4%	2.84%
2018	17,150	1.6%	484	0.9%	2.82%
Average		3.68%		4.51%	2.62%
2019 Working	\$17,893	4.3%	\$510	5.5%	2.85%
2020 Allowance	\$18,808	5.1%	\$549	7.5%	2.92%

GF: general funds

Source: Department of Legislative Services

As Exhibit 11 clearly illustrates, in both good economic times and bad, the Judiciary has generally fared well when resources are allocated across the State budget. While there are certainly years where this is not the case due to large increases in entitlement or State aid programs, over the last two decades, the average growth of the Judiciary's budget has been 0.84 percentage points (22.7%) higher than overall operating budget growth.

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Even if these increases are manageable on a year-to-year basis because the Judiciary is a relatively small component of the overall State budget, in the aggregate, it creates pressure on the overall budget that limits the General Assembly's ability to fund other priorities. While the share of the general fund operating budget devoted to the Judiciary fluctuates each year, the three years in which that share was highest were fiscal 2016 through 2018. Based on the budget as submitted, that share is projected to climb even higher in fiscal 2019 and 2020. If, for fiscal 2020, the Judiciary's share of the general fund allowance equaled the historic average of 2.62%, then the Judiciary's general fund allocation would be about \$493 million, \$56 million less than the actual request.

This is not to suggest that \$493 million is a reasonable general fund appropriation for the Judiciary for fiscal 2020. The current budget request is a culmination of collective decisions over decades that cannot and should not be undone based on a historical statistic. However, going forward, it does illustrate the cumulative impact of growth in the budget and should serve as a caution against allowing the Judiciary to grow significantly faster than the rest of the State. As the growth compounds over time it squeezes out funding for programs elsewhere in the budget and forces the committees to make more difficult decisions regarding other spending priorities.

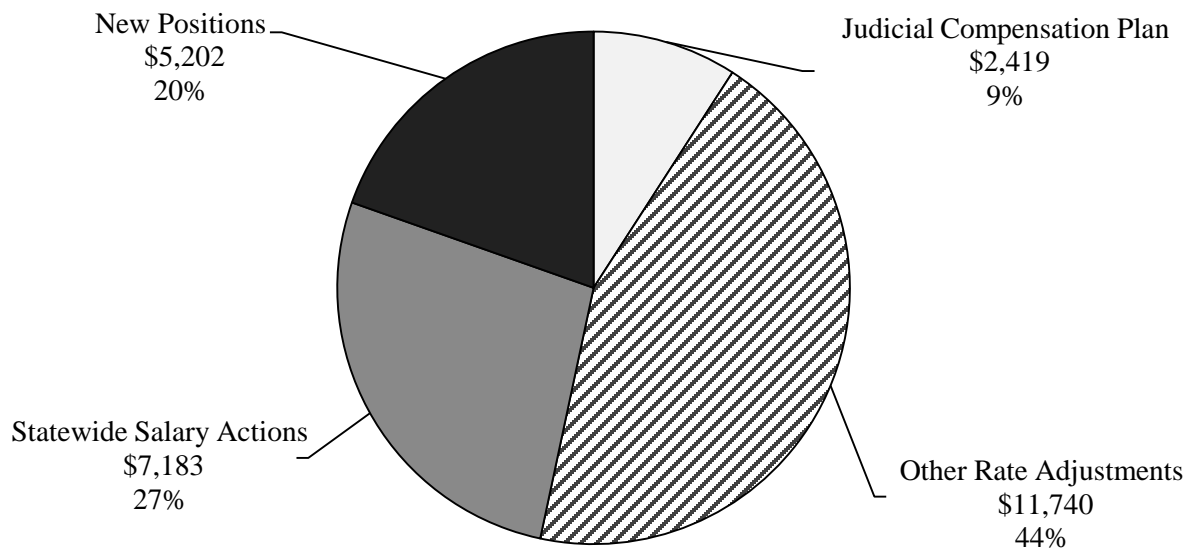
In the view of DLS, there are opportunities for substantial savings in the Judiciary's budget allowance. Taking advantage of these opportunities will make other changes to the budget and the requested investments in new programming easier to justify and afford. To that end, DLS recommends total reductions to the allowance of \$22.7 million.

The remainder of this section discusses the recommended reductions, as well as other significant aspects of the Judiciary's fiscal 2020 allowance.

Personnel

The growth in the fiscal 2020 allowance is driven primarily by personnel costs, which increase by a total of \$26.5 million. This increase can be broadly divided into four categories: statewide fringe benefit rate adjustments; statewide general salary increases; the judicial compensation plan; and new positions. The impact of each category is shown in **Exhibit 12**.

Exhibit 12
Personnel Growth
All Funds
Fiscal 2020
(\$ in Thousands)



Note: While the judicial compensation plan has an impact on the actuarially required contribution to the judge's pension system, that impact is blended into the total contribution rate and cannot be meaningfully separated. Therefore, the pension impact is not included as part of the cost for the judicial compensation plan.

Source: Department of Legislative Services

Exhibit 12 illustrates the primary challenge for the committees regarding the Judiciary's budget. The judicial compensation plan, fringe benefit rate adjustments, and statewide salary actions increase spending by \$21.3 million. More importantly, these are expenditures that would be difficult and imprudent for the committees to reduce for a variety of reasons:

- judicial compensation plan increases, which continue through fiscal 2022, are set in JR 3 of 2018 and are legally binding;
- the other adjustments category is composed mostly of rate changes for the employer pension contribution (\$4.5 million) and employee and retiree health insurance (\$5.0 million) and must be provided to avoid underfunding these systems; and

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- for fiscal 2019 and 2020, general salary increases have been provided to all State employees. While it is unquestionably within the General Assembly’s authority not to provide funds for this purpose to Judiciary, such an action would be inconsistent with past practice.

These three categories increase general fund spending by a total of \$20.4 million. This represents a growth rate of 3.99% – well above the 3.75% SAC limit. In other words, to fund just these compensation changes will consume the entire affordable growth capacity and leave no room for any other spending increases, including ordinary inflation and the position request. In fact, to make the SAC target, the remainder of the Judiciary’s budget would actually need to be cut by \$1.2 million.

Despite the impact of these increases, DLS does not recommend the reduction of these expenditures for the reasons outlined above. However, there is still an opportunity for savings in the Judiciary’s base personnel budget. The Judiciary’s fiscal 2020 request assumes a 2.69% blended turnover rate for new and existing positions. On December 31, 2018, the actual vacancy rate in the Judiciary was 3.49%. While the Judiciary often had an actual vacancy rate below 3% over the last two years, prior to calendar 2017, the vacancy rate was consistently over 5%. The Judiciary, then, should be able to manage a small increase in turnover expectancy with minimal impact on its operations.

DLS recommends that turnover expectancy for the Judiciary be increased to 3.25% for fiscal 2020, resulting in a budget decrease of \$1.9 million.

