

**C00A00  
Judiciary**

***Operating Budget Data***

(\$ in Thousands)

	<u>FY 14 Actual</u>	<u>FY 15 Working</u>	<u>FY 16 Allowance</u>	<u>FY 15-16 Change</u>	<u>% Change Prior Year</u>
General Fund	\$400,305	\$429,946	\$478,609	\$48,663	11.3%
<b>Adjusted General Fund</b>	<b>\$400,305</b>	<b>\$429,946</b>	<b>\$478,609</b>	<b>\$48,663</b>	<b>11.3%</b>
Special Fund	44,871	64,101	65,768	1,667	2.6%
<b>Adjusted Special Fund</b>	<b>\$44,871</b>	<b>\$64,101</b>	<b>\$65,768</b>	<b>\$1,667</b>	<b>2.6%</b>
Federal Fund	5,053	1,747	161	-1,586	-90.8%
<b>Adjusted Federal Fund</b>	<b>\$5,053</b>	<b>\$1,747</b>	<b>\$161</b>	<b>-\$1,586</b>	<b>-90.8%</b>
Reimbursable Fund	351	4,450	4,578	128	2.9%
<b>Adjusted Reimbursable Fund</b>	<b>\$351</b>	<b>\$4,450</b>	<b>\$4,578</b>	<b>\$128</b>	<b>2.9%</b>
<b>Adjusted Grand Total</b>	<b>\$450,580</b>	<b>\$500,243</b>	<b>\$549,116</b>	<b>\$48,873</b>	<b>9.8%</b>

Note: The fiscal 2015 working appropriation reflects deficiencies and the Board of Public Works reductions to the extent that they can be identified by program. The fiscal 2016 allowance reflects back of the bill and contingent reductions to the extent that they can be identified by program.

- The fiscal 2016 budget grows by approximately \$48.9 million, or 9.8%, over the working appropriation for fiscal 2015. Personnel expenses increase by \$42.7 million and include the addition of 233 regular positions.
- The Governor’s budget plan for fiscal 2016 assumes \$10.2 million in general fund reversions from the Judiciary. The reversion represents the elimination of the fiscal 2015 cost-of-living adjustment and fiscal 2016 increments. The across-the-board reductions and contingent cuts that applied to Executive Branch agencies in fiscal 2016 do not extend to the Judiciary.

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

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***Personnel Data***

	<b><u>FY 14 Actual</u></b>	<b><u>FY 15 Working</u></b>	<b><u>FY 16 Allowance</u></b>	<b><u>FY 15-16 Change</u></b>
Regular Positions	3,638.50	3,732.50	3,965.50	233.00
Contractual FTEs	<u>446.00</u>	<u>431.00</u>	<u>334.00</u>	<u>-97.00</u>
<b>Total Personnel</b>	<b>4,084.50</b>	<b>4,163.50</b>	<b>4,299.50</b>	<b>136.00</b>

***Vacancy Data: Regular Positions***

Turnover and Necessary Vacancies, Excluding New Positions	149.30	4.00%
Positions and Percentage Vacant as of 01/07/2015	313.70	8.40%

- The budget provides 233.0 new regular positions. Nineteen of these positions are related to the creation of new judges in the circuit courts and the District Court; 39.0 are with the various Clerks of the Circuit Court offices; 24.0 new positions are for the Administrative Offices of the Courts (AOC) to support various court-related programs; 16.0 new positions in the Court of Special Appeals; 11.0 new positions for the Circuit Court Judges; 11.0 new positions for the District Court; 6.0 new positions for Judicial Information Systems; and 3.0 new positions in the Court of Appeals. There are also 104.0 contractual conversions.
- Of the contractual conversions, 77.0 are in the District Court, 11.0 are in the various Clerks of the Circuit Court offices, 4.0 are with the State Law Library, and the remaining 12.0 are spread among the Court of Appeals, Court of Special Appeals, AOC, and the court-related agencies.
- The budget includes 97.0 fewer contractual full-time equivalents (FTE), mainly due to the conversion of 104.0 FTEs, offset by the addition of 4.0 FTEs for bailiffs in the District Court related to the new judges and 3.0 FTEs to address the asbestos case docket in Baltimore City.
- Turnover expectancy is set at 4.0% for fiscal 2016, which will require 149.3 vacancies. As of January 7, 2015, the Judiciary had 313.7 vacant positions, for a rate of 8.4%. Of these vacant positions, 17.0 are held open to account for masters that are county employees, but for which the Judiciary reimburses the counties for the cost.

## *Analysis in Brief*

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### Major Trends

**Cases Terminated within the Time Standard Slip in Most Case Types for the District Court:** The percentage of cases completed within the respective time standard in the District Court continue to decline for most case types.

**Circuit Courts' Metrics Exhibit Better Results:** A majority of cases are disposed of within their respective timeframes, but the circuit court failed to meet the established time standard goal in most categories.

**Court Meets Appellate Case Standards:** The Court of Appeals and Court of Special Appeals were able to meet the newly adopted case standards during the first year of measurement.

### Issues

**Returning to Richmond:** Following the lift of the injunction, the ruling of *DeWolfe v. Richmond* went into effect on July 1, 2014. During the 2014 legislative session, the General Assembly restricted \$10 million within the Judiciary's budget for the provision of counsel at initial appearances for indigent defendants. The Appointed Attorney Program began in July 2014 and has provided representation during 25,052 appearances in the first six months of the program. **The Department of Legislative Services (DLS) recommends that the Judiciary comment on how the implementation of *Richmond* has been progressing and the fiscal impact of the program. The Judiciary should provide an accounting on the exact expenditures of the program to date and whether the program will remain within budget for fiscal 2015 and 2016.**

**Land Records Improvement Fund Balance and Activity:** The Land Records Improvement Fund (LRIF) continues to maintain a structural imbalance that could potentially lead to the fund being insolvent in fiscal 2017. The Judiciary has introduced legislation to eliminate the sunset on the increased land records fee to address the fund balance. The largest driver of costs in the LRIF is the increasing costs of the Maryland Electronic Courts (MDEC) initiative. The Judiciary has reintroduced legislation to impose new filing fees for the LRIF in order to cover the cost of MDEC. **DLS recommends that both SB 64 and HB 54 be amended to credit any new revenues generated from these filing fees to a new special fund for that purpose. DLS further recommends that committee narrative be adopted instructing the Judiciary to migrate major information technology development costs, including MDEC, to the general fund in order to maintain the viability of the LRIF.**

**Maryland Electronic Court Initiative:** Committee narrative in the 2014 *Joint Chairmen's Report* (JCR) requested that the Judiciary provide a report summarizing the efficiencies and savings expected once the MDEC project is complete. The Judiciary offered a number of benefits of the system but did not identify any cost savings that would be achieved upon full implementation. **DLS recommends**

that there should be savings associated with the MDEC initiative for personnel, postage, and supplies, including printing and paper. Narrative is recommended to direct the Judiciary to provide a report of the itemized savings, and the savings should be reflected in the 2017 budget request.

## Recommended Actions

### Funds

1. Add budget bill language to eliminate 110 new regular positions from the budget.
2. Add budget bill language that reduces the general fund appropriation by \$5 million and directs the Judiciary to use prior year encumbered funds to cover operating expenditures in fiscal 2016.
3. Add budget bill language to make 19 new positions and general funds contingent upon the enactment of legislation creating new judgeships.
4. Add budget bill language to reduce general funds to limit increases in operating expenditures.
5. Add budget bill language to restrict \$100,000 in general funds pending receipt of a report on actual expenditures, including tolls and mileage, for the Appointed Attorney Program in the District Court in fiscal 2015.
6. Add budget bill language to increase employee turnover from 4% to 6%.
7. Add budget bill language that restricts the use of \$10 million of the Judiciary's general funds for the implementation of *Richmond*, appropriates the costs of initial appearances per county based on calendar 2014 appearances, and authorizes the transfer of the funds to another agency if legislation provides for an alternate solution to the Appointed Attorney Program.
8. Eliminate the salary reclassification for the Administrative Office of the Courts related to the Judiciary-commissioned salary study. \$ 9,516,124
9. Eliminate the salary reclassification in Clerks of the Court. 593,816

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10. Adopt committee narrative to request a report on the savings that could potentially be realized through the implementation of the Maryland Electronic Court project.
11. Adopt committee narrative expressing the intent of the budget committees for major information technology development costs to be funded from the general fund beginning in fiscal 2017.
12. Adopt committee narrative to direct the Judiciary to reevaluate its agreement with the Maryland State Archives and report on expenditures of funds transferred from the Land Records Improvement Fund.

**Total Reductions**

**\$ 10,109,940**

## **Updates**

***Backlog of Civil Asbestos Cases:*** Committee narrative in the 2014 JCR requested that the Judiciary undertake a study that would determine the best way for the Judiciary to process the backlog of approximately 11,000 civil asbestos cases in Baltimore City. The Circuit Court for Baltimore City conducted and submitted an assessment of its asbestos case inventory and has proposed a plan to implement a new case management approach to address the large docket.

***New Judge Plan Enters Year Three:*** The 2015 session is the third year of a six-year plan by the Judiciary to create new judgeships for which the Judiciary has a certified need and for which there is current courtroom space and resources to accommodate a new judgeship. No new judgeships were authorized in fiscal 2015 even though the Judiciary certified a need for 7 additional judgeships. The Judiciary has requested 7 additional judgeships for fiscal 2016.

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***Operating Budget Analysis***

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**Program Description**

The Judiciary is composed of four courts and seven programs which support the administrative, personnel, 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 policies, education, and training for judicial personnel.

Other agencies are included in the administrative and budgetary purview of the Judiciary. The Maryland Judicial Conference, consisting of judges of all levels, meets annually to discuss continuing education programs. Court-related agencies also 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. The Family Law Division manages and administers programs in the Maryland Family Law Courts, including policy and program development. Judicial Information Systems (JIS) manages information systems maintenance and development for the Judiciary. Major information technology (IT) development projects are in a separate program, while all production and maintenance of current operating systems are in the JIS program.

**Performance Analysis: Managing for Results**

**1. Cases Terminated within the Time Standard Slip in Most Case Types for the District Court**

Fiscal 2009 budget bill language directed the Judiciary to incorporate case flow standards adopted by the Maryland Judiciary 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 utilized standards set by the American Bar Association that determined the amount of time it should take to process a particular type of case. Those standards were modified due to existing statutes and rules that impact the way in which Maryland courts are required to process certain cases as compared with other states. The statewide case flow assessment submitted by the Judiciary analyzes in-depth cases that come through the District and circuit courts and, in particular, the timeliness with which those cases are terminated or otherwise disposed.

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The time standards for District Court cases are set according to the following case types:

- **Criminal:** 180 days;
- **Traffic Driving Under the Influence (DUI):** 180 days;
- **Traffic Must Appear:** 180 days;
- **Traffic – Payable:** 120 days;
- **Civil – Large:** 250 days; and
- **Civil – Small:** 120 days.<sup>1</sup>

For each case type, the goal is to terminate 98% of cases within the time standard.