New Position Request

The other contributor to the increase in the allowance for personnel is a request for 55.5 new regular positions and 14.0 contractual full-time equivalents (FTE) that adds a further \$5.2 million. Positions are requested for the following purposes:

- 15 regular positions and 12 contractual bailiffs to implement the Judiciary’s request for 7 new trial court judges (see Issue 1 for further details);
- 13.5 regular positions for additional clerks;
- 8.25 regular positions for IT specialists in JIS;
- 6.75 regular positions for other support positions across the Judiciary;
- 5 regular positions as language interpreters;
- 4 regular positions to add 1 magistrate each in the circuit courts for Baltimore and Prince George’s counties;

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- 3 regular positions to manage problem solving courts; and
- 2 contractual bailiffs to enhance security in Allegany and Frederick counties consistent with national best practices for courthouses.

This request is similar to prior requests by the Judiciary, as shown in **Exhibit 13**. The General Assembly has not approved every position requested by the Judiciary but has authorized 75% of requested positions from fiscal 2015 to 2019. Over that period, the Judiciary added 289 total regular positions and contractual FTEs, increasing its total staff complement by 5.0%. For all of State government over the same period, the total staff complement grew by 1.2%.

Exhibit 13
Personnel Requests and Authorizations
Regular Positions and Contractual Full-time Equivalents
Fiscal 2015-2019

<u>Fiscal Years</u>	<u>New Positions Requested</u>	<u>New Positions Authorized</u>	<u>Actual Positions*</u>
2015	100.00	79.00	4,163.50
2016	136.00	80.00	4,243.50
2017	38.00	41.00	4,284.50
2018	51.50	49.50	4,336.50
2019	59.75	39.50	4,372.50
Total	385.25	289.00	

Note: The reported fiscal 2019 position count is the working appropriation. It shows growth of only 38.5 total positions, rather than 39.5 new authorized new positions, due to the timing of contractual conversions approved during the 2018 legislative session.

Source: Department of Legislative Services

This budget cycle, with the benefit of robust revenue growth, clearly demonstrates that this position growth, along with the inflation of expenditures for existing staff, is not affordable in the long term.

DLS recommends that, in light of the overall growth in the Judiciary’s fiscal 2020 request, that all new positions except those associated with the new Catonsville Courthouse in Baltimore County be denied and that the budget therefore be reduced by \$4.5 million.

Major IT Projects

The allowance for the Judiciary's major IT project portfolio increases by \$688,527, all funded from the Land Records Improvement Fund (LRIF). While programmed expenditures increase for ongoing projects, including the Maryland Electronic Courts Initiative (MDEC), the overall program sees only small growth due to the completion of two projects (\$2.1 million). More detail on the fiscal 2020 Major IT Plan can be found in Update 3.

Grants

For fiscal 2020, the Judiciary's grant program grows by \$3.0 million. Two general fund grant programs increase by more than \$1.0 million. First, grants for problem solving courts increase by \$1.0 million, largely to expand support for adult drug courts. In Chapters 571 and 527 of 2017, the Heroin and Opioid Prevention Effort and Treatment Act, the General Assembly included intent language asking the Judiciary to request \$2.0 million in additional funding for these services. The fiscal 2020 budget funds \$1.8 million of that amount. Second, juvenile and family services grants increase by \$1.1 million. The Judiciary reports that these funds largely go to personnel supporting court-appointed special advocates, family self-help centers, victims of family violence, and justice-involved juveniles.

In addition, there is an increase of \$1.5 million in special funds for MLSC based on estimated revenues for fiscal 2020.

DLS recommends that general fund grants for fiscal 2020 be reduced by \$1.6 million in order to level fund all programs except those for adult drug courts and required compensation increases for county magistrates. This action still provides a total of \$36.7 million for these grant programs, an increase of \$3.2 million over fiscal 2018 actual expenditures.

Request for Design Funds for a New Courts of Appeal Building Is Inconsistent with State Law and Should Not Be Funded

The operating allowance for AOC includes \$3.4 million to fund the design of a new Courts of Appeal building in Annapolis. Design is an integral part of the State's capital development process and, as such, is under the purview of the Department of General Services and the Department of Budget and Management (DBM). When this issue last arose during the 2006 legislative session, DLS received an advice of counsel letter from the Office of the Attorney General that concludes that the construction of buildings is a purely executive function and, because it is unrelated to the Judiciary's core functions, the Judiciary cannot fund capital projects in its operating budget.

This project is programmed by DBM in the fiscal 2020 *Capital Improvement Plan* (CIP), and the project is scheduled to receive design funds in fiscal 2022. Both DBM and the Judiciary have done considerable work to define the scope and site for the project and have carefully monitored the deterioration of the current courthouse. The CIP reflects that DBM is prepared to proceed with the project in fiscal 2022 and has planned for the estimated \$89.2 million total cost as part of the State's

overall capital program. It is unclear how the Judiciary intends for the project to be funded or who would be in charge of project management.

Given the Judiciary's clear desire for the project to proceed faster than the CIP provides, the appropriate course of action would have been to ask the budget committees to accelerate funding in the capital budget. The committees make such adjustments every year, and the Judiciary is certainly aware that the General Assembly may amend the capital budget in this manner but has chosen this course of action despite the associated legal and fiscal problems.

DLS recommends that \$3.4 million for the design of the Courts of Appeal building be deleted and that restrictive language be adopted barring the Judiciary from expending funds for this purpose.

Other Changes

Adjustments for other expenditures increase the budget by \$6.6 million, including \$4.3 million in general funds. Notable changes include an increase of \$1.5 million to support the expansion of self-help centers discussed in the Performance Analysis section of this analysis. **Due to the overall growth of the Judiciary's budget allowance and the need to fund continuing services, DLS recommends that the enhanced funding for self-help centers be reduced by \$1.3 million in order to fund the program at the same level as fiscal 2018.**

In addition, there are a number of operating expenditure categories with an allowance in fiscal 2020 that are similar to the fiscal 2019 working appropriation but significantly higher than the fiscal 2018 actual expenditures for that purpose. These items include the following specific increases:

- \$1.6 million for noncapital building projects;
- \$954,597 for postage;
- \$489,885 for travel;
- \$291,929 for supplies;
- \$276,367 for building maintenance;
- \$226,557 for equipment repair;
- \$143,580 for advertising and publications; and
- \$72,969 for freight and delivery services.

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In addition, DLS has identified two other expenditures that are unjustified. First, there is a total of \$770,020 in general funds included in the budget for building upkeep for the clerks of the circuit court. While providing these funds in the State budget may be convenient for the clerks, these are expenses that should be borne by the localities. Second, DLS notes that the Judiciary's general fund allowance for equipment repair and replacement (\$6.9 million) is 25.8% of all State general fund expenditures for this purpose in the fiscal 2020 allowance. There is no justification for the Judiciary to spend so much more on computers, office furniture, and similar equipment than other parts of State government.

DLS recommends a total of \$8.7 million in general fund reductions to fund these objects of expenditure at the same level as fiscal 2018 actual expenditures or otherwise reduce the allowance to a more appropriate level.

Finally, the Appointed Attorney Program (discussed in Update 2) has an allowance of \$10 million. Based on historic utilization of the program, this allocation can be reduced to \$8.5 million without serious risk of underfunding the program. **DLS recommends a reduction of \$1.5 million for the Appointed Attorney Program.**

Issues

1. Judgeship Request

In December 2018, the Judiciary submitted its annual certification of judicial need for fiscal 2020 and, for the first time since fiscal 2017, requested new trial court judges for the District and circuit courts. In total, the Judiciary's request is for 1 new circuit court judge (Washington County) and 6 new District Court judges (2 each in Baltimore and Prince George's counties and 1 each in Anne Arundel and St. Mary's counties).

The Judiciary has also certified a need for 5 further circuit court judgeships (3 in Baltimore County and 1 each in Allegany and Prince George's counties) and 2 District Court judgeships (1 each in Washington and Wicomico counties). A chart summarizing the certified need for positions is included below as **Exhibit 14**. There are a number of factors, including the availability of local funding and courtroom space, which determine whether the Judiciary will request the creation of particular judgeships in addition to the certification of need based on caseloads.

Exhibit 14
Certified Need for Judgeships
District and Circuit Courts
Fiscal 2020

<u>Jurisdiction</u>	<u>Judge Need</u>		<u>Judgeships Requested in</u> <u>HB159/SB205</u>	
	<u>Circuit Court</u>	<u>District Court</u>	<u>Circuit Courts</u>	<u>District Court</u>
Allegany	1			
Anne Arundel		1		1
Baltimore County	3	2		2
Prince George's	1	2		2
St. Mary's		1		1
Washington	1	1	1	
Wicomico		1		
Total	6	8	1	6

Source: Maryland Judiciary

Long-term Deployment Plan

The 2018 *Joint Chairman's Report* (JCR) included a request that the Judiciary submit a longer term judgeship deployment plan alongside its budget request and certification of need for fiscal 2020. Prior to the development of its new workload standards during calendar 2016 and 2017, the Judiciary

promulgated two five-year deployment plans that provided the budget committees the opportunity to better plan for coming requests. The Judiciary reports that it is beginning to see caseloads stabilize after years of decline but that it is too early to tell if this is a blip or a permanent change in the trend. Therefore, the Judiciary advises that it would be too speculative at present to set a marker for future requests.

More importantly, the Judiciary also addressed those areas of the State, notably Baltimore City, where caseload changes have been so dramatic that there is now available judicial capacity that is not being fully utilized. Judiciary reports that senior judge utilization has been restricted to emergency situations for the Baltimore City District Court, and the administrative judge is now making judges available to sit in lieu of senior judges in other jurisdictions whenever possible.

Justification and Affordability of Fiscal 2020 Request

The fiscal 2020 budget allowance includes a total of \$2.2 million, 15 regular positions, and 12 contractual FTEs to support the Judiciary's request related to new judgeships. As discussed above, even this relatively small expansion of services is difficult to justify given the significant growth in the Judiciary's fiscal 2020 allowance.

Anne Arundel County District Court

As discussed in the Performance Analysis section of this analysis, the Anne Arundel County District Court is beginning to lag behind its peer jurisdictions in case flow metrics because of the need for an additional judge, and there is a clear need for another judge in the county. The Judiciary has identified two spaces to house that potential judge: (1) a small area in the Glen Burnie Courthouse that has been used in the past as a temporary courtroom; and (2) the current file room in the Sweeney Courthouse in Annapolis that is no longer needed due to MDEC. Neither of these spaces is ready for use, and the budget includes no funding for this purpose. The space in Annapolis is the better longer term solution because it can accommodate an adequate courtroom, but to date, the Judiciary has not even determined if the scale of the renovation would make this a project that must go through the capital development process.

The District Court has reported that its short-term plan for Anne Arundel County would be to reduce the utilization of senior judges who fill in for active judges when they are absent or otherwise not available for dockets. That may be the case, but in fiscal 2018, the Anne Arundel County District Court only used 1,624 senior judge hours, which is less than 1 FTE. If, in the near term, a new judge merely displaces those hours, this would do little to alleviate workload pressure. Additionally, one of the principal reasons the State spends over \$7 million per year on senior judge compensation is because it is an efficient and cost-effective way to manage dockets.

Catonsville District Courthouse

The request does include the creation of two District Court judgeships in Baltimore County that are particularly well justified. The new Catonsville District Courthouse will open in fiscal 2020, and the primary justification for its construction was the need to create additional courtrooms to address workloads in the jurisdiction. Electing not to create those two judgeships now would run directly counter to the decision to build the courthouse. For fiscal 2020, the impact of adding these judgeships is 4 regular positions, 4 FTEs, and a total of \$611,911.

DLS recommends that the General Assembly approve two new District Court judgeships in Baltimore County. DLS further recommends that the other requested judgeships and the associated staff and funding not be approved.

2. Evaluation of Adult Drug Courts

Problem-solving courts and other special dockets have become one of the Judiciary's most important tools to ensure that the unique needs of justice-involved individuals can be identified and addressed by the criminal justice system. The goal of any special docket is to use the capacity and authority of the court to coordinate resources and increase accountability to address the underlying issues that have brought the defendant into the system. Drug courts are the most common type of problem solving court and, as of November 2018, there were 32 across the State.

Given that drug courts are an important facet of the State's response to the opioid crisis and drug addiction more broadly, it is particularly important that decision makers across all three branches of State government understand how these programs are performing. To this end, the Office of Problem Solving Courts (OPSC) received a grant from the federal Bureau of Justice Assistance to contract with the National Center for State Courts (NCSC) to develop performance measures for the State's adult drug courts. NCSC provided this report to the Judiciary in September 2017.

This report recommends a set of 14 performance measures covering both the operations of the adult drug court programs and the participant outcomes during and after participation. Each measure includes a quantitative benchmark for evaluation purposes. There is already a system used by OPSC, called Statewide Maryland Automated Record Tracking (SMART). State agencies have used the SMART system to track substance abuse treatment data for over a decade. So long as drug courts can ensure that the proper data is entered into the system, evaluation should be a straightforward process.

OPSC appears to be moving in the appropriate direction. The office produces regular reports that provide output statistics on its dockets, and the Judiciary had the foresight to commission the performance evaluation report discussed above. Nonetheless, given the importance of this issue and the value that this evaluation data is likely to have beyond OPSC, this is the time to ensure that this data will be collected, to understand how it will be used, and to make it available to other stakeholders.

DLS recommends the adoption of committee narrative requesting a report from OPSC addressing the following:

- **the status of the implementation of a performance management system for adult drug courts;**
- **whether and to what extent the Judiciary has adopted the objectives and benchmarks recommended by NCSC;**
- **a plan for the evaluation of outcomes for each adult drug court program at regular intervals;**
- **how OPSC will ensure that service providers and drug court managers are providing all data necessary for evaluation; and**
- **an estimate of the variable correctional, court, and other savings associated with adult drug courts.**

3. MDEC Enters Final Phase of Implementation

In February 2019, Baltimore County will become the twenty-first jurisdiction to migrate to the MDEC system. By the end of fiscal 2021, the State's final three jurisdictions, Baltimore City and Montgomery and Prince George's counties and are scheduled to make the switch as well. These four jurisdictions are the largest in the State, and their moves to MDEC pose the most significant logistical challenges for the Judiciary. However, as expected, the MDEC team has gained significant experience as the system went live in other jurisdictions and should be prepared to finish the job without issues. As MDEC enters its final phase of implementation, several small issues have arisen that warrant discussion.