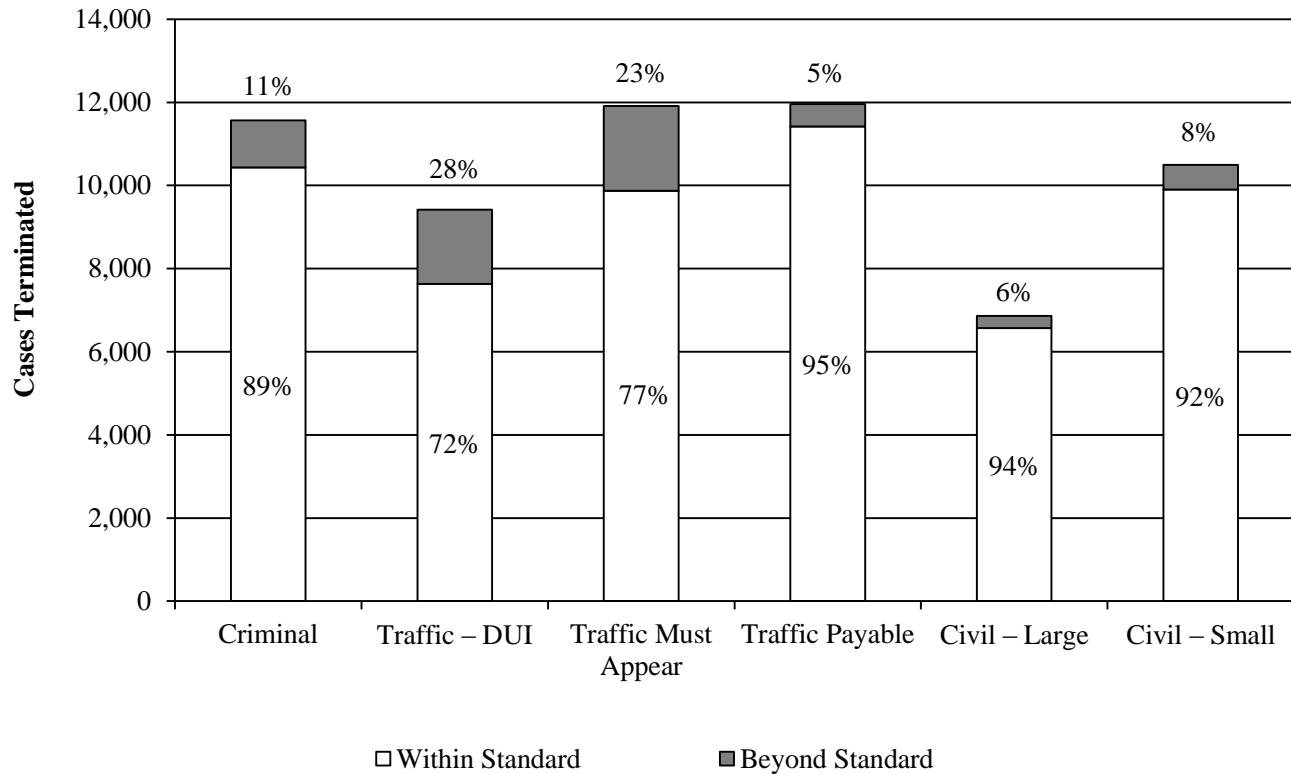
**Exhibit 1** illustrates the number of District Court cases terminated within the time standard. While the majority of cases for each case type are disposed of within the established timeframe, the District Court failed to meet the performance standard of 98% in all categories. Further, the timely termination of cases slipped in three categories from fiscal 2012 to 2013 for a second year in a row. The most dramatic decline was in Traffic – DUI, cases terminated within the standard declined from 77% to 72 % (fiscal 2011 was 81%). The most notable increase was in Civil – Small, where 92% of cases were terminated within the time standard compared to 80% in fiscal 2013. However, this increase is most likely attributable to the fact that the standard time to terminate this type of cases was increased from 90 to 120 days, making a comparison between fiscal 2012 and 2013 performance challenging. Traffic – Payable increased its timeliness from 89% to 95%. In addition to the decline in the percentage of cases completed within the time standard, the average termination times of cases increased for most case types.

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<sup>1</sup> The previous time standard for Civil – Small was 90 days.



**Exhibit 1  
Maryland District Court  
Number of Cases Terminated Within and Beyond Time Standard  
Fiscal 2013**

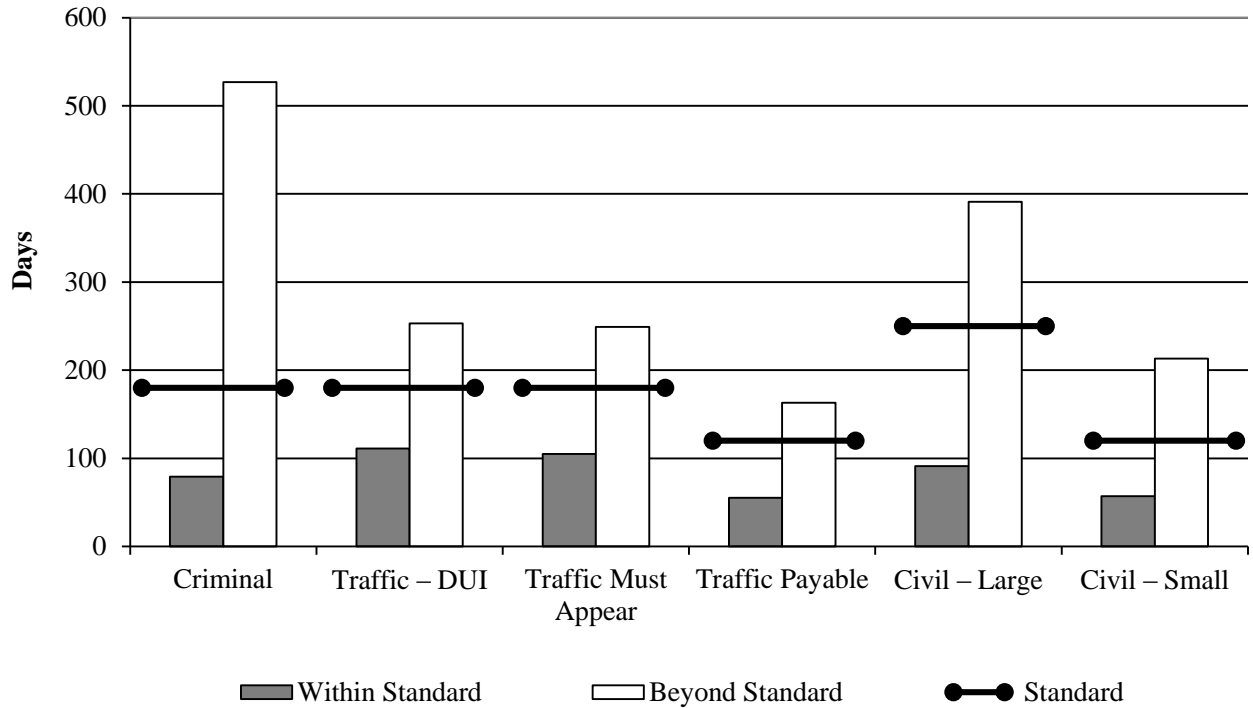


DUI: driving under the influence

Source: Maryland Judiciary

**Exhibit 2** analyzes the average case processing time for District Court cases. In each case type, with the exception of Civil – Large and Traffic Must Appear, the difference between the average termination time for within and beyond standard cases increased over fiscal 2012. These increases ranged from 4% and 32% and were a function mainly of increasing beyond standard average case times. For example, Criminal cases completed within the time standard averaged 79 days in fiscal 2013, which is up from an average of 78 days in fiscal 2012, while the average for cases completed beyond the time standard increased from 445 in fiscal 2012 to 527 days in fiscal 2013. This resulted in a total gain in the within/beyond standard average from 367 to 448 between fiscal 2012 and 2013. Civil – Small, despite an increase in the standard from 90 to 120 days, saw an increase in the difference between the average termination time for within and beyond standard cases of 32%, with the average time for within standard cases increasing from 53 days in fiscal 2012 to 57 days in fiscal 2013, and the average time for beyond the standard cases increasing from 171 days in fiscal 2012 to 213 days in fiscal 2013. Most

**Exhibit 2  
Maryland District Court  
Average Case Processing Time for Cases Within and Beyond Time Standard  
Fiscal 2013**



DUI: driving under the influence

Source: Maryland Judiciary

other cases exhibited a similar trend, with the exception of Civil – Large and Traffic Must Appear that improved the difference between within/beyond standard cases by 1% and 6%, respectively. The increase in both the within and beyond standard averages translates to much longer case times than the standards established for these cases. For example, the 527-day average for beyond standard for Criminal and the 213-day average for beyond standard for Civil – Small, means that these cases take 293% and 178% longer than the standard established for these cases.

**The Department of Legislative Services (DLS) recommends that the Judiciary comment on its plans to address the longer case times for District Court cases.**

## **2. Circuit Courts’ Metrics Exhibit Better Results**

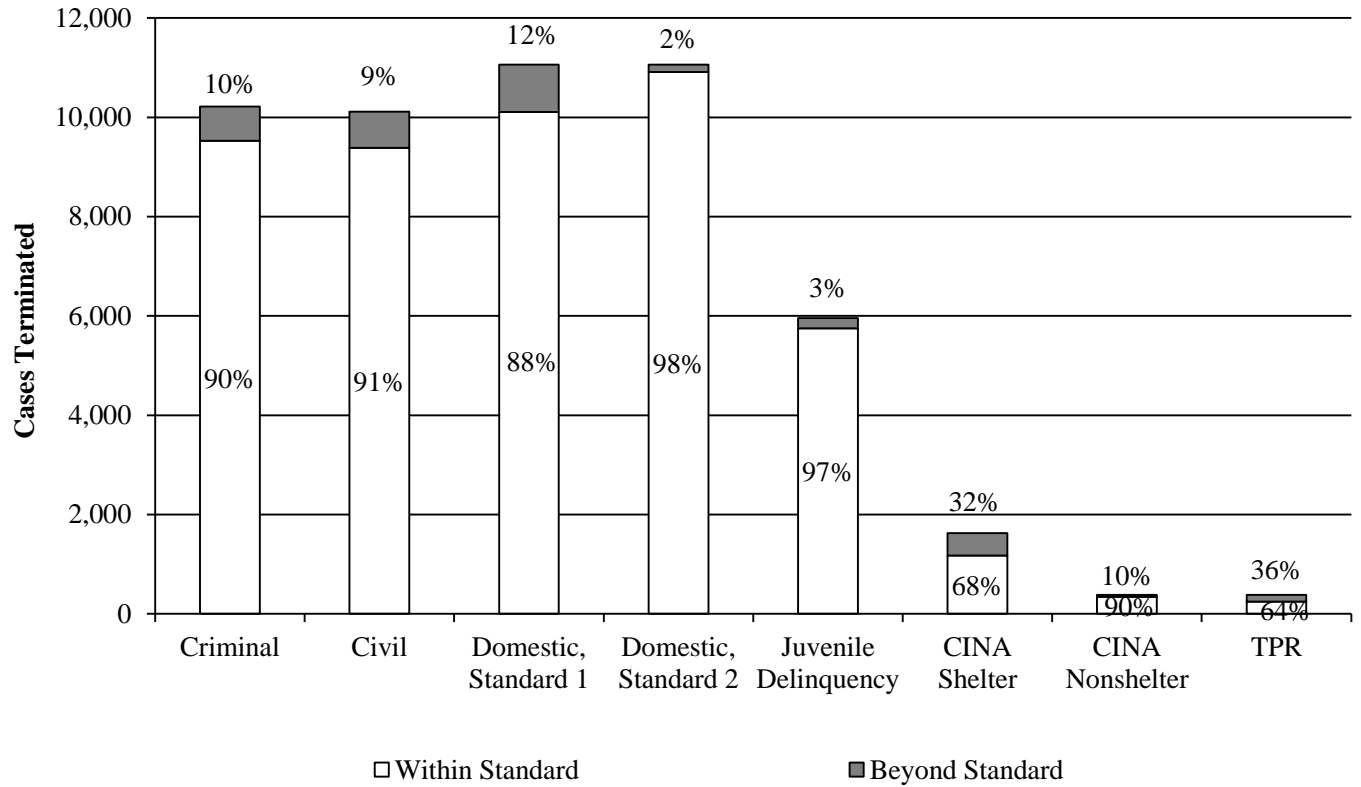
The time performance standards for circuit court cases are set according to the following case types:

- **Criminal:** 180 days, 98%;
- **Civil:** 548 days, 98%;
- **Domestic Relations, Standard 1:** 365 days, 90%;
- **Domestic Relations, Standard 2:** 730 days, 98%;
- **Juvenile Delinquency:** 90 days, 98%;
- **Children in Need of Assistance (CINA) Shelter:** 30 days, 100%;
- **CINA Nonshelter:** 60 days, 100%; and
- **Termination of Parental Rights (TPR):** 180 days, 100%.