Operations and Maintenance May Be More Difficult to Fund Than Expected

MDEC is a massive system that will be expensive to maintain and operate. The General Assembly was advised of this issue by the Judiciary and prepared for this cost by implementing surcharges on civil cases filed in the State. This revenue is deposited in the LRIF.

While the surcharge had been projected to cover most of MDEC's operating and maintenance costs in the near term, there has been significant revenue underattainment due to the recent downward trend in case filings. To date, the multi-year phase-in of MDEC has kept the contract cost relatively low, but once the system is deployed in all jurisdictions, the Judiciary projects a revenue gap of \$2.4 million per year. Such a large structural deficit would put significant strain on the LRIF's already strained balance sheet (see Issue 4) and will necessitate the allocation of general funds, cuts to other LRIF expenditures, or an increase to the surcharge.

Given the likelihood that a surcharge increase will be necessary in the near future, DLS recommends that the Judiciary comment on how it intends to manage the cost of MDEC maintenance. DLS further recommends that, if the General Assembly chooses to amend the statute to increase the surcharge, it also create a special fund solely for this purpose rather than allowing land records revenue to subsidize these costs.

Report on Implementation in Baltimore City

In the 2018 JCR, the committees requested a report on the expense of infrastructure upgrades to implement MDEC in facilities in Baltimore City. The committees were particularly concerned that a significant amount of money may need to be spent to prepare the Fayette (Civil) District Courthouse for MDEC to launch in 2021, when the Judiciary intends to vacate the facility and relocate to the Shillman Building less than 18 months later. The Judiciary studied the issue over the interim and reports that there would be less than \$150,000 in sunk costs to prepare the current courthouse and identified \$59,500 in savings to offset those costs.

Rent Court Module Nearing Completion

The last major functional issue that MDEC’s developers have yet to solve is the electronic filing and processing for high-volume rent court dockets. There are some large property management companies that can file hundreds or thousands of failure to pay rent complaints at the same time. The lawyers who file these complaints and clerks who process those filings have developed their own strategies to keep this undertaking manageable.

It has proven difficult to create a successful bulk filing system in MDEC to match the old system and, as a result, all rent court cases in the State are currently handled outside of MDEC. However, the Judiciary has reported that testing of a solution began late in calendar 2018 and, if all goes well, the system will be piloted in Baltimore County in the second half of this year. If it is successful, all major case types will be processed electronically.

DLS recommends that the committee adopt narrative requesting a status update on progress toward the development of the rent court bulk filing module and the results of the Baltimore County pilot.

4. The LRIF Has a Significant Structural Deficit

The LRIF was established by Chapter 327 of 1991 to provide for the maintenance and modernization of the State’s land records offices. Since 2007, the Judiciary has also funded major IT projects from the LRIF. Until the beginning of fiscal 2016, the LRIF was supported entirely by a surcharge on recordable instruments on real property filed in the State. This surcharge is currently \$40 and will sunset at the end of fiscal 2020. The Judiciary estimates that the revenue would decline by \$15.3 million beginning in fiscal 2021 if the fee is allowed to sunset. If this occurs, the fund’s balance would be depleted in fiscal 2021 based on current projections.

The current financial status of the fund and projected revenue and expenditures through fiscal 2023 is shown in **Exhibit 15**. The fund had a \$5.9 million structural deficit in fiscal 2018, and the Judiciary projects that there will be a large structural deficit in each year through fiscal 2023. If this occurs, the fund's cash balance, which was \$28.6 million at the end of fiscal 2018, will be entirely depleted by fiscal 2021.

Exhibit 15
Land Records Improvement Fund
Fiscal 2018-2023
(\$ in Thousands)

	<u>2018</u>	<u>Working Approp. 2019</u>	<u>Requested 2020</u>	<u>Projected 2021</u>	<u>Projected 2022</u>	<u>Projected 2023</u>
Starting Balance	\$36,162	\$28,597	\$25,485	\$19,734	-\$4,712	-\$27,072
Revenues						
Land Records						
Surcharges/Fees	\$28,930	\$30,509	\$30,509	\$15,255	\$15,255	\$15,255
e-Filing Service Surcharge	5,636	5,636	5,636	5,636	5,636	5,636
Total Revenue	\$34,565	\$36,145	\$36,145	\$20,890	\$20,890	\$20,890
Expenses						
Land Records Offices	\$16,666	\$17,176	\$17,605	\$18,046	\$18,497	\$18,959
Archives (mdlandrec.net)	2,000	1,000	500	500	500	500
ELROI Maintenance	1,851	2,948	3,177	2,276	2,149	2,698
e-Filing Operations and Maintenance	2,361	4,427	5,274	7,315	8,088	8,088
Major IT Projects	17,604	13,429	15,338	17,200	14,016	13,000
Encumbrance Reconciliation	1,649	277				
Total Expenditures	\$42,130	\$39,257	\$41,895	\$45,336	\$43,250	\$43,245
Ending Balance	\$28,597	\$25,485	\$19,734	-\$4,712	-\$27,072	-\$49,426
Structural Imbalance	-\$7,565	-\$3,112	-\$5,751	-\$24,446	-\$22,360	-\$22,354

ELROI: Electronic Land Records On-Line Imagery

IT: Information Technology

Source: Maryland Judiciary; Department of Legislative Services

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The revenue and spending program for the LRIF is not sustainable, even in the near term. The position of the fund has been weakening for several years, but a substantial fund balance, strong revenue attainment for land records transactions, and conservative spending have allowed the Judiciary to manage increasing demands on the fund. It appears, though, that these components are now unmanageable. Specifically:

- revenue, which is tied to the number of court filings in the State, has been on the decline, including an 8.8% decrease in fiscal 2018;
- maintenance costs for MDEC are increasing as discussed in Issue 3; and
- the major IT project portfolio remains large, even as MDEC development ends.

These near-term trends are undermining the core purpose of the LRIF, which is to support land record activities in the State, and threaten the revenue stream that support local land records offices and 220 State employees.

DLS recommends that, in order to protect the original purpose of the LRIF and ensure appropriate funding for land records activities, the General Assembly pass legislation to remove funding of major IT projects from the LRIF and return these expenditures to the Judiciary's general fund budget.

Operating Budget Recommended Actions

1. Add the following language:

Further provided that 4 positions and \$614,911 in general funds are contingent upon the enactment of HB 159 or SB 205.

Explanation: This action makes the funding for new positions for the Baltimore County District Court contingent upon the enactment of legislation creating the new judgeships associated with this request.

2. Add the following language:

Further provided that no funds in this appropriation may be used to procure or otherwise develop a design for a new Courts of Appeal building.