**Exhibit 3** illustrates the number of circuit court cases terminated within the time standard. Similar to the District Court, while the majority of cases for each type are disposed of within the timeframe, the circuit court failed to meet the established time standard percentage in all categories, with the exception of Domestic, Standard 2. However, cases in both Domestic Relations standards, CINA Shelter, and TPR improved toward achieving the standard. There was no change for percentage of cases within the standard for Criminal, Civil, Juvenile Delinquency, or CINA Nonshelter.

**Exhibit 4** analyzes the average case processing time for circuit court cases. As opposed to the District Court, the disparities between the average termination time for within standard and beyond standard cases in the circuit courts improved for most case types. The decline in disparity ranged from 3% to 54%, with CINA Nonshelter cases having the largest disparity decline (54%), mostly due to the beyond standard average termination time decreasing from 146 days in fiscal 2012 to 78 days in fiscal 2013. Criminal cases saw an increase in disparity of 4%, due to the average within standard and beyond standard termination increasing by 4 and 14 days, respectively.

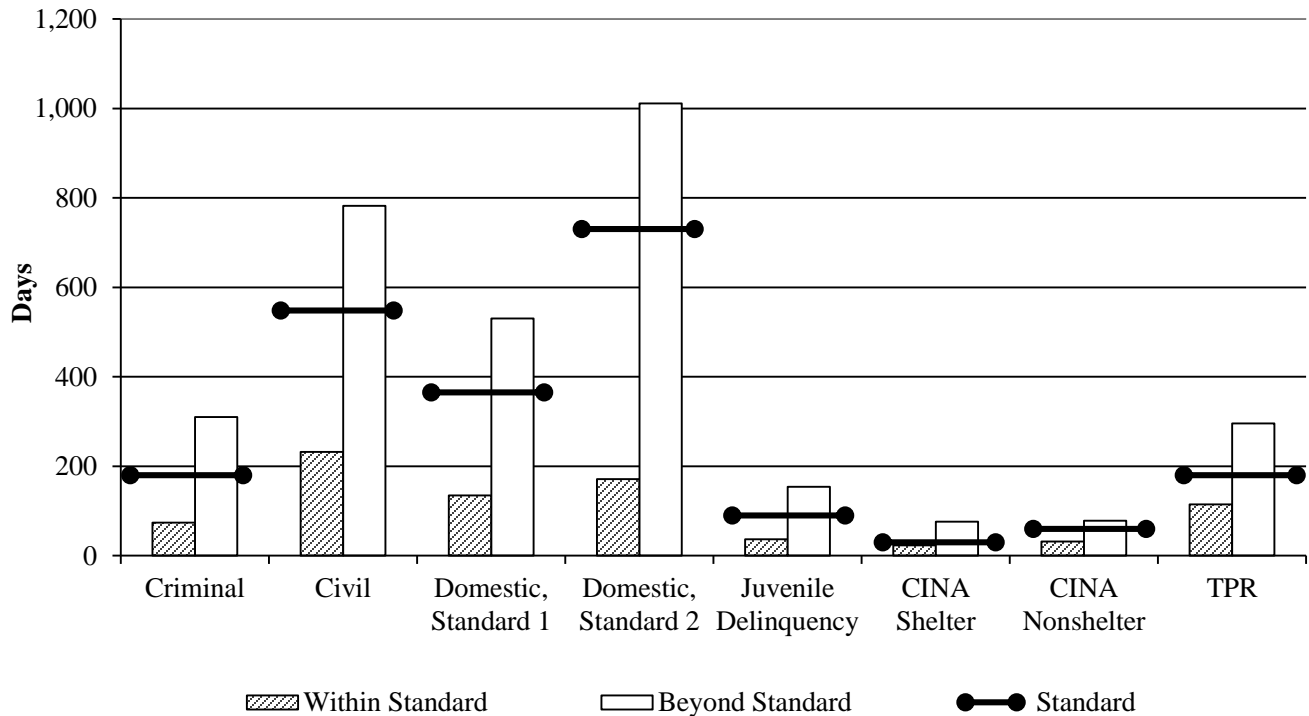
**Exhibit 3  
Maryland Circuit Courts  
Number of Cases Terminated Within and Beyond Time Standard  
Fiscal 2013**



CINA: Child in Need of Assistance  
TPR: Termination of Parental Rights

Source: Maryland Judiciary

**Exhibit 4**  
**Maryland Circuit Courts**  
**Average Case Processing Time for Cases Within and Beyond Time Standard**  
**Fiscal 2013**



CINA: Child in Need of Assistance  
 TPR: Termination of Parental Rights

Source: Maryland Judiciary

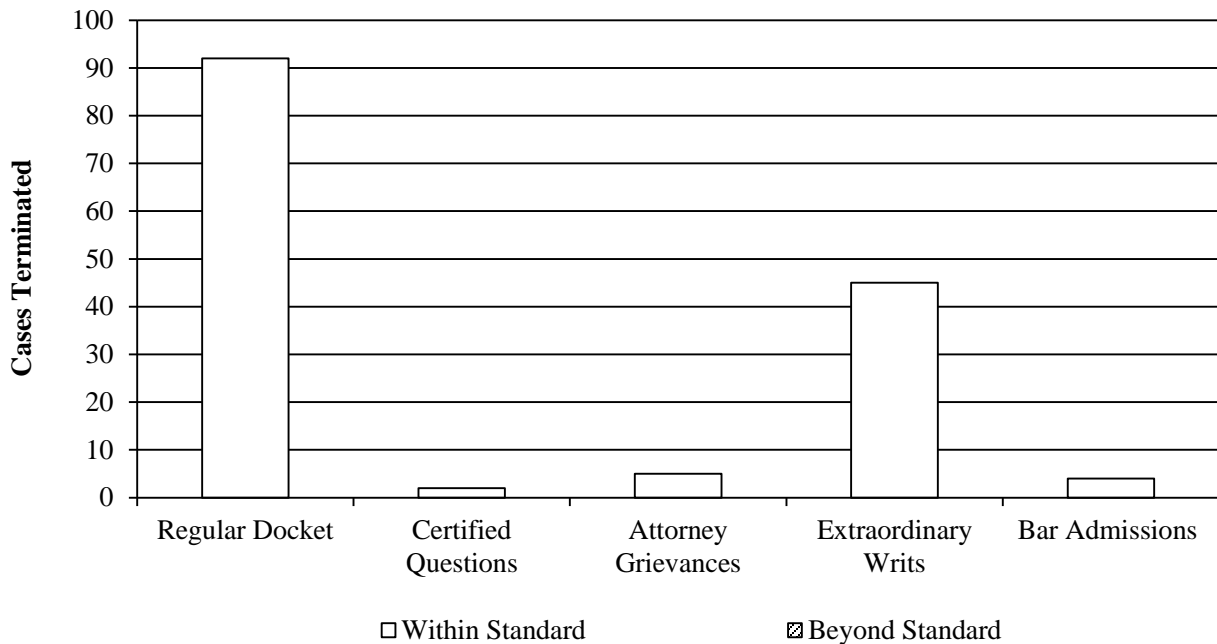
### 3. Court Meets Appellate Case Standards

The appellate courts of Maryland developed and adopted case time standards in fall 2013. These standards are applicable to the Court of Appeals and Court of Special Appeals and became effective for the September 2013 Term and for fiscal 2014, respectively.

The Court of Appeals achieved the case time standard it set for each type of appeal during the September Term, 2013. The standard was to dispose of 100% of cases within the Term<sup>2</sup>, which, as shown by **Exhibit 5**, the Court of Appeals met. Cases on the regular docket took an average of 79 days from argument to disposition. Certified questions of law took an average of 46 days; attorney grievances, 61 days; extraordinary writs, 12 days; and bar admissions, 34 days.

<sup>2</sup> The Court of Appeals typically hears cases from September through June.

**Exhibit 5**  
**Maryland Court of Appeals**  
**Number of Cases Terminated Within and Beyond Time Standard**  
**September Term, 2013**

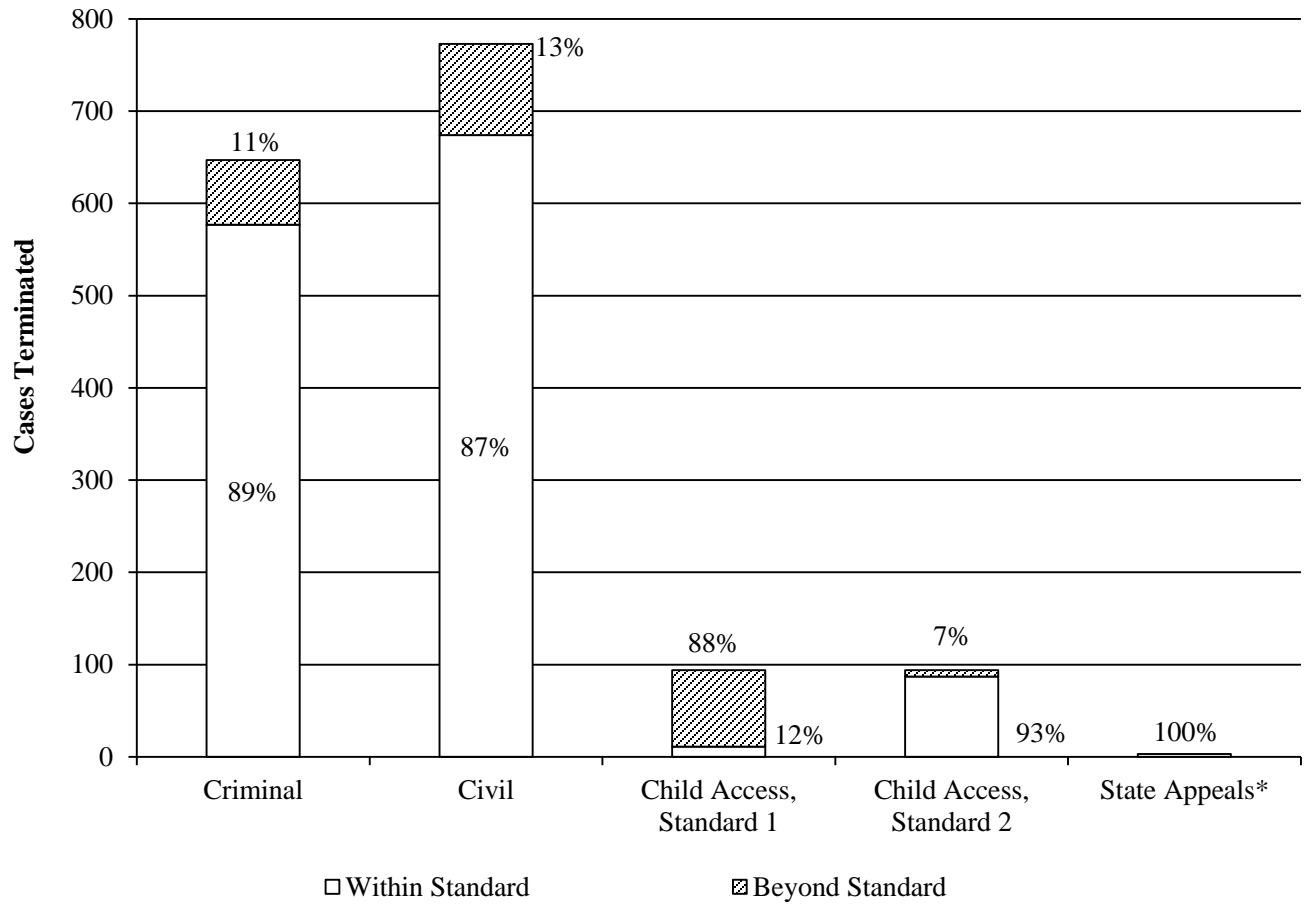


Source: Maryland Judiciary

In the initial year of measurement, the Court of Special Appeals achieved its goal of disposing of 80% of cases within nine months (270 days) of argument or submission of the case on the briefs. **Exhibit 6** displays the number of cases in the Court of Special Appeals terminated within the time standard. In fiscal 2014, the Court of Special Appeals resolved 89% of criminal cases and 87% of civil cases within the standard timeframe. There are a number of specialized timeliness provisions for certain types of appeals heard by the Court of Special Appeals. Child access cases comprise the majority of special cases, with 94 appeals disposed of in fiscal 2014. There are two time standards for child access cases – the first standard requires 98% of cases to be argued within 120 days from filing, and the second standard requires 100% of child access cases to be disposed within 60 days post argument. In fiscal 2014, the court was unable to meet either of these standards.

**DLS recommends that the Judiciary comment on its plans to address the timely disposition of child access cases.**

**Exhibit 6  
Maryland Court of Special Appeals  
Number of Cases Terminated Within and Beyond Time Standard  
Fiscal 2014**



\*State Appeals are appeals from the pretrial suppression of evidence.

Source: Maryland Judiciary

## Proposed Budget

The fiscal 2016 budget totals \$549.1 million, of which approximately 87.2% is general funds. Compared against the fiscal 2015 working appropriation, the budget grows by \$48.9 million, or 9.8%, as seen in **Exhibit 7**. The main cost driver of increased spending is for personnel-related expenditures, including an increase of 233 regular positions.

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### Exhibit 7 Proposed Budget Judiciary (\$ in Thousands)

<b>How Much It Grows:</b>	<b><u>General Fund</u></b>	<b><u>Special Fund</u></b>	<b><u>Federal Fund</u></b>	<b><u>Reimb. Fund</u></b>	<b><u>Total</u></b>
Fiscal 2014 Actual	\$400,305	\$44,871	\$5,053	\$351	\$450,580
Fiscal 2015 Working Appropriation	429,946	64,101	1,747	4,450	500,243
Fiscal 2016 Allowance	<u>478,609</u>	<u>65,768</u>	<u>161</u>	<u>4,578</u>	<u>549,116</u>
Fiscal 2015-2016 Amt. Change	\$48,663	\$1,667	-\$1,586	\$128	\$48,873
Fiscal 2015-2016 Percent Change	11.3%	2.6%	-90.8%	2.9%	9.8%

#### Where It Goes:

##### Personnel Expenses

New positions and contractual conversions .....	\$14,279
Five circuit court judges, 2 District Court judges, and related staff .....	1,825
Salary study increase .....	10,315
Employee and retiree health insurance .....	6,519
Increments and other compensation.....	4,609
Employee retirement.....	3,057
Social Security .....	911
Workers' compensation premium assessment.....	514
Additional assistance (temporary employees and recalled judges).....	441
Turnover adjustments .....	361
Other fringe benefit adjustments.....	97
Overtime .....	73
Judicial retirement.....	-301

##### Contractual Employment

Four new bailiffs for new judgeships.....	121
Three new FTEs for asbestos case management.....	141
Contractual conversions.....	-2,228



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**Where It Goes:**

**Information Technology Costs**

Maryland Electronic Courts initiative..... 3,282

**Grants**

Family Law Division ..... 310

Child Support Enforcement Unit ..... 124

Mediation and Conflict Resolution Office..... 114

Access to Justice ..... 60

Alternative Dispute Resolution analysis ..... -111

County masters salary ..... -176

Office of Problem Solving Courts ..... -514

Foster Care Coordinator Improvement Project..... -748

**Other**

Operating expenses in the Clerks of the Court offices..... 1,300

Communication..... 1,252

Building maintenance ..... 910

Office equipment for the District Courts ..... 714

Expansion of the Prince George’s County District Court Self-Help Resource Center..... 600

Rent non-Department of General Services ..... 363

In-state travel ..... 226

Office supplies ..... 186

Purchase of four new vehicles ..... 89

Bar exam administration..... 49

Other ..... 109

**Total** **\$48,873**

FTE: full-time equivalent

Note: Numbers may not sum to total due to rounding. The fiscal 2015 working appropriation reflects deficiencies and the Board of Public Works reductions to the extent that they can be identified by program. The fiscal 2016 allowance reflects back of the bill and contingent reductions to the extent that they can be identified by program.

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**Cost Containment**

The Governor’s 2016 budget plan assumes \$10,211,000 in general fund reversions from the Judiciary’s budget. These reversion would be for the elimination of the 2015 cost-of-living adjustment (COLA) and elimination of the 2016 salary increments. DLS worked with the Judiciary and determined that the value of the 2015 COLA was \$3,606,008 and the value of the 2016 increments was \$5,159,158 in general funds, \$301,347 in special funds, and \$57,314 in federal funds. DLS is recommending the sum of these reductions, \$9,123,819, in the Department of Budget and Management – Personnel analysis.

## **Personnel**

Personnel-related expenditures increase by \$42.7 million in fiscal 2016 over the fiscal 2015 working appropriation. Within personnel, the largest increase is for 233 new regular positions at \$16.1 million. These positions break down as follows:

- 19 positions are tied to the proposed legislation increasing the number of judges across the circuit courts and the District Court. This includes both the judges and support staff necessary for them. The current plan for fiscal 2016 is to add 5 circuit court judges for Baltimore, Charles, Montgomery, and Prince George’s counties and Baltimore City, and 2 District Court judges for Montgomery and Prince George’s counties. These positions increase the fiscal 2016 budget by \$1.8 million.
- 110 new positions are being added for various agencies within the Judiciary. These include:
  - 39 new positions for the various Clerks of the Circuit Court offices;
  - 24 new positions for AOC to support various court-related programs;
  - 16 new positions in the Court of Special Appeals, including 9 new staff attorneys, 4 administrative assistant or secretary positions, and 3 new law clerks;
  - 11 new positions for the Circuit Court Judges (in addition to the positions related to the new judgeships) for 5 new masters and 6 new law clerks;
  - 11 new positions for the District Court, mainly consisting of interpreters and 3 new commissioners;
  - 6 new positions for JIS; and,
  - 3 new positions in the Court of Appeals for law clerks.
- 104 other positions are for the conversion of current contractual full-time equivalents (FTE) to regular positions. Of these conversions, 77 are in the District Court, 11 are in the various Clerks of the Circuit Court offices, 4 are with the State Law Library, and the remaining 12 are spread among the Court of Appeals, Court of Special Appeals, AOC, and the court-related agencies.

Other major personnel changes include \$10.3 million in salary reclassification based on a Salary Study commissioned by the Judiciary to be phased in over three years, a \$6.5 million increase for employee and retiree health insurance, and a \$4.6 million increase for the annualization of the COLA and increment payments. Employee retirement contributions increase by \$3.1 million, whereas contribution to the judicial pension system decreased by approximately \$301,000. Additional assistance increased by about \$441,000 to cover temporary employees, recalled judges, and 3 State Library fellowships to focus on updating content on the People’s Law Library website.

## **Contractual Employment**

Costs for contractual employment decline greatly due to the fact that the fiscal 2016 budget contains 97 fewer contractual FTEs. While the conversion of 104 FTEs lowers this amount by \$2.3 million, there are 4 new bailiff FTEs included in the budget related to the additional judgeships, at a cost of \$121,115, and 3 FTEs related to management of the asbestos case docket in Baltimore City, at a cost of \$141,002.

## **Information Technology Costs**

Funding for major IT development increased in the fiscal 2016 budget. Most of this increase is attributable to the Maryland Electronic Courts initiative and its costs, which increased by \$3.2 million over fiscal 2015.

## **Grants**

Changes in grant funding account for a decrease of \$940,000 in the Judiciary budget. Major funding changes include:

- \$748,000 decrease for the Foster Care Coordinator Improvement Project;
- \$514,000 decrease for the Office of Problem Solving Courts;
- \$310,000 increase for the Family Law Division programs; and
- \$124,000 increase for the Child Support Enforcement Unit.

## **Other Changes**

Other large changes include a \$1.3 million increase for operating expenses for the Clerks of the Court offices, including expenses related to contracts, supplies, and materials; equipment; and a \$1.3 million increase in communication expenses, including postage, telephone, cell phone, and other telecommunication-related expenditures. Other changes include \$910,000 for general building maintenance, additions, and repairs, and \$714,000 for equipment in the District Courts.

## *Issues*

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### **1. Returning to *Richmond***

In September 2013, the Court of Appeals ruled in *DeWolfe v. Richmond*, No. 34 (September Term 2011), on reconsideration that, according to Article 24 of the Maryland Declaration of Rights, indigent defendants were entitled to legal counsel beginning with their initial appearance before a District Court Commissioner. Typically, the initial appearance before a commissioner involves the defendant and the commissioner, and the appearance must occur within 24 hours of arrest. At that time, the commissioner makes an initial determination of probable cause and, if probable cause is found, makes a determination whether the defendant is eligible for release from custody prior to trial. Initial appearances normally take between 15 to 30 minutes to complete. A defendant who is denied pretrial release or remains in custody 24 hours after the commissioner has set the conditions of release is entitled to a bail hearing before a judge. In calendar 2013, approximately 43% of people who appeared before a commissioner were released on personal recognizance.