Explanation: This action prohibits the Judiciary from funding the design step of the capital development process for a new Courts of Appeal building from its operating appropriation in fiscal 2020. The Judiciary's allowance included \$3.4 million for this purpose. Building construction is a function of the Executive Branch, not the Judiciary.

3. Add the following language:

Provided that \$4,236,094 in general funds for new positions is reduced and 51.0 new regular positions are eliminated.

Explanation: This action eliminates 51.0 of the 55.0 new general funded positions in the Judiciary's fiscal 2020 budget. This expansion of services is unaffordable in light of the Judiciary's overall budget request. This reduction includes 5 out of 7 new judgeships requested by the Judiciary but leaves 4 new positions to add 2 new judges to the Baltimore County District Court.

4. 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.

		<u>Amount Reduction</u>	
5.	Reduce the appropriation for the Appointed Attorney Program. This action leaves \$8.5 million for the program, which should be sufficient to meet demand based on historic utilization.	\$ 1,500,000	GF
6.	Reduce the appropriation for self-help centers to the fiscal 2018 actual expenditure. These funds are being reduced because of the growth in the overall Judiciary’s fiscal 2020 allowance.	1,329,886	GF
7.	Eliminate funding for 10 new contractual bailiffs due to the unaffordable growth rate of the Judiciary’s budget allowance. Eight of the eliminated positions are associated with a request for new judges, which is also proposed for reduction.	309,260	GF
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 2019 costs and utilization of the Appointed Attorney Program.

Information Request	Author	Due Date
Appointed Attorney Program costs and utilization	Judiciary	October 1, 2019

9. Adopt the following narrative:

Pretrial Release Statistics: The committees remain interested in the impact of recent changes to the Maryland Rules regarding pretrial release and the use of cash bail across the State. Therefore, the committees request a report on the implementation of the new rule from July 1, 2018, to September 30, 2019. The report should provide an update on pretrial release practices including any guidance on the new rule issued by the Judiciary and should include the following data:

- a statewide accounting, by month and jurisdiction, of all pretrial dispositions from October 2018 to September 2019, including the number of defendants held on cash bail, released without conditions or on recognizance, released with nonmonetary conditions, and held without bail;

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- failure to appear rates from July 2018 to June 2019 by jurisdiction and pretrial disposition; and
- the number and percentage of defendants held in custody more than five days after a bail is set from October 2018 to September 2019.

Information Request	Author	Due Date
Impact of changes to pretrial release rules	Judiciary	November 1, 2019

	<u>Amount Reduction</u>	
10. Eliminate funding for the design of a new Courts of Appeal building. The construction of State buildings is an executive function, and this project should not be funded in the Judiciary's operating budget. The project is programmed for funding in the Capital Improvement Plan beginning in fiscal 2022.	3,427,000	GF
11. Reduce the appropriation for all general fund grants except those for county magistrate compensation and problem solving courts to the same level as the fiscal 2019 working appropriation. This action is due to the 7.7% total growth rate for these expenditures in the fiscal 2020 budget and still provides an increase of \$3.2 million over fiscal 2018 actual expenditures.	1,641,821	GF
12. This action reduces funds in order to increase the turnover expectancy for the Judiciary to 3.25% for fiscal 2020. On January 1, 2019, the Judiciary's vacancy rate was 3.4%. This adjustment is intended to be applied across the Judiciary.	1,935,303	GF
13. Reduce funding for subobjects related to equipment, building maintenance, supplies, postage, travel, freight hauling, and publications due to large increases over recent actual expenditures and otherwise unjustifiable spending.	8,350,930	GF

14. Adopt the following narrative:

Adult Drug Court Evaluations and Transparency: The committees are concerned about the ongoing impact of drug addiction in the State and the role that adult drug courts can play in the State’s response to this crisis. The committees request that the Office of Problem Solving Courts (OPSC) prepare a status report on how it intended to use performance evaluation benchmarks developed by the National Center for State Courts (NCSC). Specifically the status report should address the following issues:

- the status of the implementation of a performance management system for adult drug courts in the State;
- whether and to what extent OPSC has adopted the objectives and benchmarks for adult drug courts developed by NCSC;
- whether OPSC has a plan for the evaluation of outcomes for each adult drug court at regular intervals;
- how OPSC will ensure that service providers and drug court managers are providing all data necessary for evaluation;
- whether the Judiciary intends to make results of performance evaluations available to the public; and
- an estimate of the variable correctional, court, and other savings associated with adult drug courts.

Information Request	Author	Due Date
Adult drug court evaluations and transparency	Judiciary	July 1, 2019

15. Adopt the following narrative:

Status of the Maryland Electronic Courts (MDEC) Rent Court Module Development: The committees remain interested in the implementation of MDEC and the ability of the system to process rent court filings. Given the progress that is currently being made by the Judiciary and the pending pilot in Baltimore County, the committees request that the Judiciary provide a status update on this project, including the result of the pilot, before the 2020 legislative session.

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Information Request	Author	Due Date
Status of MDEC rent court module development	Judiciary	October 1, 2019
Total General Fund Reductions		\$ 22,730,294

Updates

1. Full Year of Data on New Bail Rule Now Available

In February 2017, the Court of Appeals adopted a new rule that reduced the utilization of cash bail in the State’s criminal justice system and directs judges and commissioners to either release arrestees with conditions other than cash bail or to order that they be held without bond if they pose a threat to public safety. The rule went into effect on July 1, 2017. The budget committees have renewed their request that the Judiciary collect and provide a variety of data on pretrial dispositions and the impact of the new rule. On November 1, 2018, the Judiciary submitted a report detailing pretrial dispositions through September 2018.

A quarterly summary of the statewide data on dispositions can be found in **Exhibit 16**. As reported previously, the assignment of cash bail began to fall, while changes to bail practice were still being deliberated, and the decline continued as the new requirements came into effect. This decline has slowed, but continued, over the last year, with only 18.0% of arrestees being assigned bail at initial appearance in the third quarter of calendar 2018. It is also worth noting that in the third quarter of calendar 2018, 25.0% of arrestees were held without bail, an increase of 82.3%. The Judiciary has reported that this increase is due to judges electing to hold arrestees who they believe are a threat to public safety without bail. Prior to the rule change, a large portion of this population would have been assigned a very high bail that they may or may not have been able to post.