Following the various rulings associated with *Richmond*, an injunction was issued from the Baltimore City Circuit Court on January 23, 2014, which required the right to counsel at initial appearance to be placed into effect. The State appealed the injunction with a *writ of certiorari* to the Court of Appeals. On January 23, 2014, the court decided to hear the case on the grounds of the writ and the properness of the injunction. As a result, the enforcement of the *Richmond* case was stayed until March 7, 2014, pending the outcome of that appeal. On May 28, 2014, the Court of Appeals vacated the stay and injunction that was previously issued as of July 1, 2014, thereby initiating implementation of the decision.

During the 2014 legislative session, after considering a number of solutions to providing counsel to indigent defendants in a cost-effective manner, the General Assembly restricted \$10 million within the Judiciary's budget for the provision of counsel at initial appearances. If the money allocated from the Judiciary's budget was insufficient, local governments would have to make up the difference in funds. Additionally, on May 27, 2014, the Governor issued an executive order establishing a "Commission to Reform Maryland's Pretrial System," which would be monitored and staffed by the Governor's Office of Crime Control and Prevention.

As a result of the implementation of the *Richmond* decision, the initial appearance process was modified, and in most cases, initial appearances take longer. Now, after the defendant has completed the booking process, the arrestee will be taken to see a commissioner who will fill out an indigency form and read the attorney advice of rights form. The commissioner makes a determination whether the arrestee is indigent and then advises the arrestee of their rights to have an appointed attorney, if applicable, or a private attorney. Those who waive counsel will continue on the normal path to see a commissioner for bail determination. If the arrestee desires legal representation, they will be interviewed by an attorney prior to seeing a commissioner for the initial appearance hearing. After the interview with the attorney, the defendant will proceed to the hearing with the commissioner.

## Judiciary’s Appointed Attorney Program

The Judiciary began the Appointed Attorney Program in July 2014. Since the beginning of the program, more than 2,600 attorneys have been appointed. Attorneys selected to represent indigent defendants at the initial commissioner hearings are paid \$50 per hour, plus mileage and tolls, but can waive the fee and provide representation *pro bono*. Attorney coverage is scheduled in shifts that vary by jurisdiction depending on the historic trends of the timing and quantity of arrests in a given time period. For example, in Baltimore City, there are three eight-hour shifts where the volume of intake is highest, but in Harford County, there is a single six-hour shift from 8 a.m. – 2 p.m. Shift coverage is reevaluated on a quarterly basis. Since the start of the Appointed Attorney Program, there has been a 6% increase in defendants released on their own recognizance and an 8% increase in the number of defendants given a bonded release.

There were 74,087 initial appearances before a commissioner from July to December 2014. As shown in **Exhibit 8**, the number of appearances and waiver rates vary by district. Nearly 25% of all initial appearances took place in Baltimore City. The average waiver rate statewide was 64% of defendants, with the lowest waiver rates in Baltimore City, Montgomery County, and Prince George’s County, which were 46%, 49%, and 51%, respectively. In this same period, 25,052 appointed attorneys were utilized compared to 527 private attorneys.

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### Exhibit 8 Initial Appearances Post-Richmond Implementation by District July 1 – December 31, 2014

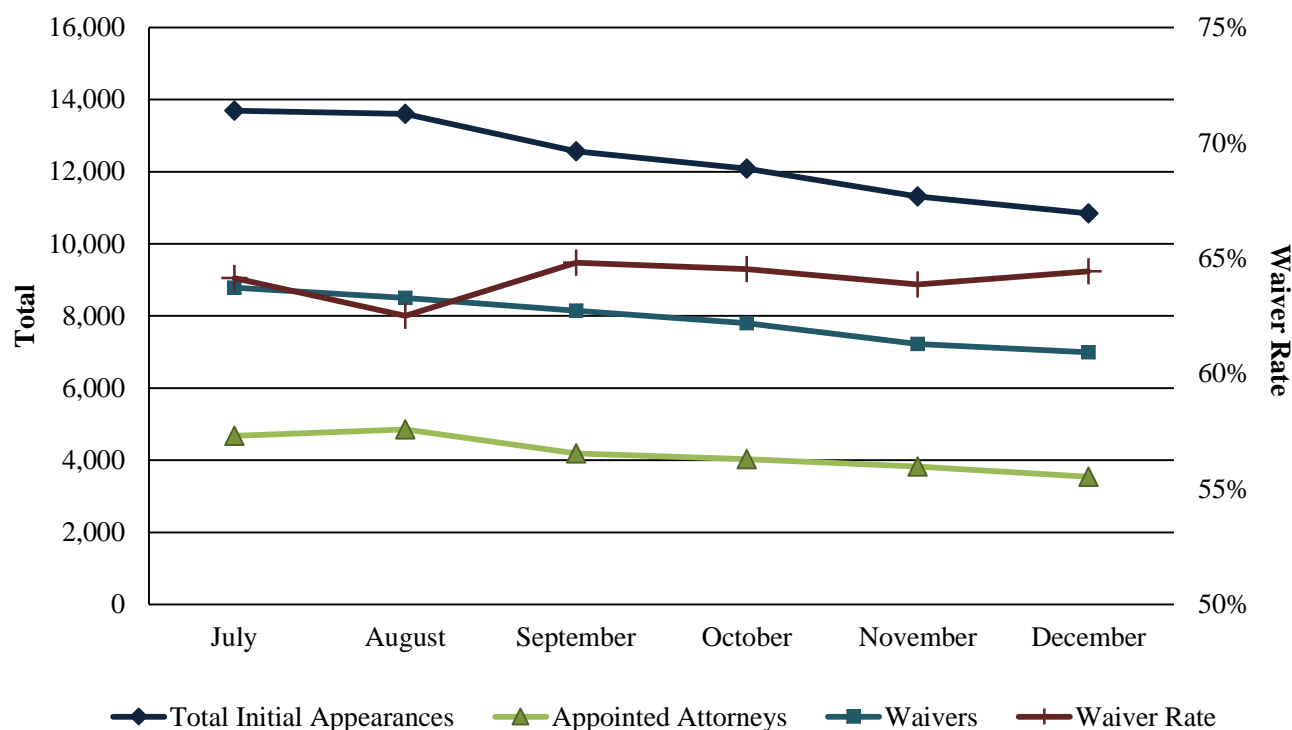
	<u>Total Initial Appearances</u>	<u>Preliminary Determination</u>	<u>Appointed Attorneys</u>	<u>Private Attorneys</u>	<u>Waivers</u>	<u>Waiver Rate</u>
Baltimore City	18,772	59	9,890	100	8,723	46%
Lower Shore	4,348	230	156	13	3,949	91%
Upper Shore	3,418	40	501	45	2,832	83%
Southern Maryland	4,301	333	320	28	3,620	84%
Prince George’s County	13,308	55	6,408	62	6,783	51%
Montgomery County	6,717	13	3,328	88	3,288	49%
Anne Arundel County	5,719	27	2,052	65	3,575	63%
Baltimore County	8,204	27	1,499	36	6,642	81%
Harford County	1,401	18	180	3	1,200	86%
Carroll and Howard Counties	3,177	97	241	36	2,803	88%
Frederick and Washington Counties	3,625	75	357	17	3,176	88%
Allegany and Garrett Counties	1,097	50	120	34	893	81%
<b>Total</b>	<b>74,087</b>	<b>1,024</b>	<b>25,052</b>	<b>527</b>	<b>47,484</b>	<b>64%</b>

Note: The Lower Shore includes Dorchester, Somerset, Wicomico, and Worcester counties; the Upper Shore includes Caroline, Cecil, Kent, Queen Anne’s, and Talbot counties; and Southern Maryland includes Calvert, Charles, and St. Mary’s counties.

Source: Maryland Judiciary

**Exhibit 9** illustrates the initial appearances before a commissioner by month for the first six months of the Appointed Attorney Program. The number of appearances has steadily decreased in this time period, but this decrease is in line with the cyclical nature of arrests in the State. Despite a slight decrease in appearances, the waiver rate has remained consistently in the 63% to 65% range.

**Exhibit 9**  
**Initial Appearances Post-Richmond**  
**July 1 – December 31, 2014**



Source: Maryland Judiciary

The projected cost for the program for fiscal 2015 is \$8,248,850, excluding toll and mileage reimbursement. The Judiciary anticipates that mileage and toll reimbursement will average \$30,000 a month and still leave the program under the \$10 million budget. The Judiciary notes that there are 5 regular positions being used for the management of the program that are not being accounted for in the budget.

The Judiciary’s 2016 budget includes \$10 million for the Appointed Attorney Program. The Judiciary continues to express concern over the lack of oversight that can be exercised over appointed attorneys because of the conflict of interest of a judicial officer training, disciplining, or reviewing the performance of an attorney. Local law professors have offered a training course for appointed attorneys.

Chapter 464 of 2014 (the Budget Reconciliation and Financing Act (BRFA)) included a requirement in Section 17 that provided the authority to implement the *Richmond* decision and stated that if the costs of compensating attorneys that provide legal representation at initial appearances before a commissioner extended beyond the amount restricted for that purpose in the budget, the costs would be billed to the county in which the representation is provided. This provision only applied to fiscal 2015, so additional language will be required in the BRFA to continue the current appointed attorney program until legislation dictates otherwise.

### **Commission to Reform Maryland's Pretrial System**

The Commission to Reform Maryland's Pretrial System submitted its final report of its recommendations on December 19, 2014. The commission offered 14 recommendations, including:

- creating a uniform pretrial services agency which mandates a process that will ensure continuity and consistency across all 24 jurisdictions;
- providing adequate funding and personnel to implement a validated risk assessment tool modeled after best practices to pilot in jurisdictions and that would be utilized by the court commissioners in their decisionmaking process;
- studying the use of secured and unsecured bonds and their application to low- and high-risk defendants; and
- creating a Commission to Study the Maryland Criminal Justice System to improve the effectiveness and efficiency of State and local criminal justice systems by providing a centralized and impartial forum for statewide policy development and planning with a focus on evidence-based decisionmaking.

While the commission focused on a pretrial reform relating to Maryland's criminal justice system, none of the recommendations directly addressed the implementation of *Richmond*, aside from the validation of a pretrial risk assessment tool. The commission studied a two-week period of initial appearances to determine waiver rates and test the application of a risk assessment tool. Effective risk assessment tools use different risk criteria to gauge a defendant's suitability for release pending trial. For example, the factors analyzed are the severity of pending cases, active failure to appear (FTA) or a prior FTA, prior misdemeanor or felony convictions, and whether the defendant is currently on felony probation or parole. The tool is then validated using local data to ensure that the facts used are the most predictive of future court appearance and re-arrests pending trial.

For purposes of its study, the commission used the Kentucky Pretrial Risk Assessment Tool to analyze the risk levels of defendants that were seen in six Maryland jurisdictions (Baltimore City and Harford, Montgomery, Prince George's, St. Mary's, and Washington counties) from October 15 to 29, 2014. The results demonstrated that there was a positive correlation between risk levels and overall release decisions, suggesting that the decisions the court commissioners made were consistent with what the model would propose. The study did not find a correlation, however, between

the risk and the bond amount that was set by the court. The study recommended an assessment tool validated for Maryland for use by the commissioners. Critics of the assessment tool argue that it should only be used in conjunction with the commissioner's discretion, since there are limitations on how the tool weights the severity and frequency of prior convictions or mitigating circumstances.

In addition to the costs of the Appointed Attorney Program, the report notes that there are increased costs for other criminal justice agencies related to *Richmond* implementation. In the corrections' environment, additional staff is needed to monitor arrestee movement, account for the longer time period between the arrest and initial appearance, and provide a secure environment for attorneys. From July 1 to November 30, 2014, the additional corrections' costs were estimated as \$1.7 million, with most of the cost attributed to the higher population counties, like Prince George's and Montgomery counties and Baltimore City. The estimated impact on the county's State's Attorney offices for the need to hire more staff or pay overtime in this same time period is approximately \$515,000.

**DLS recommends that the Judiciary comment on how the implementation of *Richmond* has been progressing and the fiscal impact of the program. The Judiciary should provide an accounting on the exact expenditures of the program to date and whether the program will remain within budget for fiscal 2015 and 2016. DLS further recommends a BRFA provision to continue the Appointed Attorney Program in the Judiciary and budget bill language to restrict \$10 million in the Judiciary's budget for this purpose, to appropriate the costs of initial appearances per county based on calendar 2014 appearances, and to authorize the transfer of the funds to another agency if legislation provides for an alternate solution to the Appointed Attorney Program.**

## **2. Land Records Improvement Fund Balance and Activity**

The Circuit Court Real Property Records Improvement Fund, also known as the Land Records Improvement Fund (LRIF), is a nonlapsing fund that supports all personnel and operating costs within the land records offices of the Clerks of the Circuit Court. It further supports the maintenance costs of the Electronic Land Record Online Imagery system and the website making images accessible to the public. Since the 2007 special session, the scope of the fund was expanded to also include the Judiciary's major IT development projects, including the Maryland Electronic Courts (MDEC) initiative.

Revenues for the LRIF are generated primarily through a recordation surcharge fee on all real estate transactions. Chapter 397 of 2011 increased the land records surcharge from \$20 to \$40 for fiscal 2012 through 2015. This temporary increase was a response to a decrease in revenues which are tied to home sales. The fund faced a structural imbalance, which threatened the funding source for the operations of the land records offices as well as major IT projects, including MDEC. This year, the Fund Oversight Committee and the State Court Administrator agreed to move forward with the eRecording initiative for the recordation of land records, which will also be funded from the LRIF.



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As shown in **Exhibit 10**, the fund retains a yearly structural imbalance with or without the sunset extension or elimination, which would reduce the surcharge back to \$20 from its current level of \$40, which is discussed below. Even if the current surcharge is maintained, the fund balance could be depleted as early as fiscal 2018 if costs continue to increase in the land records offices and for major IT projects. A spike in revenue in fiscal 2013 allowed the fund to retain a structural balance for fiscal 2013 and 2014 for the first time since fiscal 2009. DLS notes that the fund balance projections may be more favorable than stated in the exhibit as actual expenditures are consistently significantly lower than appropriations for the Land Records offices because of a high vacancy rate, as shown by the difference in fiscal 2014 actual and fiscal 2015 working appropriation. There are 30 positions held voluntarily vacant as a result of the decline in the real estate market.

**Exhibit 10**  
**Land Records Improvement Fund**  
**Fiscal 2011-2018**  
**(\$ in Thousands)**

	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>Working Appropriation 2015</u>	<u>Projected 2016</u>	<i>Projected (w/o Sunset on Fee) 2016</i>	<u>Projected 2017</u>	<i>Projected (w/o Sunset on Fee) 2017</i>	<u>Projected 2018</u>	<i>Projected (w/o Sunset on Fee) 2018</i>
<b>Starting Balance</b>	\$47,005	\$40,054	\$32,666	\$40,724	\$45,819	\$32,054	\$32,054	-\$121	\$16,252	-\$27,898	\$4,351
<b>Total Revenue</b>	\$15,821	\$31,835	\$38,370	\$30,498	\$31,755	\$15,878	\$31,755	\$15,878	\$31,755	\$15,878	\$31,755
<b>Expenses</b>											
Land Records Offices	\$12,291	\$12,490	\$12,496	\$12,605	\$18,509	\$19,605	\$19,605	\$20,586	\$20,586	\$21,615	\$21,615
mdlandrec.net	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000
ELROI Maintenance	1,700	1,426	1,735	1,961	2,147	2,645	2,150	2,150	2,150	2,150	2,150
Major IT Projects	2,169	10,308	11,081	9,003	20,729	20,802	20,802	15,920	15,920	11,461	11,461
One-time Interest Repayment	2,169										
General Fund Transfer		10,000									
Encumbrance Reconciliation	-558			-3,167	-865						
<b>Total Expenses</b>	<b>\$22,772</b>	<b>\$39,223</b>	<b>\$30,312</b>	<b>\$25,403</b>	<b>\$45,519</b>	<b>\$48,052</b>	<b>\$47,558</b>	<b>\$43,655</b>	<b>\$43,655</b>	<b>\$40,226</b>	<b>\$40,226</b>
<b>Ending Balance</b>	<b>\$40,054</b>	<b>\$32,666</b>	<b>\$40,724</b>	<b>\$45,819</b>	<b>\$32,054</b>	<b>-\$121</b>	<b>\$16,252</b>	<b>-\$27,898</b>	<b>\$4,351</b>	<b>-\$52,247</b>	<b>-\$4,120</b>
Structural Imbalance	-\$6,952	-\$7,388	\$8,058	\$5,095	-\$13,764	-\$32,175	-\$15,803	-\$27,778	-\$11,900	-\$24,348	-\$8,471

ELROI: Electronic Land Records Online Imagery  
IT: Information Technology

Source: Maryland Judiciary; Department of Legislative Services

## **Legislation**

The Judiciary requested the introduction of bills that would alter the amount of the surcharge on recordable instruments by repealing the termination date of the increased surcharge that was enacted by law in 2011. The bills, filed as SB 66 and HB 51, would maintain the current surcharge of \$40, which is deposited into the LRIF. The fiscal 2016 State budget includes \$48,052,295 in the fund to support land record operations, as well as systems maintenance and major IT projects. The expiration of the surcharge increase would decrease the fund revenues by 50% and result in the fund being exhausted by fiscal 2017.

Additionally, the Judiciary requested the introduction of bills which would assess a surcharge to filing fees, which would also be deposited into the LRIF and improve the structural imbalance of the fund. The bills were introduced as SB 64 and HB 54. The fees are estimated to raise approximately \$5.2 million annually, beginning in fiscal 2016, and will help to offset the estimated \$40.0 million the Judiciary has invested in MDEC so far. During the 2014 legislative session, the Judiciary requested the introduction of similar bills, which at the time were projected to raise approximately \$4.7 million in revenue for the LRIF. Both bills during the 2014 session received an unfavorable report from their respective committees.

While the eliminated sunset and additional filing fees would improve the structural imbalance of the LRIF, it does not eliminate the burden major IT costs place on the fund. The permanency of these fees and their apparent connection to MDEC highlights that the increasing IT needs of the Judiciary is a bigger driver of the fund imbalance than any land records function. The costs for major IT development is growing, as are the general-funded costs of maintaining the Judiciary's current IT infrastructure. Given the increased maintenance costs, any revenues that are generated for the sake of funding IT projects should be credited to a new special fund for that purpose to better track and manage IT expenditures. Further, the costs of major IT development should be migrated to the general fund or a special fund dedicated to IT projects, rather than burdening the fund balance of the LRIF.

**DLS recommends that both SB 64 and HB 54 be amended to credit any new revenues generated from these filing fees to a new special fund for that purpose. DLS further recommends that committee narrative be adopted instructing the Judiciary to migrate major IT development costs, including MDEC, to the general fund in order to maintain the viability of the LRIF.**

## **Maryland State Archives**

Each year, the Judiciary grants the Maryland State Archives approximately \$5 million in funds for the maintenance of mdlanrec.net. This commitment of funds also places a burden on the LRIF, and it is unclear whether the actual maintenance costs of these two systems account for the entire appropriation.

**DLS recommends that the Judiciary reevaluate its memorandum of understanding with the Maryland State Archives in fiscal 2015 and then periodically determine how the funds are spent and whether the full amount of funds granted are needed.**

### 3. Maryland Electronic Court Initiative

Committee narrative in the 2014 *Joint Chairmen’s Report* (JCR) requested that the Judiciary provide a report summarizing the efficiencies and savings that the Judiciary expects to realize once the MDEC project has been completed. The Judiciary submitted a report on the status of MDEC on November 1, 2014. MDEC is an integrated case management and electronic filing system and is one of the largest expenditures from the LRIF. The project began in early 2012 with the process of reviewing the desired software solution and whether to develop by a vendor or in-house. The Judiciary contracted with Tyler Technologies to provide electronic filing services. The MDEC system was introduced for pilot use first in Anne Arundel County, the Court of Special Appeals, and the Court of Appeals on October 14, 2014. The next jurisdiction to receive the system will be the Eastern Shore. The complete rollout of the system to all jurisdictions in the State is expected to continue into fiscal 2019.

The Judiciary has determined three primary benefits of the system, including:

- faster service to citizens through reduced time to receive filings and record case events, thereby reducing the overall time of case adjudication;
- improved public safety through the improved ability to share court event information with justice partners; and,
- reduced space required for the storage of paper files.

However, the Judiciary has been unable to quantify any operational savings that will be achieved by implementation of MDEC. The Judiciary offers the following reasons for being unable to estimate savings: job focus will change from accepting and filing paper to reviewing filings online for acceptance and scanning paper filings into the electronic file; courts will be operating existing and MDEC systems for the next several years and, therefore, must support both processing environments; and, space reductions that result from eliminating paper files may be used for additional hearing rooms that would result in personnel support needed to support these additional facilities.

Costs associated with MDEC continue to escalate. The IT Master Plan of 2014 estimated the cost at completion at \$55.9 million, and the IT Master Plan in 2015 increased the estimate to \$65.5 million. The latest IT Master Plan now places the cost for the project at \$73.1 million. This initiative, in addition to other IT projects, place a large burden on the LRIF, as discussed above.

**DLS recommends that there should be savings associated with the MDEC initiative for personnel, postage, and supplies, including printing and paper. Narrative is recommended to direct the Judiciary to provide a report of the itemized savings, and the savings should be reflected in the 2017 budget request.**

## ***Recommended Actions***

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1. Add the following language:

Provided that \$5,800,520 in general funds and \$29,275 in federal funds are eliminated and 110 new regular positions shall be reduced from the Judiciary's budget.

**Explanation:** This action deletes the new positions from the Judiciary's budget due to the State's fiscal condition.

2. Add the following language:

Further provided that general funds are reduced by \$5,000,000 from operating expenditures. The Chief Judge shall allocate this reduction across the Judicial Branch and cancel prior year encumbrances to support fiscal 2016 operating spending.

**Explanation:** This action reduces the general fund operating expenditures by \$5 million. The reduction may be distributed across the entire branch. This action also permits that these funds may be replaced by reallocating prior year general fund encumbrances to the extent determined by the Chief Judge. The Judiciary currently has available more than \$20,000,000 in encumbered funds remaining from prior year's budgets.