Exhibit 16
Pretrial Dispositions
July 2016 to September 2018

	<u>Total Initial</u> <u>Appearances</u>	<u>All</u> <u>Unsecured</u> <u>Releases¹</u>	<u>Percent</u>	<u>Assigned</u> <u>Bail</u>	<u>Percent</u>	<u>Held</u> <u>without</u> <u>Bail²</u>	<u>Percent</u>
Jul. to Sep. 2016	36,235	17,080	47.1%	15,154	41.8%	3,214	8.9%
Oct. to Dec. 2016	32,197	16,552	51.4%	10,705	33.2%	4,209	13.1%
Jan. to Mar. 2017	34,872	18,393	52.7%	10,231	29.3%	5,510	15.8%
Apr. to Jun. 2017	35,154	18,568	52.8%	9,822	27.9%	6,037	17.2%
Jul. to Sep. 2017	35,999	19,782	55.0%	7,995	22.2%	7,555	21.0%
Oct. to Dec. 2017	31,809	18,245	57.4%	6,286	19.8%	6,918	21.7%
Jan. to Mar. 2018	32,076	18,143	56.6%	6,256	19.5%	7,204	22.5%
Apr. to Jun. 2018	33,024	18,481	56.0%	6,308	19.1%	7,774	23.5%
Jul. to Sep. 2018	23,457	13,062	55.7%	4,218	18.0%	5,860	25.0%

¹ Includes arrestees released due to lack of probable cause.

² Includes fugitives held without bail.

Source: Maryland Judiciary

Additionally, as shown in **Exhibit 17**, the percentage of arrestees still in custody six days after they had been assigned a cash bail has also declined in the last year, to 3.6%. This statistic is especially important as a proxy for the percentage of arrestees who have been assigned bail that they are unable to post for financial reasons.

Exhibit 17
Individuals Held Six Days or More without Posting Bail
July 2016 to September 2018

	<u>Count</u>	<u>Share of Total Initial Appearances</u>
Jul. to Sep. 2016	3,636	17.6%
Oct. to Dec. 2016	2,145	11.8%
Jan. to Mar. 2017	1,784	8.9%
Apr. to Jun. 2017	1,745	8.3%
Jul. to Sep. 2017	1,273	5.7%
Oct. to Dec. 2017	847	4.4%
Jan. to Mar. 2018	884	4.6%
Apr. to Jun. 2018	788	3.9%
Jul. to Sep. 2018	745	3.6%

Source: Maryland Judiciary

New Rule Appears to Have Had Little Impact on Failure to Appear Rates

In addition to the data reported above, which was also provided to the committees last year, the Judiciary also reported on the failure to appear (FTA) rate in criminal cases across the State. This statistic is important, especially when release rules are being changed, because it can be used to evaluate whether less restrictive pretrial release conditions have correlated to a higher nonappearance rate.

During the 10-month period from October 2017 to July 2018, the FTA rate across the State was largely stable. The total FTA rate was marginally lower than over the 4-month period from July to October 2016, before the process of developing the new rule began (9.8% compared to 10.1%). The FTA rate for individuals released on their own recognizance has increased from 5.7% to 6.0%, and the FTA rate for those arrestees posting bonds has decreased from 3.1% to 1.3%. Overall, this indicates that, at least to date, there has not been a significant impact on appearance rates as a result of the policy change.

2. Appointed Attorney Program Expenditures Continue to Fall

Each year since the creation of the Appointed Attorney Program, the budget committees have required the Judiciary to report on the costs and utilization of the program. The Appointed Attorney Program was created by the General Assembly during the 2014 session to ensure State compliance with the Court of Appeals decision in *DeWolfe v. Richmond*. Under the program, the Judiciary provides private attorneys to represent indigent defendants at initial appearances before District Court commissioners and compensates them at a rate of \$50 per hour.

Total expenditures in fiscal 2018 were \$7.6 million, a decrease of \$334,007, or 4.2%, from fiscal 2017. Based on these figures, DLS anticipates that program expenditures will be within the \$8.5 million appropriation for fiscal 2019. Under language included in the fiscal 2019 budget, any unused funds will revert at the end of the fiscal year. The Judiciary has also provided jurisdictional data on release rates, the number of arrestees served by appointed attorneys, and the share of arrestees who waive their right to counsel. This data is reported in **Exhibit 18**.

Exhibit 18
Appointed Attorney Program
Utilization by County
Fiscal 2018

<u>County</u>	<u>Initial Appearances</u>	<u>Personal Recognizance</u>	<u>Unsecured Personal Bond</u>	<u>Release Rate</u>	<u>Appointed Attorneys</u>	<u>Private Attorneys</u>	<u>Public Defenders</u>	<u>Waivers</u>	<u>Waiver Rate</u>
Baltimore City	25,382	11,262	1,490	50.2%	17,951	113	8	7,300	28.8%
Dorchester	1,193	418	206	52.3%	46	2	0	1,141	95.6%
Somerset	726	227	171	54.8%	13	3	0	710	97.8%
Wicomico	3,722	1,435	534	52.9%	192	11	2	3,410	91.6%
Worcester	3,345	1,718	318	60.9%	163	14	0	3,004	89.8%
Caroline	781	291	173	59.4%	19	2	0	759	97.2%
Cecil	4,267	1,567	758	54.5%	713	32	0	3,505	82.1%
Kent	410	139	85	54.6%	17	7	0	384	93.7%
Queen Anne's	1,201	302	274	48.0%	97	37	5	1,051	87.5%
Talbot	913	363	186	60.1%	21	9	0	883	96.7%
Calvert	1,972	862	607	74.5%	55	9	0	1,848	93.7%
Charles	3,611	1,788	321	58.4%	272	19	0	3,269	90.5%
St. Mary's	1,899	940	445	72.9%	89	2	0	1,724	90.8%
Prince George's	22,765	10,611	858	50.4%	7,323	145	7	15,192	66.7%
Montgomery	12,409	3,753	3,675	59.9%	7,033	255	15	5,101	41.1%
Anne Arundel	12,446	6,642	943	60.9%	4,684	210	3	7,535	60.5%
Baltimore County	16,630	6,515	1,435	47.8%	2,852	75	8	13,643	82.0%
Harford	2,985	1,488	46	51.4%	222	8	4	2,731	91.5%
Carroll	1,910	751	356	58.0%	31	3	0	1,832	95.9%
Howard	3,928	1,076	1,228	58.7%	143	26	0	3,750	95.5%
Frederick	3,812	2,225	352	67.6%	164	15	0	3,588	94.1%
Washington	3,834	2,035	190	58.0%	196	8	0	3,591	93.7%
Allegany	2,143	771	28	37.3%	83	11	3	2,035	95.0%
Garrett	624	178	96	43.9%	80	15	1	487	78.0%
Total	132,908	57,357	14,775	54.3%	42,459	1,031	56	88,473	66.6%

Source: Maryland Judiciary

3. Major IT Projects

Each year as part of its budget submission, the Judiciary prepares an IT Master Plan (ITMP) identifying its current and future major IT projects. These projects are funded by the Judiciary from the LRIF.

As shown in **Exhibit 19**, the Judiciary's current ITMP includes a total of 14 projects, 7 of which are funded in fiscal 2020, with expenditures totaling \$15.3 million. Five of these projects (MDEC, Courthouse eReadiness, Cybersecurity, the Attorney Information System (AIS), and Case Search 2.0) are ongoing and were funded in prior budgets. One (Infrastructure Initiative) is new to ITMP but will receive funding in the updated fiscal 2019 spending plan and one (Voice over Internet Protocol (VoIP) Phase I) is new to ITMP and receives initial funding in fiscal 2020.