3. Add the following language:

Further provided that 19 positions and \$2,049,490 in general funds are contingent upon the enactment of HB 111 or SB 332.

**Explanation:** This action makes the funding for these positions contingent upon the enactment of HB 111 or SB 332. Included in the amount are 19 new positions, as well as 4 contractual bailiff full-time equivalents and supply costs, which will support the creation of 5 circuit court and 2 District Court judges.

*C00A00 – Judiciary*

4. Add the following language:

Further provided that a \$7,587,000 general fund reduction is made for operating expenditures. This reduction shall be allocated among the divisions according to the following Comptroller objects:

<u>0301 – Postage</u>	<u>\$285,000</u>
<u>0302 – Telephone</u>	<u>\$230,000</u>
<u>0401 – In-State/Routine Operations</u>	<u>\$395,000</u>
<u>0802 – Agriculture</u>	<u>\$108,000</u>
<u>0817 – Legal Services</u>	<u>\$1,245,000</u>
<u>0819 – Education/Training Contracts</u>	<u>\$325,000</u>
<u>0854 – Computer Maintenance Contracts</u>	<u>\$2,900,000</u>
<u>0902 – Office Supplies</u>	<u>\$299,000</u>
<u>0915 – Library Supplies</u>	<u>\$115,000</u>
<u>1006 – Duplicating Equipment</u>	<u>\$245,000</u>
<u>1115 – Office Equipment</u>	<u>\$300,000</u>
<u>1206 – Grants to Other St. Gov’t. Prog./Agen.</u>	<u>\$975,000</u>
<u>1304 – Subscriptions</u>	<u>\$165,000</u>

**Explanation:** This action reduces the Judiciary’s fiscal 2016 budget for operating expenditures across the divisions. These reductions will level fund operating expenses in light of the State’s fiscal condition.

5. Add the following language:

Further provided that \$100,000 in general funds of this appropriation may not be expended until the Judiciary submits a report to the budget committees detailing the monthly and total expenditures of the Appointed Attorney Program for fiscal 2015, including expenditures for the reimbursement of tolls and mileage. The report shall be submitted by October 1, 2015, and the budget committees shall have 45 days to review and comment. Funds restricted pending the receipt of a report may not be transferred by budget amendment or otherwise to any other purpose and shall revert to the General Fund if the report is not submitted to the budget committees.

**Explanation:** This language restricts \$100,000 in general funds pending receipt of a report from the Judiciary detailing the expenditures of the Appointed Attorney Program for fiscal 2015, including the reimbursement of tolls and mileage.

*C00A00 – Judiciary*

6. Add the following language:

Further provided that \$4,754,859 in general funds is eliminated and that turnover for employees is increased to 6%.

**Explanation:** The language increases employee turnover to 6% and thereby reduces the general fund by \$4,754,859 to reflect the decrease in turnover expectancy.

7. Add the following language to the general fund appropriation:

Provided that \$10,000,000 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. Further provided that any State funds to provide attorneys for required representation at initial appearances before District Court Commissioners shall be done so on the basis of the calendar 2014 distribution of initial appearances within each county. If the allotment for a specific county is expended before the end of the fiscal year, then any further costs shall be addressed first by reallocating any unspent amounts remaining from other county allotments at the end of the fiscal year, and any final unresolved amounts to be paid by that county. Further provided that the Chief Judge is authorized to process a budget amendment to transfer up to \$10,000,000 in general funds to the appropriate unit of State government upon the enactment of legislation designating that unit of government to assume responsibility for providing attorney for required representation at initial appearances before District Court Commissioners.

**Explanation:** This language restricts the use of \$10 million of the Judiciary’s general funds appropriated for the implementation of Richmond for this purpose only and appropriates the costs of initial appearances per county based on calendar 2014 appearances. Further, this language authorizes the transfer of the funds to another agency if legislation provides for an alternate solution to the Appointed Attorney Program.

	<b><u>Amount Reduction</u></b>	
8. Eliminate the salary reclassification for the Administrative Office of the Courts related to the Judiciary-commissioned salary study. This increase is being denied due to the fiscal condition of the State.	\$ 9,516,124	GF
9. Eliminate the salary reclassification for the Clerks of the Court division related to the Judiciary-commissioned salary study. This increase is being denied due to the fiscal condition of the State.	593,816	SF

10. Adopt the following narrative:

**Information on Savings from the Maryland Electronic Court Project:** The budget committees are concerned about the ever increasing costs associated with the Maryland Electronic Court (MDEC) major information technology development project. The committees expect that because the project is supposed to make the Judiciary more efficient by reducing the support costs necessary in the current system, that there will be fiscal savings and a return on investment, especially in personnel. A report detailing the potential fiscal savings should be submitted to the budget committees by November 1, 2015.

<b>Information Request</b>	<b>Author</b>	<b>Due Date</b>
MDEC fiscal savings report	Judiciary	November 1, 2015

11. Adopt the following narrative:

**Migrating Major Information Technology Development Costs to General Fund:** Given the structural imbalance that exists in the Circuit Court Real Property Records Improvement Fund, it is the intent of the budget committees that the Judiciary plan for the costs for major information technology development to be funded from the general fund beginning in fiscal 2017.

12. Adopt the following narrative:

**Use of Land Records Improvement Fund:** The committees direct that the Judiciary report on the Maryland State Archives’ expenditures of the money granted to them from the Land Records Improvement Fund (LRIF) and the agreement between the two organizations. The report shall be provided by September 1, 2015, and then every two years thereafter.

<b>Information Request</b>	<b>Author</b>	<b>Due Date</b>
Maryland State Archives use of LRIF	Judiciary	September 1, 2015

<b>Total Reductions</b>	<b>\$ 10,109,940</b>
<b>Total General Fund Reductions</b>	<b>\$ 9,516,124</b>
<b>Total Special Fund Reductions</b>	<b>\$ 593,816</b>



## ***Updates***

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### **1. Backlog of Civil Asbestos Cases**

Committee narrative in the 2014 JCR requested that the Judiciary undertake a study that would determine the best ways for the Judiciary to process a backlog of approximately 11,000 civil asbestos cases in Baltimore City. The committees requested that the Judiciary evaluate all options for resolving the pending cases in a more expeditious manner; estimate the number of new circuit court judges that would be necessary to address the backlog within a three-year period; evaluate whether hiring retired judges specifically to address the backlog would resolve the backlog within a three-year period and identify any additional funding required to address the issue in this manner; and make recommendations on ways to reduce the existing backlog of civil asbestos cases in Baltimore City within a three-year period. In response, the Circuit Court for Baltimore City conducted and submitted an assessment of its asbestos case inventory and proposed a plan that implements a new case management approach.

Plaintiffs' attorneys report that their collective case inventories approximate 30,000 cases, with about 12,000 of these being delayed from resolution by the court's failure to assign sufficient judicial resources to the docket; defense counsel uniformly dispute the plaintiffs' assertions. The court is unable to conclude definitely how many cases are being delayed because it lacks essential information about the individual cases to assess for itself how many are viable and to what degree the cases are prepared for trial. The court is not able to determine the viability and status of individual cases, in part, because of a pleading regimen that does not provide the necessary information, and, in part, because the calendar of cases is controlled by plaintiff's counsel, and the court has not taken measures that proactively manage the docket.

The court's analysis of new and alternative means to address the delays in adjudication has included examination of the docket statistics, input from judges who have participated in the administration of the docket, and input from attorneys who litigate asbestos cases, including the plaintiffs' and defendants' bar. The court also examined the methods employed in other jurisdictions to manage large volumes of asbestos cases and address delays. As a result of this analysis, the court concluded the following:

- the court must exercise greater control over the docket;
- the data available at present makes it difficult to reach firm conclusions about how long it will take to address the issues; and
- without a change to the present case management plan, merely increasing the number of judges assigned to the docket will fail both to optimize delay reduction and to maximize the significant investment in judicial and support resources.

## **Alternative Case Management Technique**

The study recommends adopting an alternative case management technique similar to techniques used for mass tort litigation in the U.S. District Court for the Eastern District of Pennsylvania. The essential elements of the plan adopted in this district included an administrative order requiring plaintiffs, on pain of dismissal for noncompliance, to furnish medical reports of a specified level, as well as exposure history and other data, and the scheduling of each case for a show cause hearing or status conference. If the plaintiff demonstrated that there was a live case against live defendants, a scheduling order would be entered for discovery, summary judgment proceedings and ultimately, trial. The principles of this plan are applicable to the caseload in the Circuit Court for Baltimore City. The court can begin to gain control of the caseload by establishing new procedures.

The court seeks to put into action a new management approach over the next several years that will provide a reasonable, effective, and equitable alternative to the present system. Beginning in July 2015, with the requisite resources, the court will commence a new case management effort that will operate in parallel with the present system. The new case management effort will include a selection of cases for examination and scheduling; enhanced information gathering for the cases selected to enable the court to identify cases that merit the investment of trial resources; dismissal of cases lacking demonstrable viability; and enhancement of alternative dispute resolution requirements. The court's implementation plan is as follows:

- Stage I
  - January 1, 2015 – June 30, 2016
    - The court will provide a second judge to the current trial group structure to enhance trial date certainty and to ensure that plaintiffs see no reason not to take full advantage of trial opportunities.
  - July 1, 2015 – June 30, 2016
    - Implementation of the new case management effort will require the services of a retired judge to administer the docket with the support of a special master to manage pretrial matters and 2 case workers. The fiscal 2016 budget includes an additional 3 FTEs to address the docket.
- Stage II
  - July 1, 2016 – June 30, 2017
    - An evaluation and assessment of performance in Stage I will furnish the basis for elements and resources needed for Stage II.

## **2. New Judge Plan Enters Year Three**

Since 1979, the Chief Judge of the Court of Appeals has annually certified to the General Assembly the need for additional judges in the State’s District and circuit courts. During the 2012 session, the budget committees adopted narrative requesting the Judiciary to develop a multi-year plan to request new circuit court and District Court judges, so that workloads can be addressed gradually without having a significant impact on State finances. In fall 2012, the Judiciary submitted this plan, along with the fiscal 2014 certification of judgeships.

The Judiciary certified a need for 38 trial court judges at the time and then considered whether each jurisdiction had the required space, and in the case of the circuit court, the necessary funding, to support additional judges. Based on these findings, the Judiciary came up with the Judgeship Deployment Plan in the fall of 2012, which recommended the creation of 26 new judgeships between fiscal 2014 and 2019. During the 2013 session, Chapter 34 of 2013 created 11 new judgeships. The Judiciary revised its plan in the fall of 2013 based on changes in the indicated need for judges as well as space constraints and called for the creation of 25 new judgeships from fiscal 2014 through 2019.

During the 2014 legislative session, the Judiciary included 19 new positions in the fiscal 2015 budget for 7 new judges. In the bill that was introduced, Prince George’s and Montgomery counties would each gain a judge in the District Court, and Baltimore City and Anne Arundel, Baltimore, Charles, Montgomery, and Prince George’s counties would gain a judge in their respective circuit courts. The judgeship bill, introduced as HB 120 and SB 167 and which included 1 judge not included in the fiscal 2015 budget, did not pass during the 2014 session.

**Exhibit 12** displays the updated certification that indicates the need for 31 new judgeships. The Judgeship Deployment Plan is then adjusted based on space and financial resources available.

This session, the Judiciary requested the introduction of HB 111 and SB 332 which creates the 7 additional judgeships that were not authorized during the last legislative session. The annual report certifies the need for 31 additional judgeships in the trial courts as well as 2 additional judges in the Court of Special Appeals. However, the overall Judgeship Deployment Plan through fiscal 2019 only proposes 16 additional judgeships in the trial courts. The proposed plan is one year behind on its implementation given that no new additional judgeships were created for fiscal 2015.

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**Exhibit 12**  
**Certified Need for Judgeships – Circuit and District Court**  
**Fiscal 2016**

<u>Jurisdiction</u>	<u>Judge Need</u>		<u>Space Available</u>		<u>Funding for Staff (Circuit Court)</u>
	<u>Circuit Court</u>	<u>District Court</u>	<u>Circuit Court</u>	<u>District Court</u>	
Anne Arundel	2		Yes for 1		Yes
Baltimore City	3		Yes for 1		Yes
Baltimore County	3	5	Yes for 2	Possibly in fiscal 2017 or 2018	Yes
Charles	2		Yes for 1		Yes
Frederick	1		No		No
Harford	2		No		No
Howard	1		Yes		Yes
Montgomery	3	1	Yes	Yes	Yes
Prince George's	1	4	Yes	Yes for 1	Yes
Washington	1	1	Possibly	No	Not at this time but will be pursued
Wicomico		1		Yes	Yes
<b>Total</b>	<b>19</b>	<b>12</b>			

Source: Maryland Judiciary

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## *Current and Prior Year Budgets*

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### 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>
<b>Fiscal 2014</b>					
Legislative Appropriation	\$405,235	\$53,722	\$4,178	\$141	\$463,275
Deficiency Appropriation	-6,061	-129	-29	0	-6,218
Budget Amendments	3,714	230	2,049	341	6,333
Reversions and Cancellations	-2,583	-8,953	-1,145	-130	-12,810
<b>Actual Expenditures</b>	<b>\$400,305</b>	<b>\$44,871</b>	<b>\$5,053</b>	<b>\$351</b>	<b>\$450,580</b>
<b>Fiscal 2015</b>					
Legislative Appropriation	\$428,143	\$62,986	\$308	\$4,324	\$495,760
Cost Containment	0	0	0	0	0
Budget Amendments	1,803	1,115	1,439	126	4,483
<b>Working Appropriation</b>	<b>\$429,946</b>	<b>\$64,101</b>	<b>\$1,747</b>	<b>\$4,450</b>	<b>\$500,243</b>

Note: Numbers may not sum to total due to rounding. The fiscal 2015 working appropriation does not include January 2015 Board of Public Works reductions and deficiencies.

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## **Fiscal 2014**

The Judiciary finished fiscal 2014 \$12,695,753 below its legislative appropriation. Retirement contributions were reduced by \$1,526,648, and health care contributions were reduced by \$4,497,792 through deficiency appropriations. Amendments for the COLA and salary increment increased the appropriation by \$3,892,535.

### **General Funds**

Actual expenditures were \$4,929,614 below the legislative appropriation due to deficiency appropriations and reversions, which included:

- \$4,340,703 in statewide reduction for health savings;
- \$1,526,648 in statewide reduction for retirement;
- \$193,394 for statewide reduction to Statewide Personnel Systems; and
- \$2,582,556 in reversions, mainly related to vacant judgeships (approximately \$2.2 million) and costs for leased buildings housing District Court operations.

The reverted funds were partially offset by \$3,609,529 related to salary increments and the COLA and \$104,158 in added general funds for a telecommunications appropriation increase.

### **Special Funds**

Actual expenditures were \$8,851,707 below the legislative appropriation, mainly due to \$8,952,684 in cancelled funds including:

- \$8,898,921 in special fund cancellations related to the LRIF (\$4,570,880 in unspent funds related to circuit court clerk land record operations and \$4,328,041 in major IT projects in various stages of the project life cycle);
- \$50,301 in unspent funds related to maintenance and replacement of equipment for the land record systems;
- \$3,462 in other unspent funds; and
- \$128,532 related to statewide reduction for health savings.

These cancelled funds were partially offset by \$229,509 in added special funds for the COLA.

## **Federal Funds**

Actual expenditures were \$875,138 above the legislative appropriation. Budget amendments added \$2,048,545 in federal funds, which included:

- \$1,196,014 related to various family administration, foster care, and drug court programs;
- \$428,833 for the Foster Care Coordination Improvement Project in the Court of Appeals;
- \$316,100 for Child Support Enforcement Unit masters' and clerks' salaries;
- \$54,101 related to the State Justice Institute (SJI) – Teen Court and SJI – Adult Guardianship Special Assistant Project; and
- \$53,497 related to the COLA.

Increases in federal funds were partially offset by a statewide reduction for health savings for \$28,557. At the end of fiscal 2014, \$1,144,850 was unspent.

## **Reimbursable Funds**

Actual expenditures were \$210,429 above the legislative appropriation, mainly due to budget amendments for \$340,813 in reimbursable funds related to family administration programs and Governor's Office of Crime Control and Prevention grants. However, \$130,384 was unspent at the end of fiscal 2014, with a majority of this money being carried over into fiscal 2015.

## **Fiscal 2015**

To date, \$4,483,281 has been added through budget amendments to the legislative appropriation for fiscal 2015. Of this amount, the COLA accounts for \$1,803,004 in general funds and \$115,317 in special funds. Another budget amendment added \$1,438,838 in federal funds, \$1,000,000 in special funds, and \$126,122 in reimbursable funds for grant programs related to the Foster Care Coordination Improvement Project and other Family Law Division programs.

**Object/Fund Difference Report  
Judiciary**

<u>Object/Fund</u>	<u>FY 14 Actual</u>	<u>FY 15 Working Appropriation</u>	<u>FY 16 Allowance</u>	<u>FY 15 - FY 16 Amount Change</u>	<u>Percent Change</u>
<b>Positions</b>					
01 Regular	3,638.50	3,732.50	3,965.50	233.00	6.2%
02 Contractual	446.00	431.00	334.00	-97.00	-22.5%
<b>Total Positions</b>	<b>4,084.50</b>	<b>4,163.50</b>	<b>4,299.50</b>	<b>136.00</b>	<b>3.3%</b>
<b>Objects</b>					
01 Salaries and Wages	\$ 295,011,673	\$ 321,035,395	\$ 363,732,785	\$ 42,697,390	13.3%
02 Technical and Spec. Fees	15,074,420	15,221,254	13,280,567	-1,940,687	-12.7%
03 Communication	12,019,320	12,323,664	13,575,807	1,252,143	10.2%
04 Travel	1,253,064	1,569,861	1,748,951	179,090	11.4%
06 Fuel and Utilities	976,606	1,032,179	1,012,959	-19,220	-1.9%
07 Motor Vehicles	310,359	160,746	207,217	46,471	28.9%
08 Contractual Services	52,452,891	71,462,305	75,702,956	4,240,651	5.9%
09 Supplies and Materials	5,239,897	5,523,060	5,678,070	155,010	2.8%
10 Equipment – Replacement	6,600,161	6,489,197	6,459,438	-29,759	-0.5%
11 Equipment – Additional	5,507,269	2,612,509	3,499,725	887,216	34.0%
12 Grants, Subsidies, and Contributions	42,592,985	46,942,771	46,942,380	-391	0%
13 Fixed Charges	13,276,505	15,770,175	16,265,338	495,163	3.1%
14 Land and Structures	264,484	100,000	1,010,000	910,000	910.0%
<b>Total Objects</b>	<b>\$ 450,579,634</b>	<b>\$ 500,243,116</b>	<b>\$ 549,116,193</b>	<b>\$ 48,873,077</b>	<b>9.8%</b>
<b>Funds</b>					
01 General Fund	\$ 400,304,994	\$ 429,945,610	\$ 478,609,056	\$ 48,663,446	11.3%
03 Special Fund	44,870,549	64,100,861	65,768,084	1,667,223	2.6%
05 Federal Fund	5,052,662	1,746,816	161,145	-1,585,671	-90.8%
09 Reimbursable Fund	351,429	4,449,829	4,577,908	128,079	2.9%
<b>Total Funds</b>	<b>\$ 450,579,634</b>	<b>\$ 500,243,116</b>	<b>\$ 549,116,193</b>	<b>\$ 48,873,077</b>	<b>9.8%</b>

Note: The fiscal 2015 working appropriation does not include January 2015 Board of Public Works reductions and deficiencies. The fiscal 2016 allowance does not reflect contingent or across-the-board reductions.



**Fiscal Summary  
Judiciary**

<u>Program/Unit</u>	<u>FY 14 Actual</u>	<u>FY 15 Wrk Approp</u>	<u>FY 16 Allowance</u>	<u>Change</u>	<u>FY 15 - FY 16 % Change</u>
01 Court of Appeals	\$ 16,891,749	\$ 12,093,036	\$ 11,385,463	-\$ 707,573	-5.9%
02 Court of Special Appeals	9,937,230	10,535,044	12,147,700	1,612,656	15.3%
03 Circuit Court Judges	59,771,231	61,753,718	65,793,908	4,040,190	6.5%
04 District Court	150,424,746	168,779,971	183,193,410	14,413,439	8.5%
05 Maryland Judicial Conference	702	210,750	230,750	20,000	9.5%
06 Administrative Office of the Courts	46,288,870	72,045,404	87,536,614	15,491,210	21.5%
07 Court Related Agencies	5,251,603	2,930,879	3,149,674	218,795	7.5%
08 State Law Library	2,682,326	2,882,123	3,157,907	275,784	9.6%
09 Judicial Information Systems	45,986,474	43,556,413	48,008,796	4,452,383	10.2%
10 Clerks of the Circuit Court	88,838,808	104,476,291	113,709,732	9,233,441	8.8%
11 Family Law Division	15,502,535	250,722	0	-250,722	-100.0%
12 Major IT Development Projects	9,003,360	20,728,765	20,802,239	73,474	0.4%
<b>Total Expenditures</b>	<b>\$ 450,579,634</b>	<b>\$ 500,243,116</b>	<b>\$ 549,116,193</b>	<b>\$ 48,873,077</b>	<b>9.8%</b>
General Fund	\$ 400,304,994	\$ 429,945,610	\$ 478,609,056	\$ 48,663,446	11.3%
Special Fund	44,870,549	64,100,861	65,768,084	1,667,223	2.6%
Federal Fund	5,052,662	1,746,816	161,145	-1,585,671	-90.8%
<b>Total Appropriations</b>	<b>\$ 450,228,205</b>	<b>\$ 495,793,287</b>	<b>\$ 544,538,285</b>	<b>\$ 48,744,998</b>	<b>9.8%</b>
Reimbursable Fund	\$ 351,429	\$ 4,449,829	\$ 4,577,908	\$ 128,079	2.9%
<b>Total Funds</b>	<b>\$ 450,579,634</b>	<b>\$ 500,243,116</b>	<b>\$ 549,116,193</b>	<b>\$ 48,873,077</b>	<b>9.8%</b>

Note: The fiscal 2015 working appropriation does not include January 2015 Board of Public Works reductions and deficiencies. The fiscal 2016 allowance does not reflect contingent or across-the-board reductions.