Exhibit 19 Fiscal 2020 Information Technology Master Plan Actual and Projected Expenditures

Project	Pre-fiscal 2019 Expenditures	Fiscal 2019 Spending Plan	Fiscal 2020 Request	Fiscal 2021- 2023 Planned Expenditures	Total Project Cost
MDEC	\$51,333,223	\$6,572,430	\$8,715,351	\$8,024,944	\$74,645,948
Courthouse eReadiness	4,995,959	2,689,389	3,958,930	2,608,946	14,253,224
Enterprise Virtualization	3,690,496	740,000	-	-	4,430,496
Cyber Security	1,279,420	1,281,000	400,000	400,000	3,360,420
IT Service Management	3,107,328	817,272	-	-	3,924,600
Attorney Information System	781,391	660,050	675,842	-	2,117,283
Case Search Version 2.0	325,386	369,240	369,240	-	1,063,866
Infrastructure Initiative*	-	300,000	955,000	2,430,000	3,685,000
VoIP Phase I*	-	-	264,000	1,901,500	2,165,500
Mobile Courthouse	-	-	-	7,250,000	7,250,000
Digital Evidence	-	-	-	6,600,000	6,600,000
Data Warehousing	-	-	-	7,500,000	7,500,000
Electronic Records Management	-	-	-	7,500,000	7,500,000
VoIP – Enterprise Deployment*	-	-	-	6,000,000	6,000,000
Total	\$65,513,203	\$13,429,381	\$15,338,363	\$50,215,390	\$144,496,337

MDEC: Maryland Electronic Courts

IT: information technology

VoIP: Voice over Internet Protocol

* Denotes new projects.

Source: Maryland Judiciary

A brief description of each funded project that is new or altered from fiscal 2019 is included below:

- ***Infrastructure Initiative:*** The Judiciary intends to begin planning for a project to replace the hardware (including mainframes) that currently houses the Judiciary’s major applications. The present total cost estimate for the project is \$3.7 million, including \$300,000 in fiscal 2019 and \$1.0 million in fiscal 2020;
- ***VoIP Phase I:*** ITMP includes \$264,000 in fiscal 2020 to begin funding the first part of a larger plan to replace the Judiciary’s legacy phone networks with a VoIP system. This phase of the project, with a total estimated cost of \$2.2 million, will allow for an initial assessment of the Judiciary’s current systems, a report on the feasibility and impact of moving to a VoIP system, and the implementation of a VoIP system for AOC.
- ***MDEC:*** Total estimated project expenditures for MDEC increase from \$74.1 million to \$74.6 million. The Judiciary reports that this increase is attributable to anticipated change orders to make minor adjustments to system functionality;
- ***Cybersecurity:*** The Judiciary has undertaken a comprehensive review of the security of its IT systems and is implementing new policies and deploying new security based on the results. The cost of the project increases only slightly from \$3.3 million to \$3.4 million, but project spending is programmed through fiscal 2021 in the new ITMP, rather than ending in fiscal 2019 as previously estimated;
- ***AIS:*** AIS will create a single system within the Judiciary for information on attorneys, replacing a number of systems currently spread across several court-related agencies. Once complete, AIS will streamline online navigation for both Judiciary staff and attorneys in the State. The project remains on schedule with fiscal 2020 being the last year it receives development funding. However, the total estimated cost of the project has increased from \$1.3 million to \$2.1 million; and
- ***Case Search 2.0:*** This project will create a new public web interface for accessing case information. The fiscal 2019 ITMP includes a decrease to the estimated cost of the project by 6.4% to \$1.1 million.

4. Report on Domestic Violence Training for Judges

The 2018 JCR directed the Judiciary to submit a report on the education and training for judges on domestic violence as in issue in the justice system. The Judiciary reports that there are a number of training opportunities available to judges. These include:

- domestic violence specific courses offered by the Judicial College of Maryland that meet the Judiciary’s continuing education requirements;
- all newly appointed judges receive training on domestic violence in the New Trial Judge Orientation program;
- sessions at the annual Family Law University;
- programs offered by the Judicial Council’s Domestic Law Committee and Domestic Violence committee; and
- participation in local events and national conferences as they are available.

5. Court of Appeals to Consider Reformed Judicial Discipline Rules

Over the last two years, there have been several notable instances of State judges being formally accused of indecorous behavior in the courthouse. Accusations of misconduct are inevitable and, unfortunately, sometimes they are credible. While, as a group, the State’s judges are professional, skilled, and devoted public servants, individual judges do occasionally act in a manner that demands an official response, or in extreme cases, removal from the bench.

Accusations of misconduct against judges are investigated and acted upon by the Judicial Disabilities Commission (JDC), as outlined in Article IV, Section 4 of the Maryland Constitution. JDC functions as an independent body with the power to reprimand judges and recommend their removal or public censure by the Court of Appeals. The Court of Appeals establishes the rules and procedures that allow JDC to conduct business.

The Judiciary’s Standing Committee on Rules of Practice and Procedure (Rules Committee) has been working on the reformation of the rules governing JDC since 2012. The scope of this project, as well as the intervention of several high profile matters before JDC, have significantly delayed the project’s completion. However, on January 17, 2019, the Rules Committee recommended to the Court of Appeals a comprehensive rewrite of JDC rules. The proposed rules completely replace all JDC rules and, as such, are rather long and technical. However, two significant changes that may be of particular interest to the broader public are to remove JDC’s authority to issue public reprimands to judges and to provide separate procedures for instances when a judge is suffering from a treatable physical or mental impairment.

As of this writing, the Court of Appeals has not set a date for consideration of the proposed rules but is likely to do so in the near future.

Appendix 1
Current and Prior Year Budgets
Judiciary
(\$ in Thousands)

	<u>General Fund</u>	<u>Special Fund</u>	<u>Federal Fund</u>	<u>Reimb. Fund</u>	<u>Total</u>
Fiscal 2018					
Legislative Appropriation	\$490,373	\$66,279	\$57	\$4,769	\$561,479
Deficiency/Withdrawn Appropriation	-4,549	-290	0	0	-4,840
Cost Containment	0	0	0	0	0
Budget Amendments	0	523	1,178	515	2,216
Reversions and Cancellations	-1,644	-8,390	-766	-325	-11,125
Actual Expenditures	\$484,180	\$58,121	\$470	\$4,959	\$547,730
Fiscal 2019					
Legislative Appropriation	\$508,513	\$62,054	\$169	\$4,795	\$575,531
Budget Amendments	0	0	927	150	1,077
Working Appropriation	\$508,513	\$62,054	\$1,096	\$4,945	\$576,608

Note: The fiscal 2019 appropriation does not include deficiencies, a one-time \$500 bonus, or general salary increases. Numbers may not sum to total due to rounding.

Fiscal 2018

The Judiciary closed fiscal 2018 \$13.7 million, all funds, below its legislative appropriation. This decrease is largely attributable to the cancellation of unneeded special funds for information technology and the statewide health insurance reduction included in the 2018 budget.

General Fund

Actual general fund expenditures were \$6.2 million below the legislative appropriation. A provision in the fiscal 2018 Budget Bill removed \$4.5 million to reflect lower health insurance costs, and the Judiciary reverted a total of \$1.6 million, including \$893,222 of the appropriation for the Appointed Attorney Program, which was restricted to that purpose only.

Special Funds

Actual special fund expenditures were \$8.2 million below the legislative appropriation. Adjustments include:

- budget amendments added a total of \$523,000 for Maryland Legal Services Corporation (\$500,000) and a conference on pretrial policy (\$23,000);
- a provision in the fiscal 2018 Budget Bill removed \$290,337 to reflect lower health insurance costs; and
- \$8.4 million was canceled, largely from the Land Records Improvement Fund for major information technology (IT) projects (\$1.8 million); maintenance of IT systems (\$2.5 million); and the operations of local land records offices (\$4.1 million).

Federal Funds

Actual federal fund expenditures were \$412,045 above the legislative appropriation. This increase is attributable to the following budget amendments. The principal components of this change are budget amendments that added \$955,078 and \$153,597, respectively, for the Foster Care Improvement Program.

These increases are offset by the cancellation of \$765,924 in unspent funds. Those funds will be available for expenditure in future fiscal years.

Reimbursable Funds

Actual reimbursable fund expenditures were \$190,156 above the legislative appropriation. The following budget amendments added a total of \$515,316. The most significant contributors to this increase are \$274,970 for Teen Court, Violence Against Women Act programs, and human trafficking

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prevention and \$116,905 for re-entry programs and human trafficking prevention. These additions were offset by the cancellation of \$325,160 in unspent funds for these projects that were not expended in fiscal 2018 but will be available for programming in future fiscal years.

Fiscal 2019

The fiscal 2019 working appropriation is \$1.1 million above the legislative appropriation. Budget amendments increased the federal fund appropriation by \$927,127 for the Foster Care Court Improvement Program, drug courts, and the Adult Guardianship Special Assistant Program. The reimbursable fund appropriation has increased \$150,350, also by budget amendment, for anti-human trafficking and protective order support programs.

**Appendix 2
Object/Fund Difference Report
Judiciary**

<u>Object/Fund</u>	<u>FY 18 Actual</u>	<u>FY 19 Working Appropriation</u>	<u>FY 20 Allowance</u>	<u>FY 19 - FY 20 Amount Change</u>	<u>Percent Change</u>
Positions					
01 Regular	3,989.00	4,028.50	4,084.00	55.50	1.4%
Total Positions	3,989.00	4,028.50	4,084.00	55.50	1.4%
Objects					
01 Salaries and Wages	\$ 357,911,789	\$ 372,968,984	\$ 400,743,189	\$ 27,774,205	7.4%
02 Technical and Special Fees	20,632,186	22,136,138	23,296,031	1,159,893	5.2%
03 Communication	11,602,092	12,551,393	11,831,758	-719,635	-5.7%
04 Travel	2,164,304	2,643,796	2,680,431	36,635	1.4%
06 Fuel and Utilities	852,558	849,174	881,752	32,578	3.8%
07 Motor Vehicles	153,697	190,186	150,310	-39,876	-21.0%
08 Contractual Services	71,122,129	77,229,247	81,008,799	3,779,552	4.9%
09 Supplies and Materials	5,367,904	6,036,430	5,719,570	-316,860	-5.2%
10 Equipment – Replacement	5,310,064	4,837,161	5,858,305	1,021,144	21.1%
11 Equipment – Additional	7,367,879	4,878,057	3,717,030	-1,161,027	-23.8%
12 Grants, Subsidies, and Contributions	49,057,640	54,346,227	59,540,773	5,194,546	9.6%
13 Fixed Charges	15,831,241	16,782,481	18,607,596	1,825,115	10.9%
14 Land and Structures	356,577	1,159,000	5,469,300	4,310,300	371.9%
Total Objects	\$ 547,730,060	\$ 576,608,274	\$ 619,504,844	\$ 42,896,570	7.4%
Funds					
01 General Fund	\$ 484,179,869	\$ 508,512,856	\$ 549,105,981	\$ 40,593,125	8.0%
03 Special Fund	58,121,249	62,054,093	65,344,178	3,290,085	5.3%
05 Federal Fund	469,530	1,095,897	216,615	-879,282	-80.2%
09 Reimbursable Fund	4,959,412	4,945,428	4,838,070	-107,358	-2.2%
Total Funds	\$ 547,730,060	\$ 576,608,274	\$ 619,504,844	\$ 42,896,570	7.4%

Note: The fiscal 2019 appropriation does not include deficiencies, a one-time \$500 bonus, or general salary increases. The fiscal 2020 allowance does not include general salary increases.

**Appendix 3
Fiscal Summary
Judiciary**

<u>Program/Unit</u>	<u>FY 18 Actual</u>	<u>FY 19 Wrk Approp</u>	<u>FY 20 Allowance</u>	<u>Change</u>	<u>FY 19 - FY 20 % Change</u>
01 Court of Appeals	\$ 12,608,936	\$ 12,910,448	\$ 13,491,266	\$ 580,818	4.5%
02 Court of Special Appeals	12,036,601	12,513,088	13,193,098	680,010	5.4%
03 Circuit Court Judges	69,451,704	72,731,309	74,865,050	2,133,741	2.9%
04 District Court	184,207,778	192,305,098	207,793,623	15,488,525	8.1%
06 Administrative Office of the Courts	80,123,077	89,650,046	98,925,974	9,275,928	10.3%
07 Court Related Agencies	2,912,952	3,091,276	3,418,948	327,672	10.6%
08 State Law Library	3,312,572	3,629,004	3,734,428	105,424	2.9%
09 Judicial Information Systems	53,213,020	55,062,720	59,688,116	4,625,396	8.4%
10 Clerks of the Circuit Court	112,233,132	120,059,940	129,055,978	8,996,038	7.5%
11 Family Law Division	26,639	5,509	0	-5,509	-100.0%
12 Major IT Development Projects	17,603,649	14,649,836	15,338,363	688,527	4.7%
Total Expenditures	\$ 547,730,060	\$ 576,608,274	\$ 619,504,844	\$ 42,896,570	7.4%
General Fund	\$ 484,179,869	\$ 508,512,856	\$ 549,105,981	\$ 40,593,125	8.0%
Special Fund	58,121,249	62,054,093	65,344,178	3,290,085	5.3%
Federal Fund	469,530	1,095,897	216,615	-879,282	-80.2%
Total Appropriations	\$ 542,770,648	\$ 571,662,846	\$ 614,666,774	\$ 43,003,928	7.5%
Reimbursable Fund	\$ 4,959,412	\$ 4,945,428	\$ 4,838,070	-\$ 107,358	-2.2%
Total Funds	\$ 547,730,060	\$ 576,608,274	\$ 619,504,844	\$ 42,896,570	7.4%

IT: information technology

Note: The fiscal 2019 appropriation does not include deficiencies, a one-time \$500 bonus, or general salary increases. The fiscal 2020 allowance does not include general salary increases.

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